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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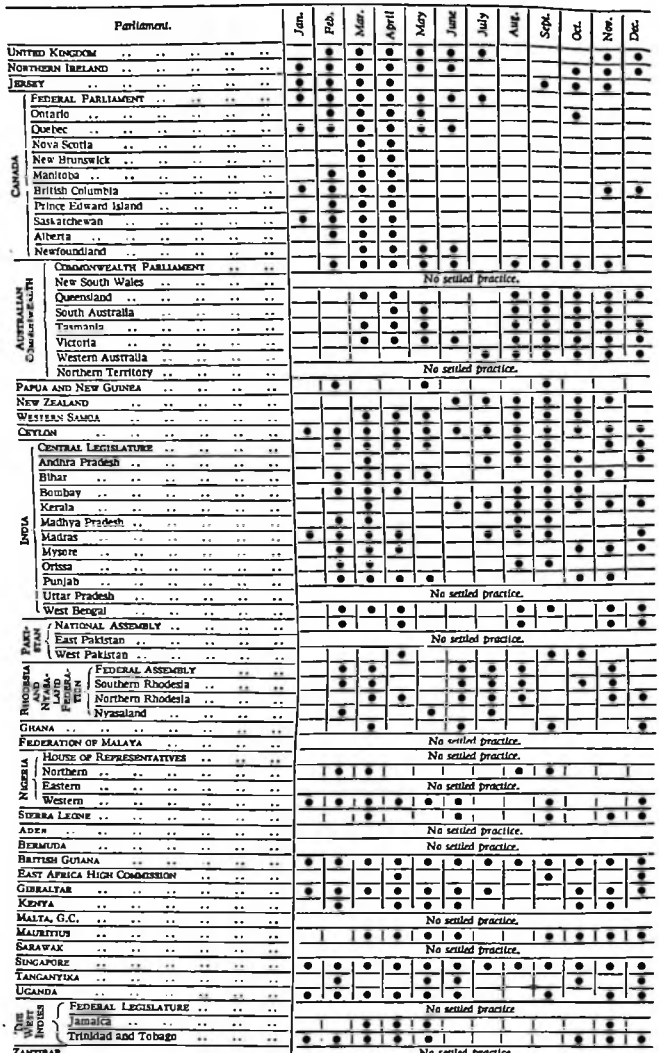

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I. EDITORIAL

Departure of South Africa from the Commonwealth.—We have received with very great regret the following letter and article from the Clerks of the Senate and House of Assembly at Cape Town and of the Natal Provincial Council, as follows:

HOUSES OF PARLIAMENT,
CAPE TOWN,
8th May, 1961.

DEAR SIRS,

In view of the constitutional change which will take place in South Africa on 31st May and the termination of South Africa's membership of the Commonwealth, it is assumed that those Officers of Parliament who have been members of your Society up to now, will no longer be able to continue their membership. The annual grants by the two Houses will then also naturally cease.

As THE TABLE has, however, always been found to be of great interest and value, it is intended to continue purchasing the same number of volumes annually, and orders will be placed through Messrs. Butterworth and Co., Ltd., of Durban.

Yours faithfully,
W. WOOD
(*Clerk of the Senate*)
R. J. MCFARLANE
(*Clerk of the House of Assembly*)

NATALIAN VALEDICTION

It is with mixed feelings that this brief article is written. Sadness and consolation are uppermost in one's mind. Sadness, because of the severance from the Society due to the departure from

the Commonwealth of this Republic of South Africa, and consolation, because THE TABLE will still be available by private purchase.

The appellation, "The Society of Clerks-at-the-Table in Commonwealth Parliaments", is more than an agglomeration of words necessary for title or name purposes: it symbolises a living entity. Though the Provincial Council of Natal has seldom contributed articles to THE TABLE, a conclusion therefrom that its Clerks have merely looked from the outside in would be incorrect. The articles that have been published over the years truly have been worthy of study and have been studied: they have, on grounds of precedent, so often provided a happy solution to a tricky problem, much to the delighted relief of a despairing Clerk. But more than that, THE TABLE and its articles have brought and linked together in a manner mysterious, and perhaps uncanny, the Clerks of divers legislative bodies—large and small, important and less important, who, whoever or wherever they may be, possess one common ideal: an ideal to ensure that the legislature which they have the honour to serve is maintained at the highest possible pitch of dignity, decorum and efficiency consistent with the best of tradition and usage.

Leave is now silently taken of this concomity of Clerks, and with the departure is left behind a sincere and very grateful appreciation of past association together with a fervent hope that in the strength and vigour of the Society a tolerant categorisation under "Absent Friends" will be applied rather than a harsh castigation as "Defaulters".

In this spirit of farewell I pray that the blessing of Almighty God may rest upon the counsels of Clerks-at-the-Table and upon the Society itself.

T. F. B. MASSINGHAM
(Clerk of the Provincial Council, Natal)

Members will not need reminding that the Society was conceived and cradled in South Africa, and that its Journal was edited, from 1932 to 1951, in Cape Town by our present honorary life President. Every issue, from Volume III onwards, has contained a clear and complete series of precedents and unusual points of procedure arising in the Union House of Assembly, and we, in the last eight years, have also received many other informative and interesting articles from members in South Africa. We feel sure that we are justified in recording the sadness of all the members of the Society at losing old friends and members, and at seeing the birthplace of the Society leave the Commonwealth.

Shortage of material.—Since assuming the Editorship of THE TABLE, it has been our almost invariable experience that the bulk of material contributed has arrived in May and June; we have always,

therefore, been amply assured, well before our date of going to press (mid-August), that there would be enough material to hand to comprise a Volume of the desired length. Indeed, in our Twenty-Sixth Annual Report to Members, we announced our decision to dispense with our former limit, imposed for reasons of economy, of 200 pages to each Volume.

It was with growing concern, therefore, that we noticed during June, 1961, that the usual flow of contributions was not forthcoming. By the end of that month, replies to our annual Questionnaire had not yet been received from over half the membership. We therefore took the exceptional step of sending a circular to those Members from whom we had not heard, asking for their replies to be expedited. Thanks to the immediate and admirable response to this cry for help, we have not fallen below our former economy limit.

We cannot too strongly state our complete dependence on Members for the material which goes to make up the Journal. In view of the situation which arose this year, and which can only be aggravated in future years by the absence of our accustomed contributions from South Africa, we most earnestly ask all Members, not only to answer our Questionnaire as fully as possible, but also to have no hesitation. in sending in any material within the scope of Rule 3 (iii) of the Society which they may feel impelled to write, even if its subject-matter is not included among the individual questions asked.

Mr. Speaker Madon.—It is with much pleasure that we are able to announce the elevation of yet another of our Members to the dignity of Speakership.

On Friday, 2nd December, on the meeting of the Legislative Council of Zanzibar at ten o'clock, the President (Hon. P. A. P. Robertson, C.M.G., the Chief Secretary) announced that His Excellency the British Resident wished to address the Council for the purpose of installing the Speaker. The Resident said:

Honourable Members, it is my privilege to address the House on this memorable occasion, and to play my part in the ceremony of the installation of your Speaker. It has pleased His Highness to appoint as your Speaker Mr. K. S. Madon, M.B.E., Brilliant Star 4th Class, and I shall request the Honourable the Chief Justice in due course to read the Instrument of Appointment. On a previous occasion you, Honourable Members, have signified your support for the Speaker's appointment, and I should like to remind you now of the duties and privileges which belong to this high office.

As you all know, Sir Erskine May's book on Parliamentary Practice is universally accepted as the authority on such matters, and I ask leave of the House to quote from this authority as follows:

> "The Speaker of the House of Commons is the representative of the House itself in its powers, proceedings and dignity."

Of the Speaker as Presiding Officer in the House of Commons he says:

> "The chief characteristics attaching to the office of Speaker in the House of Commons are authority and impartiality. The symbol of his authority is the Royal Mace which is borne before him when entering and leaving the chamber and upon state occasions by the Serjeant at Arms

attending the House of Commons, and is placed upon the table when he is in the chair. In debate all speeches are addressed to him and he calls upon Members to speak—a choice which is now never disputed. When he rises to preserve order or to give a ruling on a doubtful point he must always be heard in silence and no Member may stand when the Speaker is on his feet. Reflections upon the character or actions of the Speaker may be punished as breaches of privilege. His action cannot be criticised incidentally in debate or upon any form of proceeding except a substantive motion."

These quotations, Honourable Members, relate to the office of Speaker of the House of Commons. The Speaker of this Council holds similar responsibilities and privileges. He is the custodian of the dignity and prestige of this House. You, Honourable Members, must acknowledge his authority at all times and give him full and unqualified support to enable him to discharge his duties and responsibilities. The task will not be easy, neither for him nor for you. When the heat of debate rises on some controversial question, and tempers become frayed, you must remember that there is one person in this House who is above dispute, whose person and office must be treated as sacrosanct, who must at all times, even when tempers have been lost, be accorded deference and respect: Mr. Speaker.

I repeat, the Speaker is the custodian of the dignity and prestige of the House. In according him respect and authority, the House is merely preserving its own dignity and good reputation, for the Speaker represents the House itself in its powers, proceedings and dignity. I am confident that you will do all that lies within your power to enhance respect for the Speaker, and his authority, as you have indeed, in the past, shown unfailing courtesy and respect for former Presidents of the Council.

Honourable Members, the creation of this office, and the appointment of our first Speaker, is symbolic of the constitutional progress which is now taking place in this Territory. It marks a turning point in the history of this Council, a history which in itself constitutes an honourable and proud record. This is the last session of this Council before the Council itself becomes transformed in its own character and composition. I cannot let this moment pass without taking the opportunity to thank you, Honourable Members, officials and unofficials, for the service you have rendered to this Territory. This session will be for many of you the last in which you will serve on the Legislative Council. You have set an example, in the proper conduct of the affairs of this House, for councils of the future to follow.

I pray God's blessing on you all, and may He guide and bless the deliberations of this Council.

The Chief Secretary and Attorney-General then introduced Mr. Madon to the Resident, and the Chief Justice read the Instrument of Appointment and administered the Oath of Allegiance to Mr. Madon. After a short suspension, Mr. Speaker made the following communication from the Chair:

Honourable Members, I am very deeply touched by the honour of being appointed as your first Speaker. It adds to my pleasure to know that my choice has been that of our beloved Sultan and also has met with the wishes of you all. I am encouraged by the kind words which have been said previously on the floor of this Council about my appointment. I do realise the great honour that has been done to me by my country—my country of birth which I love and which is my only home. I am, however, humbled by the immense responsibilities this appointment entails.

Unlike our neighbouring territories, there is one very important duty of the

Speaker which I shall have the greatest honour and pleasure to perform and that is to act as a representative of this Council in its relations with our beloved ruler His Highness the Sultan, may God preserve him.

As a Speaker my duties will compel me to preserve the dignity and prestige of this Council. Though I shall preside over your deliberations, I am in fact here to serve you. In order to enable me to discharge faithfully my responsibility of enforcing the Standing Orders—the Standing Orders which in fact have been made by yourselves—I shall be relying heavily on your help and co-operation. I have one satisfaction and that is I shall not be working with strangers. As Clerk to this Council I have had the privilege and honour of working with you all for many years, and the courtesy that has been accorded to me strengthens my desire to serve this Council in my present capacity.

At the last sitting of this Council, Honourable Members expressed their appreciation of the wisdom and patience with which this Council had been guided by His Excellency from this Chair. I am confident that whenever occasion rises I shall not hesitate to drew from the wealth of that wisdom and patience.

Honourable Members, if in my enthusiasm to preserve the dignity and the prestige of this Council and the personal freedom and to follow the high traditions and the well tried rules of procedure of the mother of Parliaments, I tend to overstep my powers, I would beg your indulgence. I have no doubt at all in my mind that the deliberations of this Council will take place in the most orderly and friendly atmosphere, knowing as I do, the traditionallly good " heshima" for which the people of this country are well known. Given that spirit of goodwill, that tolerance, forbearance and indulgence, I am sure I will be successful in my efforts to guide your deliberations with patience and firmness, with integrity and that impartiality which this office demands.

Honourable Members, it now remains for me to submit myself to the wil of this Council, and to promise to do my utmost to give my loyal services tc this Council for so long as they are needed.

After which the Chief Secretary said:

Mr. Speaker, Sir, I beg your indulgence for a few minutes at this point to address a few words on the occasion of your assuming office at this your first meeting of the Legislative Council. Firstly, Sir, I would like to congratulate you most warmly on this well merited appointment. It gives great satisfaction to your official colleagues on this side of the House—I say official colleagues, Sir, because you are still on leave and technically a Government servant and therefore we do not feel we are presuming in calling you our colleague. We offer you our warmest congratulations and wish you the very best of luck in this new and distinguished office which you have assumed.

We ourselves, Sir, have received a great deal of support and guidance from you in your previous capacity and I hope on this occasion you will realise that in so far as support goes your Official Members on this side of the House will accord you every possible support in your office as Speaker. With regard to guidance, Sir, I am afraid we are going to fall down very badly because you are after all, Sir, the fountainhead of the Standing Orders of this Council which you drafted and which we examined but were unable to find any fault with. I think, Sir, that is really all I need to say on this occasion but equally may I, on behalf of the civil service, also convey to you our best wishes for the future.

On behalf of the Society we offer Mr. Speaker Madon our heartiest congratulations upon the honour which has been conferred upon him, and express the wish that he may continue to occupy the Chair for many years to come.

D. R. M. Thompson.—On 12th April the Legislative Council of the Northern Territory was informed briefly by the President of the retirement of its Clerk, Mr. Deric Thompson.

Apart from a multitude of personal congratulations and messages, there were two informal functions at which the retiring Clerk was bidden farewell and presented with suitable gifts. The first was given by the staff of the Northern Territory Administration, of which the staff of the Council are a section. At this function the presentation was made by His Honour the Administrator, who was supported in his remarks by the Director of Lands and the Director of General Services. The enthusiasm of those attending was a clear indication of Deric's well-merited popularity. The second function was tendered by the President and Members in their capacity as a Branch of the Commonwealth Parliamentary Association.

Personal tributes made by individual Members were far too numerous to mention.

(*Contributed by the Clerk of the Legislative Council.*)

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

C.B.—T. G. B. Cocks, Esq., O.B.E., Clerk-Assistant of the House of Commons.

C.B.E.—A. Pickering, Esq., M.Ec., Clerk of the Legislative Assembly of New South Wales.

O.B.E.—N. J. Parkes, Esq., A.A.S.A., Clerk of the House of Representatives of Australia.

II. CONFLICTS BETWEEN SESSIONAL ORDERS AND STANDING ORDERS

ANSWERS TO QUESTIONNAIRE

In the Questionnaire for Vol. XVII and the present Volume, Members were asked to state the practice of their Legislatures where conflicts have arisen between Standing Orders and Sessional Orders.

From the extremely small number of the replies received, it is apparent that this query had little relevance to the practice of most assemblies. This may in part be due to an ambiguity which attaches to the expression "Sessional Order". One sense of this expression is instanced by the series of orders which are passed in identical form by the *United Kingdom House of Commons* on the first day of every

Session, dealing with such matters as (i) the action to be taken by Members who are returned for more than one seat (a contingency which has not occurred for many years), (ii) the inability of peers to vote at elections, (iii) electoral corruption, (iv) tampering with, and false evidence by, witnesses, (v) clearing the approaches to the House, (vi) the arrangements for printing the Votes and Proceedings and the Journal, and (vii) the appointment of the Committee of Privileges. It is an historical accident that these should have come to be renewed each Session, rather than be absorbed into the corpus of Standing Orders. This, exclusively, was the sense in which the question was interpreted in the reply received from the *Australian Senate*, which reads:

> It is customary for the Senate to agree to only four Sessional Orders, relating to days of meetings, precedence of Government and General Business, suspension of sittings and adjournment of the Senate.
> There is no conflict between these Sessional Orders and the Standing Orders.

Similarly, the reply received from the *Northern Territory Legislative Council* was:

> There being no Sessional Orders, there are no conflicts.

The other sense of the term, however, and one which was uppermost in the minds of the authors of the most recent Questionnaire, was simply that of an order or resolution which, by virtue of its not being explicitly resolved to be a Standing Order, has no currency after the end of the Session in which it is made. In both Houses of the United Kingdom Parliament, such an order supersedes any existing Standing Order, or parts of a Standing Order, with which it conflicts. Thus, the *House of Commons* have a Standing Order (No. 4) prescribing in detail the precedence of government business. but for a number of years past, at the beginning of every Session, an order has been made setting out entirely different arrangements, and this order, although it contains no specific reference to Standing Order No. 4, nevertheless supersedes it for the duration of the Session. And in the *House of Lords*, an order advancing a particular item of business supersedes the relevant Standing Order. Several Houses, in making Sessional Orders, refer to the fact that a Standing Order is being suspended or dispensed with; this precaution is taken, for example, in the *Parliament of Queensland*, whose reply reads as follows:

> We have had no recent example of conflict between Standing Orders and Sessional Orders. Usually it has been found sufficient, when a probability of conflict is apparent and might be raised, to incorporate in the Sessional Order the words " notwithstanding the provisions of Standing Order No. . . .", and this, so far, has obviated the question of conflict being raised.

and also in the *South African House of Assembly*:

Conflicts between Standing Orders and Sessional Orders do not arise, as Sessional Orders are adopted in a form which, when necessary, specifically overrides the general Standing Orders.

In the *Aden Legislative Council*, an even greater rigidity is imposed by Standing Order No. 73 of the Council which, besides providing that all motions for suspension of a Standing Order must state the object or reason of the proposed suspension, further enjoins that

No Member of the Council, other than a Member of the Government, shall move the suspension of any Standing Order either wholly or in part, except for the purpose of allowing some Bill, clause or other matter in charge of such Member, to proceed or be dealt with, without compliance, wholly or in part, as the case may be, with such Standing Order.

In two other Australian Houses which have replied to the Questionnaire, the position is diametrically opposed to that of the House of Commons described above. In the *New South Wales Legislative Assembly* it is stated:

Although there are several earlier rulings to the contrary, the later, and better, rulings are to the effect that, when a Sessional Order conflicts with a Standing Order, the *Standing Order prevails.*

Mr. Speaker Levy ruled thus in 1929 (V. & P., 1928-29, p. 294), and Mr. Speaker Weaver ruled similarly in 1940 (V. & P., 1938-39-40, p. 683).

It is considered that these latter rulings more closely accord with general Parliamentary practice, and that they would undoubtedly be followed in future cases.

and in the *Victorian Legislative Council*:

In the event of the Standing Orders and Sessional Orders conflicting, the former would prevail. Sessional Orders apply only to the Session in which they are passed. Under section XXIV of the Constitution Act Standing Orders when agreed to by the Council or the Assembly have to be laid before the Governor and approved by him before they can become " binding and of force " and amendments of the Standing Orders undergo the same procedure, whereas the Sessional Orders can be rescinded wholly or partly by an ordinary vote of the Council or the Assembly. In practice it is difficult to envisage any such conflict, because Sessional Orders deal with matters which are not covered by Standing Orders, *e.g.*, days and hours of meeting, precedence of Government and Private Members business, limitation of time for taking new business, etc.

One further reply was received, from the Legislature of *Maharashtra*:

There is no such thing as Sessional Orders in this State Legislature. The business in the Houses is conducted in accordance with the Rules of procedure which correspond to Standing Orders of the House of Commons. The Rules referred to, empower the Speaker of the Legislative Assembly or the Chairman of the Legislative Council to issue directions in respect of matters not covered by the Rules and no conflict arises between the Rules and the Directions. In fact directions are issued to supplement the Rules. Whenever in a given case Rules are found to be too rigid, the House suspends the Rule in its application to the case under consideration by passing a motion to that effect.

III. PROTESTS

Answers to Questionnaire

The Supplementary Questionnaire for Vol. XX contained the following item:

Protests: Please give S.O. and instances of application.

The House of Lords

In ancient times, the Lords voted by rising in their places, beginning with the junior Baron, and delivering their opinion. No doubt this was at first done by means of a speech. but in time the voting was separated from the debate, and voting was accomplished by merely rising and saying "Content" or "Not Content". When the House was unanimous, the decision was recorded as having been reached *nemine dissentiente*. A Peer who was against the proposal before the House could therefore be described as "dissentient"; and from early times such Peers have claimed the right to have their dissenting opinions entered upon the records of the House.

These dissenting opinions were entered in the following form:

DISSENTIENT:

Because [Statement of reason or reasons for dissent]

Signature of Peers or
Peers dissentient.

These records of dissent were known as "protests"; and because they were entered on the Journals of the House, which were public records, and could therefore in theory be inspected by anyone interested, they were used in the seventeenth century as a method by which the Opposition could make their opinions generally known. For this reason, too, the "protests" have been collected and used by historians as evidence of political opinion in the seventeenth and eighteenth centuries.

The rule has always been that a Peer must enter his dissent on the day on which the debate took place, or the next sitting day, and cannot make his protest if he did not vote in the debate. The reason for this is, of course, that originally the protest was simply the record of an adverse or dissenting vote given in the House.

The present Standing Order of the House on protests[1] reads as follows:

Protests. 5 March 1642.	Such Lords as shall make protestation, or enter their dissents to any votes of the House, as they have a right

to do without asking leave of the House, either with or without their reasons, shall enter and sign their protestation or dissents in the Clerk's book not later than the next sitting day.

The last occasion on which a protest was entered was on the 2nd May, 1950,[2] and the following table shows the number of protests since 1880:

1880 — 2	1883 — 2	1886 — 2	1901 — 1
1881 — 7	1884 — 1	1887 — 5	1906 — 1
1882 — 5	1885 — 2	1889 — 1	1907 — 2
	1911 — 1		
	1931 — 1		
	1950 — 1.		

May[3] gives the following instances:
In 1823 the Duke of Somerset had not voted on the question for the Address, but had nevertheless protested against it. As, however, he had been present at the debate, though he had not voted, his protest was allowed to stand in the Journal, though he had not voted. The protest against the Corn Importation Act Bill in 1846 was signed by certain Peers who had not been present.

Any protest or reasons or parts thereof, if considered by the House to be unbecoming or otherwise irregular, may be ordered to be expunged. Such expunged protests or reasons have also been followed by a second protest against the expunging of the first protest, a process by which the object of the House has been defeated.

In 1690, certain reasons having been expunged, the Duke of Somerset declared that, as he had protested for those very reasons, he might have to withdraw his name from the protest, which was granted to him and to any other Lords who pleased. On 24th June, 1824, leave was given to the Peers who had entered a protest against the Earl Marshal's Bill to withdraw and amend it as it stated certain facts incorrectly.

Canada: Senate

Bourinot[4] tells us that in Canada the practice of Senators making protests is allowed under conditions similar to those laid down in the Lords.

A Senator who signed a protest may consent to it as a whole or in part; and in the latter case he will state his particular reasons in a footnote. Any protests, or reasons, or parts thereof, if considered by the House to be unbecoming or otherwise irregular, may be ordered to be expunged. Protests or reasons expunged by order of the House have also been followed by a second protest against the expunging of the first protest or reasons, by which the object of the House has been defeated. The actual Senate Standing Orders on the subject are:

56. Any Senator entering his protest or dissent to any vote of the Senate, with or without his reasons, must enter and sign the same in the Clerk's book on the next sitting day, before the rising of the Senate.
57. Every protest is subject to the consent of the Senate, and may neither be altered nor withdrawn without the consent of the Senate; nor can a Senator absent when the question is put, be admitted to protest.

Australian States

New South Wales

Standing Order No. 212 of the Legislative Council reads as follows:

Whenever any Bill shall have finally passed both Houses, against the passing of which any Member shall have entered a protest upon the Minutes, the President shall forthwith forward copies of such protest to His Excellency the Governor.

There has not been a protest in the Legislative Council since 1899.

South Australia

Legislative Council S.O. 410 reads:

A Member [*sc.* of a Select Committee] objecting to any portion of the Report shall propose his amendment at the time the paragraph he wishes to amend shall be under consideration, but any protest or dissent may be added to the Report.

Tasmania

Legislative Council S.O. 399 reads:

Members shall have a right to protest or enter their dissent, either with or without reasons, to any vote of the Council, without asking leave of the Council, provided they deliver such protest or dissent in writing to the Clerk of the Council before the hour of Four o'clock on the next sitting day; and such protest or dissent shall be entered on the Votes and Proceedings of the Council.

Sierra Leone

Legislative Council S.O. 17(6) reads:

Any Member voting in the minority who desires to have his reasons recorded for so voting shall state such desire forthwith, and his reasons shall be recorded either at that or the following meeting of Council.

Tanganyika

Legislative Council S.O. 77(9) reads (in part):

. . . any Member [*sc.* of a Select Committee] dissenting from a report of the majority of the Committee may put in a written statement of his reasons for such dissent, and such statement shall be submitted to the Council with the Committee's report.

The previous S.O. 24, providing for protests on Second Reading of a Bill, was repealed in 1955.

[1] No. 52. [2] *See* THE TABLE, Vol. XIX, p. 390. [3] 16th Ed., p. 428.
[4] III, 508.

IV. AN IDEAL PARLIAMENTARY OFFICIAL

By S. L. Shakdher
Joint Secretary, Lok Sabha Secretariat

When one enters the career of service as a parliamentary official, little does one know that it is the beginning of a career which is full of hazards, at times painful, at times soothing and which at the same times holds out a promise of making him a perfect or a near-perfect man. One at first believes that it is yet another job in the line of a civil servant and it gives the same amount of joy or sorrow as may be the case with a normal job under the executive Government. The change that comes over the official is imperceptible, slow and is discernible only towards the end of his career. He will emerge as a full-blown person if he has withstood all the shocks and vicissitudes and taken his full share in the joys of the moment over long years of service.

Service to the Country

A parliamentary official has to do a good deal of study, assimilate the facts, and present a picture or display an approach which is regarded as objective in character. He has an honourable position in society, a satisfaction that in the discharge of his service to Parliament, which is the only guarantee against tyranny of the people, he is serving the country and the nation. If he assists in maintaining the correct and high standards which Parliament endeavours to lay down, he will have done a tremendous service to the millions of his countrymen. The good work of Parliament results in happiness of the people, in the quickening of the initiative of the nation and in the raising of the standard of life generally and much depends upon a parliamentary official as to how he assists in such endeavour.

Attitude of Objectivity

A parliamentary official, unlike his counterpart in the civil service, comes daily in contact with all sections of political opinion in the country. A Government is generally composed of persons who belong to a party having one ideology. A civil servant is required to execute the policies laid down by Government, and he knows his master's mind and follows the policy. A parliamentary official on the other hand has to serve simultaneously both the Government of the day and those who are opposed to it. He has to hold a balance between the ruling Party and those who are opposed to the very exist-

ence or ideologies of that Party. This involves a tremendous strain and requires a mind and approach which must be regarded as uncommon. Proceedings in Parliament are oftentimes compared to a parliamentary battle-field, where shootings take place without bullets or arrows but which are much sharper and more piercing. One has to have always his wits ready at his command, an attitude of objectivity and a sense of fairness when tempers run high and the opposing parties are battling feverishly to win their points. In such prevailing tempers and excitements one has to keep the mind cool and display sobriety so that one does not get mixed up in the whirlwind of feverish activity which proceeds at a more rapid pace than one can think of. One has to hold the balance between the opposing viewpoints in such a way as not to wound the feelings of anybody. Even a slight variation in his attitude might cause unlimited harm not only to the official but also to the whole system of relationship between Parliament and parliamentary officials.

Spirit of Tolerance

Whatever political and other views a parliamentary official may have, he has to undergo such an acute transformation of ideas that one wonders whether he has not become neutralised or his mind has not ceased to function. On a closer study one will find that that is not so. By constantly hearing opposing viewpoints and arguments one inevitably comes to the conclusions that these various contacts lead him to moderation and an understanding that each one has a viewpoint. A kind of tolerance enters into the mind of the official and he becomes truly disinterested in any proposition before him as enumerated by our great sages and particularly by the sacred "Gita".

Supply of Factual Information

A parliamentary official ceases to attribute motives and judges matters, as it were, from a distance, unconcerned with the drama as to the merits or demerits of the respective policies, and records his opinion in an objective way. He does not concern himself with what views a Member has. He has to help all alike and, just in the same way, he may help a Member whose views may happen to coincide with his own views. If a Member wants any information or reference he will gladly give it to him, bearing in mind always that he does not draw conclusions and does not argue for or against the viewpoint of the Member. His business is to give the Member factual information and it is for the Member to draw inferences and conclusions and make such use of it as he may like.

Patience and Self-Control

A parliamentary official has to have an enormous fund of patience. A smile on his face, a cheerful look even in the face of a deliberate

provocation will stand him in good stead. He will soon understand that such a provocation came as a result of the agony of the moment or something having gone wrong somewhere. A Member appreciates nothing but patient hearing from a parliamentary official. If a Member has exceeded the limits of decency or decorum he comes later to correct his own mistake. A Member invariably tries to keep excellent relations with the official and even if in a particular instance he has deviated from this normal rule it is more due to some exceptional circumstances than any desire to be discourteous or unreasonable. Generally Members desire nothing but to maintain cordial relations and to pass over petty errors or omissions on the part of Officers. Sometimes, however, a provocation may be over a very trivial matter. A Member may not have received a visitor's card applied for by him, or he may have been stopped by somebody at the gate or may not have received a reply to his enquiry, or may have a suggestion which he wishes to be implemented quickly and the like. A parliamentary official may well consider that the temper displayed by a Member is not commensurate with the gravity of the offence. But if he exercises self-control and deals with the situation calmly, he will soon find that he is richly rewarded in that the matter is settled to the satisfaction of both.

Attitude of Greatness

The House represents the sovereignty of India and each Member is a party of that sovereignty. The attribute of greatness is, among other high and noble things, that occasionally it gets flared up over a small matter, not so much to expose that incident, but to assert its authority. If one realises this basic principle one can feel reasonably fortified by the belief that ultimately in contact with those who compose a focal institution even a small person, in some measure, however infinitively small it may be, benefits in the long run in the crucible of experience.

Avoiding Publicity

The work of a parliamentary official is devotion to duty, unruffled by uninformed criticisms, unmoved by the praise of the excessively indulgent and unmindful of the material advantages. He shuns publicity, he aspires for no cheap popularity. His only desire is to work whenever called upon—morning, evening, night or mid-day. His comfort is that he is conscious of the useful work that he is doing; he comes into contact with individuals who are responsible for shaping the destiny of people, for better or for ill, and his ambition is that the car of Parliament, which is the one guarantee against all that is evil, is on the right road and is well geared and oiled.

Upholding the Dignity of the Speaker

A parliamentary official is an adviser to the Speaker. The Speaker

is the embodiment of impartiality and represents the sovereignty and dignity of the House. There are a large number of activities which a parliamentary official has to discharge on behalf of and in the name of the Speaker. He has to give decisions; he has to record opinions and he has to advise the Speaker. It goes without saying that in order that he is able to discharge all these functions to the satisfaction of all concerned he has to partake in some measure, however small, of the qualities of the Speaker. He has to uphold the name and dignity of the Speaker not by any device of propaganda, not by any underhand means but by the straight road of his actions which must be based on honesty, sincerity of purpose and impartiality of outlook. He has to act in the wider national interest uninfluenced by any personal considerations or views of his own. He has to subordinate the self to the requirements of the country as a whole and eschew any thoughts of sectional or short-range interest.

Advising the Parliamentary Committees

By far the most important function of a parliamentary official is to advise parliamentary committees. It is a task which demands great qualities of mind, judgment, maturity of thought, etiquette and ability to express in a clear and well knit language. The first duty of an official attending on a parliamentary committee is to see that its decisions are carefully noted and put in a language which is dignified, courteous and of a standard expected of a parliamentary committee. His function is to depict truth based on facts from which conclusions might themselves emerge. He has to avoid unnecessary superlatives, words and phrases which are harsh in their meaning or tone or which may tend to exaggerate a situation or a fact or minimise the effect that is intended to be created. In short, the language must be soft, forceful in its import and portray facts so far as can be reasonably attempted. A parliamentary official has to hear a mass of evidence tendered before committees, has to read and digest equally voluminous records and papers and sift facts, reconcile incompatibles and produce memoranda in easily assimilible forms and indicate the conclusions to which they lead for the use of committees. He has to put committees wise on the activities of the administration, on the operation of the laws and rules made by Government, and suggest directions in which reform is needed. He has to place before the committees possible implications of a suggestion so that no aspect of it is ignored before they come to a final decision. He has to note the decisions of the committee and of the House carefully and watch on behalf of both whether action is being taken. He has to see that a decision arrived at by a committee on a Bill is properly embodied in the re-draft of the particular clause or portion of the Bill, that there is no ambiguity and that the intention has been faithfully carried out.

The committee recognises in the parliamentary official a friend and

guide. The Members will easily and quickly be influenced by the advice of the official because they know it is impartial and objective in essence. Government, they know, is after all committed to a policy and the various representatives on their behalf will somehow uphold that policy and elucidate it in that light. This is good so far as the understanding of the problem or viewpoint of the Government is concerned; but a committee in order to come to its judgment must know the other side also and then on balance come to a correct decision on the advice of someone who is not interested in either viewpoints.

A parliamentary official must have a keen sense of perception, quick grasp of essentials and non-essentials and nimbleness of mind. He has to listen to a lot of relevant and irrelevant discussion, evidence and speeches; but he must be quick to take note of the points which have a bearing on the subject under discussion, must have the ability of quickly putting them together in a language which is acceptable to all the various sections of opinion in the committee. Someone once compared the proceedings in a committee to a gush of water from a spring which emits both clear and muddy water at a very high speed. The person who is anxious only to rescue the pure water from the impure must be ready with his buckets to seize it immediately for it is intermittent and occasionally and for short durations it is crystal clear. Similarly a parliamentary official must be quick to catch the crystals in a series of speeches or discussions as quickly as he can for they may soon get mixed up with the impure which come immediately in their wake.

Knowledge of Men and Affairs

A parliamentary official must have encyclopaedic knowledge. He must read the daily papers, reports, books, periodicals and be posted with the latest and most up-to-date information on all matters. He should be current in regard to foreign affairs, matters relating to Defence, Railways, Labour, Education, Health, Agriculture, Scientific Research, to mention a few, and in short he must epitomise in his mind the knowledge and latest facts about the whole activity concerning life, the nation and the world. He may be called upon to handle any of these matters in the Committee or in the House and unless he has a background, unless he has a full grasp of the matter, he may soon find himself incapable of dealing with it. He has to ensure that he does not grow static in a changing world scene or events. He has to deal with dynamic events and dynamic personalties, be abreast of the basic causes that lead to such events and understand the vital forces at work. He has to have knowledge and yet wider knowledge of men, events and affairs and he will realise that each experience is perhaps on a higher level than the previous one for it carries subconsciously somewhere the memory of past success and failures.

All Work is Alike

All work is alike to him. It may be a minor administrative matter or a big question of policy. It may relate to distribution of papers to Members, issuing of cards, printing of parliamentary papers, residential accommodation, or it may relate to the development or problems of the automobile industry, the rules regarding recruitment of Indian Administrative Service and Indian Foreign Service officers, International Treaties, the Railway Workshops, the Fertiliser Factory, Shipyards, Aircraft Factory, Atomic Energy, Bank Award and so on. Everything has to be attended to with equal care and thought.

Resolving Complicated Matters

All matters which he handles are combustible in character. A Member brings in a question, a resolution, or a Bill or a Motion and is vitally interested in the matter. His constituency is involved, his position in the trade union is affected, or it is a social matter to which he has devoted his whole life, and one may suddenly find that a rule comes in the way—the matter should appropriately be dealt with in a State Legislature or is purely of local interest or is under the adjudication of a Court—and he may experience some difficulty in getting it admitted. But it is not enough that the rule is quoted to a Member or he is dealt with curtly. The parliamentary official has to resolve the matter and give him satisfaction, advise him on the re-draft of the matter which may make it admissible and deal with it in a hundred other ways so that the matter is dealt with on a human plane in the full knowledge of the implications involved and the Member is reasonably satisfied with the official in any conclusions that he may arrive at.

Quickness of Action

A parliamentary official has to be quick in his work. He has to deal with the matter as soon as it arises and give it personal attention. If he does not deal with it immediately he may as well not deal with it at all. The time factor is of great essence in dealing with parliamentary work. A Member gives notice of an adjournment motion, a question, a resolution and it has to be dealt with before the time and date when it has to be taken up. Sometimes the official has only a few minutes or hours to deal with the matter. He must always be aware of the current and the latest position so that he can advise when the matter arises. He has always to be conscious that his advice has to be reasonable and accurate. He works under the public gaze as it were and any mistake on his part becomes public sooner than he will imagine. He has to be conscious of this fact always so that it makes him supple of mind and quick of action and reasonable in his approach. He has to grapple with too many situa-

tions at a time. In parliamentary work many things get crowded in a short space of time and a parliamentary official has to keep his presence of mind in order that he may be able to handle them quickly and in the minimum time possible. He has to keep note of all procedural matters, do research every day as the work in the House or Committee proceeds, keep in touch with the precedents and bring the rules and practices up to date. He has to take care that the pressure of work and tensions which are created by the importance and urgency of a matter do not have the better of him. He has always to apply the tone of moderation to his work and devise methods which may enable him to attend to it quickly.

Respect for Members

A parliamentary official has to bear in mind that Members are generally sensitive. He has to study each one of them. He has to be fully conscious of the fact that a Member represents hundreds of thousands of people who have returned him to the House. A Member is a symbol of the collective strength of the people of his constituency and has to be approached from that standpoint. What he says may be therefore important and valuable for he speaks on behalf of his constituents. He represents their collective voice, collective wisdom and collective thought. He cannot therefore be lightly treated and due consideration has to be shown to him. In honouring the Member we are honouring the people who have chosen him as their representative. While serving and understanding him we are understanding the people whose aspirations he represents. It is, therefore, a complex task, a task which is fascinating and helpful, and when a problem which a Member poses appears too big we must not wonder why it should be so, for it is not his individual problem but the problem of the many.

Part of the August Body

A parliamentary official generally feels youthful and full of energy in the company and presence of such an august body of which mentally and physically he makes himself a part. At times he feels weary of the problems that face him. Both are part of him and shape him into what he is and out of this constant conflict, struggles and contentment a newer and newer personality is arising in him and gives him a glow which makes him far superior to what he was when he started. "He has much that gives an equilibrium of mind and spirit, a calm and unhurried outlook on life which refuses to get flared and flustered at changing events."

An Ideal to be Cherished

I write this with a great sense of humility and profound knowledge that it is only an ideal which may be difficult to attain. This

is my idea of what a parliamentary official ought to be and I have come to these conclusions after observing the working of parliaments not only in India but abroad and also after having intimate conversations with parliamentary officials of the various parliaments. I have always felt that the basic approach of the numerous officials is the same and there is much in common in the functions and aspirations of parliamentary officials wherever they may be in this wide world. Someone has aptly remarked that it is a study in character, reformation and purification of the nobler instincts of man and a resolve to attain to a yet higher life—all rolled into one.

V. THE ORDER PAPER OF THE HOUSE OF COMMONS

Proposals for revision

Among the many changes recommended by the Select Committee on Procedure of Session 1958-59, and referred to in the Article written for this Journal by the Fourth Clerk at the Table,[1] was a revision of the form of the Order Paper of the House.

This is not the first occasion since the war on which such a recommendation has been made and acted upon. In Session 1951-52, on 20th February, 1952, the Select Committee on Publications and Debates Reports came to a Resolution that "a recommendation be made to Mr. Speaker that the printing of the Order Paper of the House of Commons be altered to make it clearer"[2] and again, on 8th April, that "the Committee do proceed further with the matter of alterations to the Order Paper".[3] A formal notification that effect had been given to these Resolutions was made in the first paragraph of the Committee's Report, agreed to on 23rd July, which read:

> Considerable work has already been done by the previous Select Committee on the revision of the Order Paper. Your Committee continued investigations and made recommendations to Mr. Speaker, which he accepted. The new Order Paper has now been in use for some time, and Your Committee hope that the changes, tending towards clarity of print and ease of comprehension, have been satisfactory.[4]

Indeed, the difference in appearance between the Order Paper of that date and those published a year previously is immediately apparent to the most cursory inspection; the type used in the later form is clearer (greater use being also made of bold type in cross-headings and numeration), a more liberal use is made of spacing between items, and the Orders of the Day themselves are made much more readily comprehensible by the expedient of setting out immediately below each Order certain related items (such as contingent

motions, and notes giving the page numbers in the Supplement of amendments relative to the Order), instead of grouping them together as footnotes at the end of the Orders. Nevertheless, even after these changes had been made, on many days it still remained unclear, to all save the instructed, which items of business it was effectively proposed to transact; the Select Committee's hopes had been more adequately fulfilled in respect of clarity of print than they had been with regard to ease of comprehension.

No evidence appears to have been taken on this topic by the Procedure Committee of 1958-59; but the wording of the Committee's recommendation, set out immediately below, leaves little doubt that numerous, and cogent, representations on the matter had been received by its members. It is nevertheless interesting to note that two of the latter were content enough with the existing arrangements to oppose the inclusion of the paragraph in the Report by dividing against twelve of their colleagues: [5]

> Some Members, especially those recently elected, find the order paper and notice paper extremely confusing: and it must be admitted that without some experience it is often difficult to discover from the various sections of the order paper on any day exactly what business is due to be transacted and at what time. To some extent this is due to the practice of successive Governments in carrying forward all government orders and notices from day to day, instead of reading them through and putting down non-effective orders and notices in the order book for days on which they are likely to be effectively taken. But other opportunities also exist for confusion. Thus the private business order paper is printed separately from the public business order paper; and when a debate is due to take place at 3.30 on a motion for the adjournment, there is not only no mention made of the subject of the debate, but there is not even an indication given of the fact that the adjournment is due to be moved at the commencement of public business. We therefore recommend that the order paper be so revised as to give a clear indication in consecutive order of the items of business to be taken for the day, showing the times at which the business is to be taken wherever possible, as well as the name of the Member who is to raise the subject to be debated on the motion for the adjournment and the matter to be raised, and excluding non-effective orders and notices.[6]

During the months following the publication of the Report, detailed consideration was given to the ways in which the recommendation might be implemented, firstly by an unofficial committee composed of Officers of the Department of the Clerk of the House, and then by the Select Committee on Publications and Debates Reports. The latter did not, however, make a formal report to the House, but communicated with Mr. Speaker, who on 27th July, 1960, made the following statement to the House:

> The House will recall proposals that we should improve our Papers dealing with the daily business of the House. We have prepared a new set of Papers which we have been able to submit to the Select Committee on Publications and Debates Reports for its consideration and report to me. I should like to express my gratitude on behalf of the House and on my own behalf to the Committee for the great help it has given to me.

I have adopted, with some trifling modifications, all the Committee's suggestions. I will not detain the House now by attempting to describe the new Papers. They will be available to the House in their new form from the beginning of the new Session, expected to be on 1st November next, and I hope that hon. Members will find them to be an acceptable improvement on what we have now.'

Details of changes

The papers duly appeared in their new form on the appointed date, and the changes made are described below. It is not proposed here to set out in detail a description of the papers as they existed before 1st November, since they are fully described in Erskine May,[8] to which the reader is invited to have recourse.

Colour

The change most readily apparent is in the colour of the paper. Formerly, all sections of the Vote were printed on paper which, although known as "blue" paper, was in fact light green in colour. Under the new scheme, the paper is either blue (in the generally accepted sense of the word) or white; the former is used for documents having relation to the future (*e.g.*, notices of questions, motions and amendments to bills to be taken on days subsequent to the day of issue), and white for the present and the past (*e.g.*, the Order Paper itself, lists of amendments to bills to be taken that day in the House or in committees, and the Votes and Proceedings, Standing Committee Minutes and Division lists relating to the previous day). The Private Business Paper, which often has items relating both to the present and the future on the same sheet, is blue; likewise the new descriptive outer sheet (see below). The new sheet headed "Order of business" (see below) is printed on yellow paper.

New items

(1) *The descriptive outer sheet.*—The object of this is to show at a glance what is the composition of the Vote on any particular day, and the order in which the components are arranged. On a day on which the maximum possible complement of items is included, the sheet will read as follows:

HOUSE OF COMMONS PAPERS

[Date]

CONTENTS

Order Paper (including a list of any committees sitting this day)	(White Paper)
*Amendments to Bills to be considered this day	(White Paper)
New notices relating to Private Business	(Blue Paper)
List of Private Bills	(White Paper)

New notices of Questions and Motions	(Blue Paper)
*New notices of amendments to Bills to be considered on future days	(Blue Paper)
Votes and Proceedings	(White Paper
Division List	(White Paper
Minutes of Proceedings of Standing Committees	(White Paper
*Public Bill List	(White Paper

* These items are not included in the distribution to Members, but can b obtained from the Vote Office.

If any particular item is not included among the day's papers (*e.g.*, if no Standing Committees have sat on the previous day, and there are therefore no Minutes) the relative entry is suppressed.

(2) *The Order of Business.*—For the convenience of Members, a sheet is issued with the Vote on the first day of each Session, and on the days of resumption after long Adjournments, setting forth the order in which the Business of the House is transacted. It reads as follows:

HOUSE OF COMMONS

Order of Business

The Business of the House is transacted in the order set out below. Items marked *n* require notice and any business arising under these heads will be found on the Order Paper. The remaining items do not require notice, and cannot therefore be placed on the Order Paper, but will be taken in their appropriate place if they arise.

1. AFTER PRAYERS
   - Reports of Queen's Answers to Addresses.
   - Formal Communications by Mr. Speaker.
   - Motions for New Writs.
   - *n* Private Business.
   - Presentation of Public Petitions.
   - *n* Motions for Unopposed Returns.

2. QUESTIONS
   - *n* Questions for oral answer.
   - Private Notice Questions.

3. AFTER QUESTIONS
   - Ministerial statements and statements by Mr. Speaker.
   - Introduction of new Members.
   - *Proposals to move the Adjournment under Standing Order No. 9
   - Ceremonial Speeches.
   - *n* Ballot for notices of motions.
   - Personal Explanations.
   - Appointment of Money Committees.
   - Consideration of Lords Amendments without notice.
   - Raising of matters of Privilege.

4. AT THE COMMENCEMENT OF PUBLIC BUSINESS
   - *n* Presentation of Public Bills.
   - *n* Business Motions moved by the Government.
   - *n* Motions for leave to bring in Bills, etc., under Standing Orde No. 12.

5. PUBLIC BUSINESS ("ORDERS OF THE DAY")
n Orders of the Day and Notices of Motions to be proceeded with in the order in which they appear.
*[Motions for the Adjournment under Standing Order No. 9 and Private Business set down under Standing Order No. 7(4) start at 7 p.m., any business then under discussion being postponed until such proceedings are over.]
n Adjournment motion under Standing Order No. 1(10).
n Orders of the Day and Notices of Motions not due to be proceeded with this day.
The Order Paper also contains:
List of Committees to sit this day.
Questions for written answer.
List of papers delivered.
* Not on Fridays.

Private Business Sheet

The changes in this sheet are minor and typographical. Although the reference on the descriptive outer sheet is to "New notices relating to Private Business", the private business set down for the day in question is also printed on the sheet, as well as on the Order Paper (see below), in order to achieve completeness in the sessional bound volumes of private business papers.

Order Paper

This paper contains items (1) to (7) of those listed in May under the heading "Notice Paper of Public Business", with the addition, at the very beginning, of the private business to be taken that day. Whereas previously to 1st November the paper had no heading other than the date, the words "ORDER PAPER" now appear in bold type at the head of the first page (and also in the running head on each successive page, followed by the date).

Unopposed Returns and Questions for oral answer are set out in the same way as before (although now the constituency of each questioner, in brackets, follows his name), and likewise the items under the heading "At the Commencement of Public Business". Alterations begin, however, to occur in the following compartment, under the heading "Orders of the Day and Notices of Motions"; some are typographical and minor, but others are more substantial.

(1) *Numbering of items.*—Formerly, only Orders of the Day (*i.e.*, bills and motions already entered upon) were numbered, notices of motions not already entered upon being interspersed un-numbered between them. Both Orders and Notices are now numbered, in the same series, as they stand on the paper. The titles of both are now set out, for clarity, in capital letters.

(2) *Indication of effective orders.*—Government orders and notices of motions continue from day to day on the Order Paper until disposed of.[9] As, under Standing Order No. 14, the Government have the right of arranging their business on the paper in such order

as they may think fit, the daily practice is for the Government to put at the head of the paper such orders as are intended to be disposed of that day and, as soon as these have been disposed of, to move the adjournment. The former method of indicating the place at which this was intended to be done was by inserting, after the last "effective" Order, the two successive Orders "Supply—Committee" and "Ways and Means—Committee". There were, however, occasions when both of these were themselves to be effective Orders, and on such days the Order Paper offered no indication whatever of the proposed extent of the business. This has now been remedied by the revolutionary expedient of inserting, immediately above the first ineffective Order, a thick black line across the page, followed by the words: "The following Orders and Notices of Motions also stand upon the Paper". This change has been very well received, and there has thus disappeared for ever a recurring (and, some would have said, gratifying) opportunity for the initiated to demonstrate their superiority over the uninstructed.

(3) *Subjects of debates.*—The suggestion of the Procedure Committee concerning the indication of topics to be debated on the Adjournment has been fully implemented. In the case of a major adjournment debate, formal notice of the motion is given on the paper, and the subject of the debate is then shown in italics, as in the following example (from the Order Paper of 22nd March, 1961):

The Prime Minister
Mr. Secretary Sandys

ADJOURNMENT: That this House do now adjourn.

Proposed subject for Debate: The withdrawal of the Union of South Africa from the Commonwealth.

In addition, the proposed topic to be raised on the half-hour adjournment at the end of business by the private Member who has been successful in the ballot[10] is set out in italics immediately after the last effective order and above the innovatory black line. An example, from the Order Paper of the same date, is:

On the Motion for the Adjournment of the House under Standing Order No. 1(6) Mr. Harold Finch proposes to raise, in connection with the Welsh Hospital Service, the case of Mr. H. Robinson.

In these cases, however, the terms of the adjournment motion itself are not set out formally.

This technique is also now used in circumstances which the recommendation of the Procedure Committee did not envisage. For instance, on 20th March, 1961, an allotted Supply day, the main item of business was the discussion of the Report of the Committee of Supply's Resolution on the Vote on Account. The relevant entry began:

*1. SUPPLY [11th Allotted Day] [20th February] Report [Civil Estimates and Estimates for Revenue Departments, together with Estimate for the Ministry of Defence, 1961-62 (Vote on Account)]
Mr. James MacColl
To move to reduce the Vote by £1,000.

There, formerly, the matter would have ended; but on this occasion, immediately below, there were inserted the words:

Proposed subject for Debate: Housing in England and Wales.

(4) *Opposed Private Business.*—On days when, under the provision of Standing Order No. 7(4), opposed Private Business was set down for debate at 7 o'clock, there was formerly no indication of this fact on the Order Paper, although the business appeared on the Private Business Sheet under the heading "Private Business at Seven o'clock". In the new form of the Order Paper the details of opposed private business are set out immediately below the details of the unopposed private business (see p. 29 above), under a like heading. They are not repeated in the Orders of the Day themselves, but there is inserted, immediately before the entry relating to the final Adjournment motion, the following entry:

At Seven o'clock
Private Business set down under Standing Order No. 7(4) (see page —).

the page reference being to the place where the details of the business are set out.

(5) *Remaining items.*—In order to avoid a possible confusion, the former heading "Questions not for oral answer" has been replaced by the heading "Questions for written answer". This item is moreover now preceded, not followed, by the notification of Public Committees and, with the latter, notification of Private Bill Committees is also given. No further changes of substance are made.

Notice Paper

In its previous form this paper, headed "Notices Given on [the previous day]" set forth under each respective future date, first, the Questions for oral answer, second, any notices of motions, and third, the Questions for written answer: in conclusion came notices of motions for "an early day" (*i.e.*, undated). In its present form the paper is headed "Notices of Questions and Motions given on [the previous day]" and is divided into two parts. The first consists entirely of notices of Questions, the written following the oral on each date; the second consists of Motions, the dated ones coming first and the "early day" motions, as before, at the end.

Notices of Amendments to Bills

There is little change in the layout of these papers, but the head-

ings have been changed so as to make it immediately apparent to which stage of the bill the Amendments refer.

Votes and Proceedings, Minutes of Proceedings of Committees, and Division Lists

The only alterations in these are typographical.

[1] *See* THE TABLE, Vol. XXVIII, p. 42. [2] Report and Minutes of Proceedings, H.C. 248, p. iv. [3] *Ibid.* [4] *Ibid.*, p. iii. [5] H.C. 92 (1958-59), p. li. [6] *Ibid.*, p. xxvii (para. 53). [7] 627 *Hans.*, c. 1653. [8] 16th Ed., pp. 264-7. [9] *Ibid.*, p. 325. [10] *Ibid.*, p. 395; *see also* THE TABLE, Vol. XXVII, pp. 140-2.

VI. UNITED KINGDOM: ELECTION PETITION: ALLEGATION OF IRREGULARITIES

At the General Election of 8th October, 1959, the successful candidate in the North Kensington Constituency was Mr. G. H. R. Rogers, who had held the seat since 1945 in the interest of the Labour Party. There were three other candidates at that election, namely, Mr. Robert Bulbrook, a Conservative, Mr. M. Hydleman, a Liberal, and Sir Oswald Mosley, representing a party called the Union Movement. The voting in the election was 14,925 for Mr. Rogers, 14,048 for Mr. Bulbrook, 3,118 for Mr. Hydleman and 2,821 for Sir Oswald Mosley.

Presentation of Election Petition

On 28th October Sir Oswald Mosley presented a petition to the High Court, alleging that various breaches of the rules had been committed during the election, and praying that there might be a scrutiny of the votes recorded at the election and a determination that Mr. Rogers had not been duly elected.

The detailed allegations of irregularities were that:

(i) when numerous persons who were qualified to vote in the said election did in fact vote therein, no marks were placed against the numbers allotted to the said persons in the register of electors to denote that ballot papers had been received by them.

(ii) no proper arrangements were made for the transporting of the ballot boxes and packages from the polling stations to the places appointed for the count.

(iii) the Returning Officer failed to make any or any proper arrangements for ensuring that the ballot boxes were opened and/or the votes were counted in the presence of the count-

ing agents and/or the election agents entitled to be present thereat.

(iv) the ballot boxes were opened and/or the Returning Officer proceeded to count the votes in the absence of counting agents and/or election agents entitled to be present thereat.

(v) persons other than those specified in Rule 45(2) of the Parliamentary Elections Rules contained in the Second Schedule to the Representation of the People Act, 1949, attended the counting of the votes.

(vi) persons other than those who had taken the requisite declaration of secrecy in respect of the said election attended the counting of the votes.

Trial of Petition

The case was tried in the Queen's Bench Division,[1] between 4th and 6th April, 1961, before Slade, J., and Streatfeild, J. The Petitioner appeared in person, and Mr. Rogers was represented by Mr. J. A. Grieves, Q.C., and Mr. H. Summerfield; Mr. A. N. McHaffie, the Returning Officer, who was also a respondent to the Petition, was represented by Mr. Eric Blain and Miss Sheila Cameron; and the Hon. J. R. Cumming-Bruce appeared as Counsel on behalf of the Director of Public Prosecutions.

On the first day, in the course of his opening speech, Sir Oswald Mosley informed the court that he and his agents had canvassed four polling districts, seeing 739 voters who were marked as not having voted, and that out of that number no less than 111 had at first immediately volunteered that they had in fact voted; however, when approached for affidavits, signed statements, etc., only 20 out of that 111 had been willing to comply. It was, however, submitted that the testimony of these 20 were quite sufficient to prove that the election had been irregularly conducted, and that the onus thereafter lay with the respondents to prove that the irregularity could not have affected the result of the election.

With regard to the second count of the petition, Sir Oswald proposed to call witnesses to show that ballot boxes arrived from the polling station to the place of counting unaccompanied by any uniformed police constable, a precaution laid down as necessary.[2]

Sir Oswald further averred that the opening of boxes and counting of votes was started before the arrival of himself and his agent, and that they were not the only ones to find, on arrival twenty minutes after the closing of the poll, the boxes open, the seals broken and the sorting of votes preliminary to counting already occurring. He also asserted that the arrangements were such that people could wander in and out of the count exactly as they liked, subject only to the permission of a policeman casually given at the door.

After Sir Oswald had concluded his opening statement, the 20 witnesses whom he had mentioned as willing to support him on the

first count of his petition were called, but about half of them did not appear to answer their subpoena; and it transpired that among those who did appear, several had in fact only signed the statement that they had voted in order to rid themselves of the presence of Sir Oswald's agents who were visiting them in order to persuade them to sign.

During the hearing of further witnesses, the point that the ballot boxes had not been accompanied by uniformed police was conceded by Mr. Blain; and several witnesses confirmed that some, at least, of the ballot boxes had been opened before all the counting agents had arrived, and that there were some unauthorised persons present at the counting.

After the conclusion of the first day's proceedings, no further witnesses were called apart from Sir Oswald himself, who alleged that certain of the witnesses who had not appeared, or had testified in a contrary sense to their previous depositions, had been subjected to intimidation. He nevertheless, after some discussion, refrained from asking the Court to exercise its powers over those witnesses who had not answered their subpoena and were therefore in contempt. The evidence which he himself gave related to the conduct of the count, the correctness of which in his opinion contrasted very unfavourably with that of seven other elections which he had previously contested.

Before calling any witnesses on behalf of either Respondent, Mr. Blain made a lengthy submission to the Court that there was no case to answer on paragraphs 3(ii), (iii) and (iv) of Sir Oswald's Petition. The Court concurred with this submission, the following ruling being given by Mr. Justice Streatfeild:

In this Petition Mr. Blain has submitted in the course of opening his case that he has no case to answer under paragraph 3(ii), (iii) and (iv) of the Petition. Paragraph (ii) alleges that divers illegal practices and breaches of the statutory rules governing the conduct of the election were committed by the returning officer and/or his servants or agents appointed by him in that behalf, in that "no proper arrangements were made for the transporting of the ballot boxes and packages from the polling stations to the place appointed for the count", the town hall at Kensington. The Court has been exercised to inquire where in the law relating to elections is any statutory duty governing the transport of ballot boxes from the polling stations to the place of the count. The present law on the subject has been in existence since 1872 with regard to this matter, when by the Ballot Act of that year the then regulations that a police constable should accompany ballot boxes to the place of the count was deliberately repealed by Parliament. The present law is governed by the Representation of the People Act, 1949[2] and under the Rules in the Second Schedule to that Act, Rule 44 is set out, the only Rule governing this question, and it is to the effect that as soon as practicable after the close of the poll the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals (*a*) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key attached", and then there are provisions with regard to spoilt ballot papers, tendered ballot papers, marked copies of the register of electors, the counterfoils of used ballot papers and

another provision with regard to blind voters and others. The rule ends with these general words: ". . . and shall deliver the packets to the returning officer to be taken charge of by him". That is the sum total with regard to the duties of the presiding officer in the sealing of ballot papers and in their conveyance to the returning officer to be taken charge of by him. There is nothing material under sub-Rules (2) and (3).

Now the only evidence that the Court has with regard to these ballot boxes having been taken to the town hall after the close of the poll is first that apparently the ballot boxes were properly sealed. There is no evidence to the contrary. Secondly, they were delivered to the returning officer. There is no requirement whatever as to the mode of transport—who is to do the actual transporting—and there is no provision with regard to any escort, uniformed or otherwise. In those circumstances it is not for this Court to read into the law more than it contains. We are therefore of opinion that there is no case to answer under paragraph 3(ii) of the Petition with regard to the transportation of ballot boxes from the polling stations to the town hall for the count.

Then it is also submitted by Mr. Blain that there is no case under paragraphs (iii) and (iv) of the general paragraph, 3. It is alleged in these paragraphs, which I can conveniently take together, that there were similar illegal practices and breaches of the statutory rules in that the returning officer "failed to make any proper arrangements for ensuring that the ballot boxes were opened and/or the votes were counted in the presence of the counting agents and/or the election agents entitled to be present thereat", and, under (iv), "The ballot boxes were opened and/or the returning officer proceeded to count the votes in the absence of counting agents and/or election agents entitled to the present thereat".

Now the duties of the returning officer at this stage of the election are to be found in Rule 45, sub-Rules 1 and 3. Under Rule 45, "The returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll". Stopping there, there is no evidence before us that the returning officer failed to make any such arrangements as soon as practicable after the close of the poll. It then goes on, ". . . and shall give to the counting agents notice in writing of the time and place at which he will begin to count the votes", and it is said by Sir Oswald Mosley that such notice was given by the returning officer of the time and place of the commencement of the count of this election. Under sub-Rule 3, "The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect thereto, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection therewith". There is no evidence before us that he did not give to counting agents or parties reasonable facilities for overseeing. The case has been made by Sir Oswald Mosley that some of the counting agents from the more distant polling stations, who may be also polling officers, did not have the opportunity of getting to the town hall in time. It may be a matter of practical convenience to candidates. The plain answer is, if they cannot be at the poll at the time laid down by the returning officer at the commencement of the count he must appoint as counting agents people who can be there. There does not seem to us to be any evidence that the returning officer failed, under Rule 45(3), to give reasonable facilities to the counting agents. If they cared to be there, they got those facilities. For those reasons we would find that Mr. Blain's submission must be upheld and that there is no case to answer under paragraphs 3(ii), (iii) and (iv) of the Petition.

The learned Judge then expressed the opinion that there was still a case to answer under sub-paragraphs (i), (v) and (vi), and that in regard to sub-paragraph (i) the onus of proof might well lie on the

Respondent; but in view of Sir Oswald's statement that he was contemplating withdrawing his objections under those paragraphs, it was decided to adjourn the case until the following day.

At the opening of proceedings on the third and last day, there was some legal argumentation as to how Sir Oswald's contemplated withdrawal could be effected. Section 127 of the Representation of the People Act, 1943,[3] lays down that such a petition cannot be withdrawn "without the leave of the election court or High Court on special application, made in the prescribed manner and at the prescribed time and place", and that such an application cannot be made "until the prescribed notice of the intention to make it has been given in the constituency . . . area to which the petition relates". As Mr. Justice Streatfeild remarked:

> I am not quite sure how far we have any powers to short-circuit the procedure of withdrawing the petition under the guise of deciding a case on points where we have already ruled there is a case to answer without hearing further evidence on it. One of the difficulties one has to face is this. I agree with you it is an elaborate procedure, but as far as I can see—Mr. Blain will correct me if I am wrong—all we can do today is to adjourn this case generally so as to give you the proper opportunity of serving the requisite notices in the prescribed form under Section 127 of the Act on the Respondents. Also you, your Solicitor and your Election Agent and all parties and their Solicitors and Election Agents also must swear that there is no agreement in consideration of which withdrawal has been made. The notice has to be published in the local paper in the constituency so that any person who might have been a petitioner may apply to the Court to be substituted as a petitioner in your place and carry on, and further the Director of Public Prosecutions may also be interested in the affidavits—he has to have an opportunity of being heard. I am afraid we have no power to short-circuit that procedure by merely saying we are not going to bother with the rest of the case, when we have already ruled there is a case to answer.

It was moreover pointed out that the Director of Public Prosecutions had a duty, under s. 128(4) of the Act, to consider whether or not to oppose a withdrawal, which could not be discharged immediately. The question, therefore, arose whether it was not now possible for the Court to determine the matter in hand without hearing any further evidence. The position was succinctly summed up by Mr. Cumming-Bruce:

> The duty of the Court, as I see it, is to investigate the allegations in the petition. First, to see if there has been a breach of any rule, secondly to see if there has been substantial compliance, and thirdly to see if the result of the election has been affected. If, after such evidence has been called as satisfies the Court that it has heard a clear picture of the facts, the Court then holds, one, that there has been, as the Court has at the moment held, *prima facie* evidence of breach, two, holds that the election was substantially in accordance with the rules and the result was not affected, it does so on all the evidence and there is a final determination of the issues between the parties and also a complete and final investigation of the facts it is the responsibility of the Court to investigate. All that I am saying is that of course there is nothing in any event collusive about a petitioner saying at any stage in

the hearing " Having heard the evidence I could not on that evidence dream of submitting A, B or C ", and, as I understand it, that may well be the position that the petitioner is in here. He has had an investigation of the facts, the evidence has been given and cross-examined to, and if the petitioner at this stage is prepared to submit to the Court, the Court has a clear picture of the facts—and one would not submit that the two last legs of sub-section (3) apply—and the Court could act accordingly.

Judgment

All parties being in substantial agreement, concluding speeches were made, and the following judgment was delivered by Mr. Justice Streatfeild:

This is an election petition brought by Sir Oswald Mosley, Baronet, who was one of the candidates at the General Election for the North Kensington Division. This resulted in the return to Parliament of Mr. Rogers, who received 14,925 votes. Mr. Bulbrook came second, with 14,048 votes; Mr. Hydleman came third with 3,118 votes, and Sir Oswald Mosley next with 2,821 votes.

In this petition the petitioner alleges a number of illegal practices and breaches of the statutory rules governing the conduct of the election, alleged to have been committed by the Returning Officer, who is one of the Respondents in this petition, in addition to Mr. Rogers. We have already ruled that there is no case to answer on items (ii), (iii) and (iv), although I shall have a word to say presently with regard to one or two of those.

The first item of complaint under (i) is that there was a breach of the statutory rules whereby numerous persons who were qualified to vote in the election did in fact vote therein, but no marks were placed against their numbers in the register of electors to denote that ballot papers had been received by them. It is laid down in the rules that a person tendering himself as a voter must identify himself. He is checked from the register of voters; he is given a ballot paper and the counterfoil is marked with his number on the back in case thereafter it is necessary to have a scrutiny of the vote. He has his name ticked off or otherwise struck out in the voting register, or should have, in order to indicate that he has received a ballot paper, otherwise of course there would be danger that someone might come a second time and perhaps from another clerk at the polling station might get another ballot paper and so record his vote twice. That is the object of the rule.

Now, we were told that a number of persons had been interviewed and some 111 of them had indicated that they voted, and there were no marks against their names from various polling stations. We were told that some 20 of such persons were to be called as witnesses. In fact 10 of them were called and it transpired that 5 out of 10 had not voted at all—a very good reason for no marks being put against their names. Of the remaining 5 who did vote, one, although not altogether without doubt but I think it is quite clear from examining the register of voters, in fact did have his name struck out, together with that of his wife. The clerk had obviously struck them both out together, and the mark rather tailed off when it came to this particular voter, but I think it was struck off.

Another one was more doubtful, because the name was struck off but the word " stet " was written opposite. The other three were not marked, and they did vote. All of those 5 witnesses who said that they did vote voted only once. There is not a shred of evidence that any of them took advantage of the fact, if indeed they knew of the fact, that their names had not been ticked off.

It was a breach of the regulation governing these matters that voting

papers, where ballot papers were given out at any rate to these 3 witnesses and possibly to 4 of them, who in fact recorded their votes, were handed out without a mark being made against their names. It was a breach, but the Court has to determine what is the result of that breach of a rule governing Parliamentary elections.

The section which particularly concerns the Court is Section 16 of the Representation of the People Act of 1949, and under sub-section (3) of that section, " No parliamentary election shall be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the parliamentary elections rules if it appears to the tribunal having cognizance of the question that the election was so conducted as to be substantially in accordance with the law as to elections, and that the act or omission did not affect its result ".

Now, it seems to me that the question of the burden of proof that the election was conducted substantially in accordance with the rules or the law, and the act or omission did not affect the true result, does not on the strict wording of Section 16 really arise. If it did arise it does seem that under the wording of the old Ballot Act and the corresponding section in the *Islington* case reported in Vol. V O'Malley & Hardcastle's Reports, page 120 and at page 130, the construction of the Ballot Act indicates that the burden rested upon the Respondent. I think with the changed wording under Section 16(3) it is for the Court to make up its mind on the evidence as a whole whether there was a substantial compliance with the law as to elections or as to whether the act or omission affected the result.

Even if the burden rested upon the Respondent, speaking for myself I have come to the conclusion that the evidence as to that is all one way. Here, out of a total voting electorate of 34,912 persons who recorded their votes, 3 or possibly 4 are shown by the evidence to have voted without having their names marked off on the register, and in their case only voted once. Even if one was to assume in favour of the Petitioner that some proportion of the remainder of 111 persons, whom we have not seen, were in somewhat similar case, there does not seem to be a shred of evidence that there was any substantial non-compliance with the provision requiring the marking off of voters' names on the register, and when the only evidence before the Court is that the only 3 or possibly 4 people who are affected by having recorded their votes without having them marked off only voted once, one cannot possibly come to the conclusion that that breach, although it was a breach of the regulation, can have had any effect whatever on the result of the election. Even if all the 111 were similarly affected, it could not possibly have affected the result of this election, so therefore as it seems to me, although there was a breach under item (i) of the Petition in the non-marking of certain names off the register, I should be prepared to say that there was a substantial compliance with the law in this respect governing elections and the omission to mark their names off did not affect its result.

The second item in respect of which we have already ruled that there is no case to answer was the allegation that no proper arrangements were made for transporting the ballot boxes and papers from the polling station to the point of the count. Sir Oswald Mosley in his concluding remarks has invited the Court, although he bows to the ruling of the Court, to include in the recommendation which the Court will make to the Speaker of the House of Commons a recommendation that what he describes as a hiatus should now be filled in. He draws the Court's attention to the election rules under the second Schedule of the 1949 Representation of the People Act, Rule 44, which lays down elaborate precautions which are to be taken in the polling stations as to the sealing of ballot boxes. It must be done in the presence of polling agents; separate packets must be made up; they must be sealed with the seal of the Presiding Officer; the ballot boxes must be sealed in such a way as

to prevent the introduction of additional ballot papers after the close of the poll, and then it ends by saying that they shall be delivered to the Returning Officer to be taken charge of by him. In Rule 45 there are also provisions for the Returning Officer at the other end of the journey to open the ballot boxes, having given notice and given facilities to counting agents to be present during that operation. Sir Oswald contends that it is a gap in the law that although elaborate precautions are taken before the journey and at the end of the journey, there is no provision for the safeguarding of ballot boxes on the journey itself. . . .

. . . In 1949, the Representation of the People Act came into force and there is no provision in that Act for a constable to accompany voting papers. Of course, there is nothing to prevent anyone from conjuring up in his own mind all sorts of hazards and difficulties which might beset ballot boxes on their way to and from the polling station and the counting place. One can, of course, imagine all sorts of dangers which may ring them about, but if Parliament in its wisdom as lately as 1949 has seen fit to pass rules regulating these matters and has not thought it was necessary to enact or to re-enact any requirements that a constable should accompany the ballot boxes, I do not, speaking for myself, feel that it would be correct for this Court to recommend Parliament to re-consider that situation, particularly applied to a case such as the present one, because in this case there is no evidence at all that the provisions of Rule 44 as to the closing of these ballot boxes and sealing them up in the presence of the polling agents was not fully carried out. There is no evidence at all that the ballot boxes, when they were opened at the place of the count, had in any way been tampered with. There is not a shred of evidence from beginning to end that there might have been, or still less that there was, any substitution of some completely different ballot box or boxes with completely false or forged voting papers therein. Of course, as I have said, one can imagine these things if one wants to. One can believe that something like that did happen or did not, and I have no doubt that Sir Oswald Mosley does genuinely believe it. The fact remains that there is not a shred of evidence to support it and he admits that he could not possibly prove it.

Now under those circumstances this Court, as I have said, ruled that there was no case to answer, and having ruled that there is no case to answer, I go further; I do not feel on the present evidence, that there is evidence to call for this Court to make any special recommendation to Parliament with regard to the future escorting of ballot boxes from the place of the poll to the place of the count. Now on items (iii) and (iv) again we ruled that there was no case to answer. I need not go into those matters now. They concerned simply the question as to whether proper facilities were given to the counting agents to be present when the poll commenced. As it seems to me, the plain answer to the difficulty which Sir Oswald Mosley pointed out, is this. If a counting agent is appointed who is also a polling agent, or if he is a person who is employed in the constituency rounding up late voters in the last few moments of the poll, of course he cannot be in two places at once and it takes a little time to get to the place of the count. But the plain answer is that if one desires to attend and one has notice that the count is to begin at nine o'clock or immediately afterwards, one must appoint a counting agent who will be able to be there, and providing the facilities were given (which, we think, they were), it does not seem there can be any breach in those respects, and that is why we ruled that there was no case to answer on (iii) or (iv).

Then (v) and (vi) can be taken together. That concerns the actual proceedings at the count and it is alleged that similarly there was a breach of Rule 45(2) in that persons attended the count other than those who were entitled to be present, and it is said that those persons included persons who had not made the requisite declaration of secrecy in respect of the

election and that they attended the counting of the votes at any rate for some part of the time. Rule 45(2) lays down that no person other than the returning officer and his clerks, the candidates and their wives or husbands, the election agents and the counting agents may be present at the counting of the votes unless permitted by the returning officer to attend; and there is also provision that people who do attend must make a declaration of secrecy. In the case of people who are permitted to attend they can make a declaration of secrecy at the time, immediately before they are admitted. In some particulars which were given by the Respondents in the case there are set out eleven categories of persons who did attend the counting of the votes of the North Kensington election. They included people who were clearly entitled to be there under the provisions of Rule 45(2). They also included certain other people who were obviously people who had been given permission to attend. Now those names did not include the name of Mr. Richard, who was the Labour candidate for the South Kensington division. There was also a gentleman called Mr. Rennie who, it appears, was a counting agent for the South Kensington division. The count of the poll of the South Kensington division was also going on in the Kensington town hall at the same time, but, of course, in another room, as the count for the North Kensington division, and Mr. Blain, appearing for the returning officer Respondent has admitted that Mr. Richard and Mr. Rennie apparently did attend the count at some time during the period when the count was taking place. Neither of those persons, so far as the Court knows, took an oath or made a declaration of secrecy *qua* the North Kensington division. No doubt they had both done so with regard to the South Kensington division. For my part, I am prepared to assume for these purposes, without having heard the full argument from Mr. Blain, that that again was a breach of Rule 45(2), inasmuch as two persons not given permission to attend and not having taken the oath of secrecy *qua* North Kensington division, apparently were allowed in. Whether it was because they were recognised as being persons concerned with the South Kensington division and a policeman on the door inadvertently let them in, I know not, but it is conceded by Sir Oswald Mosley that even though they were present and were unauthorised and had not made a declaration or taken any oath of secrecy, in fact there was no interference with the count. He does not contend that their mere presence had any effect on the result of the election. Obviously the reason for laying down the persons who are authorised to attend is in order to safeguard the count, so as to make quite sure that only reliable people are there who can be trusted not to walk off with packets of voting papers and so on, but there is not a shred of evidence to suggest—and Sir Oswald does not contend it—that there was anything wrong with the count.

He concedes, or says he would not seek to suggest that the mere presence of those two gentlemen had any effect on the result of the election. Accordingly, with regard to those matters (that is, on the assumption for these purposes that the presence of those two gentlemen constitutes a breach of regulation 45(2)), it appears to me to be inevitable that we must find that although it was a breach, nevertheless the rules relating to the count were substantially observed and were in accordance, substantially, with the law and that the act or omission—the act of admitting those people and the omission of the declaration of secrecy—did not affect the result of the election.

Now that brings me to the end of the matters of complaint by the Petitioner in this case. For my part I therefore come to the conclusion that there is no case at all on items (ii), (iii) and (iv), and with regard to (i) (v) and (vi), although there was under (i) and there may have been under (v) and (vi), a breach of the rules relating to elections, I have come to the conclusion that in all those respects as well there was substantial compliance with the rules governing elections and the law as to elections and that none of those acts

or omissions affected the result of the election. For those reasons, therefore, I must refuse the remedy which Sir Oswald Mosley has asked for in this case.

Report to the House

On 13th April, Mr. Speaker made the following communication to the House:

I have to acquaint the House with the fact that I have received a Certificate and Report from the Judges appointed to try the Election Petition for the Kensington North Constituency, which Certificate and Report I now read:

In the High Court of Justice, Queen's Bench Division

The Representation of the People Act, 1949

In the matter of the Parliamentary Election Petition for the Kensington North Constituency (described in the Petition as the North Division of the Borough of Kensington) between Sir Oswald Ernald Mosley, Baronet, Petitioner, and George Henry Roland Rogers and Arthur Newton Edward McHaffie, Respondents.

CERTIFICATE

To the Right Honourable the Speaker of the House of Commons.

We, Sir Geoffrey Hugh Benbow Streatfeild, Knight, and Sir Gerald Osborne Slade, Knight, Judges of the High Court of Justice and two of the Judges on the Rota for the time being for the trial of Election Petitions in England and Wales

Do hereby certify in pursuance of the Representation of the People Act, 1949, that upon the 4th, 5th and 6th days of April, 1960, we duly held a Court at the Royal Courts of Justice, London, for the trial of and did try the Election Petition for the Kensington North Constituency (described in the Petition as the North Division of the Borough of Kensington) wherein Sir Oswald Ernald Mosley, Baronet, was the Petitioner and George Henry Roland Rogers and Arthur Newton Edward McHaffie were the Respondents.

And in further pursuance of the said act We CERTIFY that at the conclusion of the said trial we determined that the said George Henry Roland Rogers, being the Member whose Election and return were complained of in the said Petition, was duly elected and returned.

And whereas charges were made in the said Petition of Illegal Practices having been committed at the said election:

We in further pursuance of the said Act report as follows:

1. That no corrupt or illegal practice has been proved to have been committed by or with the knowledge or consent of any candidate at the said election.
2. That no person was proved at this trial to have been guilty of any corrupt or illegal practice.
3. That corrupt or illegal practices were not proved to have nor have we reason to believe that corrupt or illegal practices have extensively prevailed at the said election or at all.
4. That no candidate has been proved to have been guilty by his agents of any corrupt or illegal practice at the said election.
5. That the following breaches of the Statutory provisions governing Parliamentary Elections were admitted or proved:

   (*a*) That three or possibly four persons voted without having their names marked off on the register. Each such person voted once only.

   (*b*) That two persons neither authorised nor permitted to attend

the counting of the votes and who did not therefore make the declaration of secrecy *qua* the Kensington North Constituency were allowed to go into the room where the count took place.

6. That notwithstanding the said breaches the said Election was conducted substantially in accordance with the Statutory provisions governing elections and that the result of the Election was not affected thereby.

We further report that there was no evidence to support any of the remaining allegations in the Petition, or that there was any breach of the law as to elections as therein alleged.

A copy of the Evidence and of our Judgment taken by the Deputies of the Shorthand Writer to the House of Commons accompanies this our Certificate.

Signed (Geoffrey Streatfeild)
(Gerald O. Slade)

Dated the 11th day of April, 1960.

Mr. Speaker said:

Pursuant to Statute, I shall lay upon the Table of the House this Certificate and Report and the shorthand writer's note, and will cause the required entry to be made in the Journal.[4]

[1] The report of the Election Petition trial described in this Article has not been published; the account is based on the Shorthand Writer's Notes furnished in typescript to Mr. Speaker by order of the Court, and laid by Mr. Speaker on the Table of the House (C.J. (1959-60), 194). [2] Schofield on Elections (3rd Edition). p. 297. [3] 12 & 13 Geo. 6, c. 68. [4] 621 *Hans.*, cc. 1287-9.

VII. NEW SOUTH WALES: ABOLITION OF LEGISLATIVE COUNCIL: PRIVILEGE

By Major-General J. R. Stevenson, C.B.E., D.S.O., E.D.
Clerk of the Parliaments

An Article under the heading, "NEW SOUTH WALES: BILL TO ABOLISH THE LEGISLATIVE COUNCIL," published on p. 44 of Vol. XXVIII for 1959 of THE TABLE, dealt with the steps taken to abolish the Legislative Council of New South Wales up to the stage when an *ex parte* injunction was taken by certain plaintiffs against the Government to restrain it from issuing a writ and proceeding with the referendum.

To avoid repetition, this Article should be read in conjunction with the Article above referred to.

The New South Wales Supreme Court case, Clayton *v.* The Attorney-General for New South Wales, was duly reported in the New South Wales Reports for November, 1960.[1] A majority judg-

ment in favour of the defendants was delivered on 10th October, 1960.

A motion was then made for special leave to appeal to the High Court of Australia,[2] and commenced hearing, in Melbourne, on 17th October, 1960, being adjourned to Sydney for further hearing on 8th November, 1960. Judgment was delivered on 15th December, 1960, in favour of the defendants, and will be found in the *Australian Law Journal,* Vol. 34, No. 8, of December, 1960.[3]

Whilst both cases dealt with constitutional law and in particular the Constitution Act of New South Wales, certain side issues affecting privilege of the Legislative Council of New South Wales were raised.

Two questions on the matter of privilege in connection with the Court cases which may be looked at are: Firstly, how far courts of law may investigate parliamentary proceedings, and, secondly, whether privilege was recognised or not by the Courts, and, if so, to what extent.

At the outset it should be pointed out that when responsible government was granted to New South Wales in 1856 the Constitution Act did not specifically confer privilege on the local legislature. This is in contrast with both the Constitution Act of the Commonwealth of Australia[4] and the Constitution Act of Victoria.[5]

In New South Wales five attempts have been made to confer privilege on the local legislature by enactment; bills have been introduced with the object of either declaring and defining the privileges of Parliament in New South Wales or of providing privileges to them. All have failed to pass.

Whilst over the years both Houses have claimed that privilege does exist in some form or other, such claims appear to have been based on the assumption that privilege was either inherited or due to custom and practice as of necessity. It may be claimed it derived from the Crown, but the essence of the claim to privilege is whether it was recognised by the courts of law or not: in other words, whether it is enforceable.

Before dealing with the judgments, it is necessary to set out in detail the relief sought by the plaintiffs from the Supreme Court of New South Wales and the grounds of the demurrer, these being as follows:

1. That it may be declared that the Legislative Council has not rejected or failed to pass the Constitution Amendment (Legislative Council Abolition) Bill, 1959, within the meaning of s. 5B of the Constitution Act, 1902, as amended.

2. Alternatively, that it may be declared that an interval of less than three months elapsed between rejection or failure to pass the Bill by the Legislative Council and the passing of the same again by the Legislative Assembly.

3. That it may be declared that the Legislative Council has not rejected or failed to pass the Constitution Amendment (Legislative Council Abolition) Bill, 1960, within the meaning of s. 5B aforesaid.

4. That it may be declared that there has been no free conference between managers within the meaning of s. 5B aforesaid.

5. That it may be declared that there has been no joint sitting of the members of the Legislative Council and the members of the Legislative Assembly within the meaning of s. 5B aforesaid.

6. That it may be declared that the Constitution Amendment (Legislative Council) Act, 1932, s. 5(2) (Act No. 2 of 1933), in so far as it amends the Constitution Act, 1902, by inserting s. 5B, is invalid and inoperative.

7. That it may be declared that the Constitution Amendment (Legislative Council Abolition) Bill, 1960, is not a Bill which can properly or lawfully be submitted to a referendum.

8. That it may be declared that the Parliament of New South Wales has no power to pass a law in terms of the Constitution Amendment (Legislative Council Abolition) Bill, 1960.

9. That the defendants being the Ministers of the Crown of the State of New South Wales and each of them be restrained from taking any step in relation to the holding of the referendum directed by the resolution of the Legislative Assembly of New South Wales on 12th May, 1960.

10. That the defendants who are members of the Executive Council and each of them be restrained from taking any step or signing any writ directed towards the holding of the referendum directed by the resolution of the Legislative Assembly passed on 12th May, 1960.

11. That the defendants who are Ministers of the Crown be restrained and in particular the defendants John Brophy Renshaw as Treasurer and Christopher Augustus Kelly as Chief Secretary and each of them be restrained from directing or taking any steps to direct or from authorising or taking any steps to authorise the application of any public moneys towards the holding of the referendum directed by the resolution of the Legislative Assembly passed on 12th May, 1960, or from incurring any liability which may be payable out of public moneys in relation thereto.

12. That the defendant Edward Bennetts as Electoral Commissioner or any officer performing such duties for the time being may be restrained from taking any steps to submit the Constitution Amendment (Legislative Council Abolition) Bill, 1960, to a referendum.

Upon the statement of claim being read, the defendants demurred *ore tenus* thereto. The grounds of demurrer, which for convenience were reduced into writing, are as follows:

1. The Constitution Amendment (Legislative Council) Act, 1932, s. 5 (2) (Act No. 2 of 1933), in so far as it amends the Constitution Act, 1902, by inserting s. 5B, is valid and operative.

2. The Legislature of New South Wales has power to pass a law in terms of the Constitution Amendment (Legislative Council Abolition) Bill.

3. The said Bill was one to which s. 5B of the Constitution Act, 1902 (as amended), extended.

4. The said Bill originated in Legislative Assembly and the objection thereto by the Legislative Council was not open to the Legislative Council nor could such objection preclude the valid passing of the said Bill in the manner and form prescribed by the said 5B.

5. Upon the true construction of s. 5B and upon the facts alleged in the statement of claim all the requirements of that section necessary to enable the valid issue of a writ for, and the holding of, a referendum on the Bill have been satisfied.

6. The statement of claim does not disclose anything which would render unlawful the tendering of advice to the Governor or the taking of such other proper steps as may be necessary for the issue of a writ for, and the holding

of, such referendum or the due application of moneys out of consolidated revenue towards the holding of such referendum and accordingly the plaintiffs are not entitled to the relief sought or any relief against the defendants or any of them.

7. The plaintiffs are not shown to have any interest or right sufficient to entitle them or any of them to an injunction to restrain the defendants or any of them from directing or taking any steps to direct or from authorising or taking any steps to authorise the application of any public moneys towards the holding of the referendum directed by the resolution of the Legislative Assembly passed on 12th May, 1960, or from incurring any liability which may be payable out of public moneys in relation thereto.

8. The plaintiff, Francis Armand Bland, C.M.G., M.P., is not shown to have any interest or right sufficient to entitle him to the relief sought or any relief.

9. The defendant, Edward Bennetts, the Electoral Commissioner, is not alleged to be presently intending to take any steps towards the holding of a referendum on the said Bill and is not presently under any statutory or other duty to take any such step and consequently there is no ground for the relief sought or any relief against him.

It will be observed that the eighth ground of demurrer does not make reference to the plaintiff the Honourable Michael Frederick Bruxner, D.S.O., M.L.A., although it may be that his position is indistinguishable from that of the plaintiff Francis Armand Bland, neither being a member of the Legislative Council, as all the remaining plaintiffs are. This circumstance would seem to be of importance in relation to an agreement between the parties which was reduced into writing in the following terms:

> It has been agreed between the parties that, for the purposes of these proceedings and in order to avoid the possibility that the Court might decide this application on grounds which left the main constitutional questions undecided, the defendants will concede that an injunction may be granted at the suit of those plaintiffs who are members of the Legislative Council against the defendants who are Ministers of the Crown and members of the Executive Council, restraining them from proceeding to take any steps towards the issue of a writ for or the holding of a referendum if, in the events which have happened, it would be unconstitutional for the Bill to proceed to a referendum.

In connexion with this agreement, and in relation to the seventh and eighth grounds of demurrer, counsel for the defendants pointed out that it was not intended to concede the right of a citizen, member of the Legislative Council or not, to sue to restrain the expenditure of public moneys, but only the *locus standi* of members of the Legislative Council to seek relief in respect of matters in which, as such, they have an interest.

To assist the Court, a printed document was circulated, entitled "Summary of Defendants' Submissions in Chief in Support of Demurrer," at page 10 of which, paragraph VI, will be found the following submission:

1. There is no rule of law that a Bill affecting the powers or privileges of the Legislative Council must, in order to be valid, originate in the Legislative Council if that House insists.

2. Privilege if it exists is founded either on the law and custom of Parliament or statute.[6]

3. Privilege cannot be created by practice.[7]

4. The *lex et consuetudo parliamenti* was not inherited here and did not except to a very limited extent become part of the law and custom of the New South Wales Parliament.[8]

In dealing with the first question, as the Court's power to investigate parliamentary proceedings, the question was raised, on the fifth day of hearing in the Supreme Court, by Sugerman, J., when he said:

> I have a curious difficulty about this investigation. It is not usual for the courts to examine the various steps that a measure has taken in its passage through Parliament. That is a commonplace. Ordinarily one accepts the fact that you have the Act, the Government Printer's copy, with the Royal assent marked on it. I do not know whether some special principle is said to exist in relation to Bills to which section 5B is applied, or in relation to constitutional measures. This is a curious difficulty that I have had in mind about the basis of this investigation into the various steps by which these measures progressed through the House.
>
> MR. BOWEN (Counsel for the Plaintiffs): So far as the effect of anything done in either House is concerned, the Court normally would not be inquiring into it.
>
> SUGERMAN, J.: Normally the Court does not inquire into the internal workings of Parliament.
>
> MR. BOWEN: I suppose that has been established by old cases of great authority as one of the freedoms of Parliament, in relationship to the Courts and the Parliament. However, in this provision, bearing a fairly close resemblance to section 57 of the Federal Constitution, and in section 57 itself, a test is laid down for the portion as regards deadlock provisions. In section 57, to take what may be one of the prototypes, one of the matters to be determined is whether there has been a failure to pass. That is at large and any consideration of that necessarily involves the course of the Bill in the Senate.
>
> SUGERMAN, J.; It may be that these are exceptional. I had in mind the difficulties that might arise. Suppose we had an ordinary measure, the subject of difference between the two Houses, that had been dealt with and disposed of under section 5B and the question had been submitted to referendum and assented to. Would it be open upon a prosecution in breach of that measure for the defendant to say that three months did not elapse between the first and second presentations of the Bill? I had in mind whether the magistrate might be called upon to inquire whether this was indeed an Act of the Legislature, namely, whether or not three months had elapsed and there had been a failure to pass. It may be different when there is an issue affecting the constitution.

On the sixth day, Counsel again referred to the matter:

> MR. BOWEN: . . . I might say that I should like to refer the court to authority on this question of the court's inquiring into the procedure of Parliament in cases such as the present. The matter was raised yesterday and although I think I had made my submission that in a constitutional type of case it would be done, and it was done in Taylor's case and Trethowan's case, I want to add an authority for the court's information on that subject matter. No reference to this case has been given to the court; I was not aware of it until yesterday afternoon. It only confirms what we were putting

yesterday. I refer the court to McDonald *v.* Cain reported in 1953 Victorian Law Reports at p. 411. In this case a declaration was sought that it was contrary to law for the Government to present a Bill to the Governor which had not been passed by an absolute majority of the members of both Houses. . . . The Bill in question, which provided for the appointment of commissioners to re-divide the electoral districts of the Legislative Assembly in the State of Victoria, was passed in Parliament but in the Legislative Council by fewer than an absolute majority of the Members of that House. The question arose whether the court would inquire into the majority in the House. It was held by the Full Court—Mr. Justice Gavan Duffy, Mr. Justice Martin, and Mr. Justice O'Brien—that the court would inquire into this and that the court had jurisdiction to make the declaration. They then held that in fact this particular Bill did not require to be passed by an absolute majority and on that ground rejected the action. The discussion is simply referred to in the judgment of Mr. Justice Gavan Duffy at pp. 418-19, where the cases referred to in argument are discussed, particularly The King *v.* The Governor of South Australia and Clydesdale *v.* Hughes. I refer Your Honours to p. 419: " The High Court in Taylor's case and Trethowan's case . . . Solicitor-General's submission . . ." The reference is first to Taylor's and Trethowan's cases and the Solicitor-General had submitted that the court would not inquire into the procedures of Parliament, including the majority. ". . . the Solicitor-General's submission . . . Colonial Laws Validity Act ". The court concluded that it would inquire into whether there was compliance with the parliamentary procedure and on the other hand rejected the action on the ground that with this Bill such a requirement was not necessary . . . (p. 105).

An interesting observation was made by Owen, J., in his judgment: [9]

. . . Before dealing with other matters which were put to us on the " manner and form " aspect of the case, there are some observations of a general nature which I think should be made and which seem to me to be relevant. The questions which we have to determine come before us by way of demurrer and it is therefore not open to us to draw inferences from facts stated in the pleading demurred to. But even if such a course were permissible, I am firmly of opinion that no court has any right to question the motives of the Parliament or of either of its constituent parts. The courts act, and properly act, upon the assumption that the Houses of Parliament are responsible bodies and that they act bona fide and with propriety. It is true that in a case such as the present the Court is of necessity bound to inquire, to an extent, into the internal proceedings in the Parliament itself in order to ascertain whether the requirements of manner and form prescribed by law have been fulfilled, but it has no right to go beyond that inquiry and it is its duty not to do so. The maintenance of the general principles which govern the relationship between the courts and the Parliament is of the utmost importance. They were discussed at length in Bradlaugh *v.* Gossett (1884), 12 Q.B.D. 271, and again in Arthur Yates and Co. Pty., Ltd. *v.* Vegetable Seeds Committee (1945), 72 C.L.R. 37, particularly at pp. 80-83, and, except in so far as our Constitution requires the Court in a case such as this to look at happenings within the four walls of the Parliament, we should and must apply the reasoning upon which those principles are based. I mention this because during the hearing it seemed to me that at times the argument tended to suggest that we should hold that the point of privilege upon which the Council grounded its conduct in relation to the Bill was without substance and was taken for an ulterior purpose, namely, that of defeating the passage of a Bill which might ultimately result in the abolition of the Council. In other words, that the claim of privilege was not made bona fide. Matters such as this are not for a

court to consider. In Arthur Yates and Co. Pty. Ltd. *v.* Vegetable Seeds Committee, *supra*, Dixon, J. (as he then was) said, at p. 80: "In United States v. Constantine (1935), 296 U.S. 287, Cardozo, J., states it as 'a wise and ancient doctrine that a court will not inquire into the motives of a legislative body, or assume them to be wrongful'. See the cases collected in Arizona *v.* California (1931), 283 U.S. 423. 'The knowledge and good faith of a legislature are not open to question. It is conclusively presumed that a legislature acts with full knowledge, and in good faith': United States *v.* Des Moines Navigation and Railway Co. (1892) 142 U.S. 510, per Brewer, J., who cites an often-quoted passage from Cooley's *Constitutional Limitations*, 8th ed. (1927), pp. 379-82. 'And the same presumption that legislative action has been devised and adopted on adequate information and under the influence of correct motives, will be applied to the discretionary action of municipal bodies, and of the State legislature, and will preclude, in the one case as in the other, all collateral attack': Cooley's *Constitutional Limitations*, 8th ed. (1927) at pp. 451-5."

With these passages I respectfully agree and, in inquiring whether the manner and form prescribed by law has been followed in relation to the Bill with which we are concerned, these considerations must be borne in mind.

The question was again raised in the High Court case but with a wider aspect as to validity and on jurisdiction from a constitutional point of view. The inappropriateness of proceedings to determine the validity of a statute prior to its enactment was discussed and attention drawn to the importance of the traditional view that courts do not enter upon an inquiry into the lawfulness and regularity of the course prescribed within the Parliament itself in the process of legislation and before its completion.

In the High Court majority judgment of Dixon, C. J., McTiernan, Taylor and Windeyer, JJ., the following reference is made: [10]

. . . it can have nothing to do with an attempt to secure the intervention of a court of equity in a legislative process on the ground that the procedure is misconceived or alternatively has not been correctly pursued. It may be assumed that the suit would not have been entertained by the Supreme Court sitting in Equity, had it not been for a concession made by the defendants. After the Attorney-General had informed the Supreme Court that there would be a demurrer *ore tenus* to the statement of claim he went on to say that the plaintiffs had agreed to plead in that pleading all the facts that might be relevant so that the defendants by demurring might obtain a final decision and that it had been further agreed between the parties that "for the purposes of these proceedings and in order to avoid the possibility that the Court might decide this application on grounds which left the main constitutional questions undecided, the defendants would concede that an injunction may be granted at the suit of those plaintiffs who are Members of the Legislative Council against the defendants who are Ministers of the Crown and Members of the Executive Council restraining them from proceeding to take any steps towards the issue of a writ for or the holding of a referendum if, in the events which have happened, it would be unconstitutional for the Bill to proceed to a referendum". Upon the basis of this concession the Supreme Court entertained the suit and considered all the points submitted on behalf of the plaintiffs against the holding of the referendum. There is an ambiguity about the expression "unconstitutional for the Bill to proceed to a referendum", but it seems almost certain that it was meant to cover only such

a want of constitutional authority or such a defect of constitutional procedure as would result in its being impossible that the Bill should become a valid law even if approved by a majority of the electors voting at the proposed referendum. Even so (if the concession is given full effect) the Court in acting upon the concession must go beyond its function of deciding whether an Act of Parliament assented to by the Crown does not go beyond the legislative power of the Parliament so that it cannot form part of the law of the land and must enter upon an inquiry into the lawfulness and regularity of the course pursued within the Parliament itself in the process of legislation and before its completion. It is an inquiry which according to the traditional view courts do not undertake. The process of law-making is one thing: the power to make the law as it has emerged from the process is another. It is the latter which the court must always have jurisdiction to examine and pronounce upon. Of course the framers of a constitution may make the validity of a law depend upon any fact, event or consideration they may choose and if one is chosen which consists in a proceeding within Parliament the courts must take it under their cognizance in order to determine whether the supposed law is a valid law; but even then one might suppose only after the law in question has been enacted and when its validity as law is impugned by someone affected by its operation.

Dealing with the second question—as to whether privilege was recognised or not by the courts, and, if so, to what extent—it will be noted that the question was narrowed down to the particular aspect of the introduction of a Bill affecting privilege "in that House to which it relates". In the judgment of Evatt, C. J., and Sugerman, J. (Supreme Court), will be found the following reference[11]:

We come now to the final group of questions. . . . Consideration of these must be prefaced by consideration of the claim that, either as a rule of law, or as a rule of practice amounting to a privilege of each House, a Bill directly affecting the constitution, powers or privileges of either House must be first introduced in that House if that House requires it to be so introduced. As a matter of law this has been said to be part of "manner and form", not followed in relation to the Bill now in question.

As a matter of privilege it is relied upon in support of a contention that the point of privilege was properly taken by the Legislative Council on each occasion when the Bill as passed by the Legislative Assembly was presented to it for its concurrence, and that, therefore, the Legislative Council cannot be said, by reason of its having declined to take the Bill into consideration and its having returned it to the Assembly in the circumstances earlier stated, to have "rejected" or "failed to pass" the Bill within the meaning of s. 5B of the Constitution Act, 1902. The consequences of this view are further reflected in the subsequent action of the Legislative Council in declining to participate either in a free conference between managers or in a joint sitting of the Members of both Houses (s. 5B(1)).

The claim of privilege is based, so far as the Legislative Council is concerned (and it is not necessary for the purposes of this case to consider the position of the Assembly), upon Rule 2 of the Standing Rules and Orders of the Council which, as amended on 15th May, 1951, reads as follows: "In all cases not specially provided for by these Rules and Orders or other Rules and Orders hereafter adopted resort may be had to the Rules, Forms and Usages of the Imperial Parliament, as laid down in the latest edition of May's *Parliamentary Practice*, which shall be followed so far as the same can be applied to the proceedings of this House, and in the Committee of the whole House, or any other Committee."

The statement in May's *Parliamentary Practice*, which is relied upon, occurs at p. 492 of the 16th edition (1957). (There is no need to consider what edition Rule 2 on its true construction refers to, since a similar statement occurs in the edition last preceding the introduction into the rule in 1951 of the reference to " the latest edition ".)

May's *Parliamentary Practice* states: " A Bill which concerns the privileges or proceedings of either House should, in courtesy, commence in that House to which it relates." Mr. Bowen has submitted that " in courtesy " does not mean as a matter of mere voluntary courtesy, but that it is, as it were, a compulsory courtesy and one which is necessary to the proper and most effective despatch of parliamentary business. For the submission that the matter is one of law and not merely of practice and privilege, s. 2(3) of the Constitution Act, 1902 (saving existing standing rules and orders) and s. 15 (whose effect has been earlier stated) are relied upon.

We have heard interesting debate on the question whether there exists, or could exist, a rule of law or a privilege of the Legislative Council of the nature of that which is contended for. In our opinion there is, in the present context, a sufficient and plain answer to that question which makes it unnecessary to examine the wider questions over which the argument has ranged.

The legislative plan for the overcoming of deadlocks which is embodied in s. 5B of the Constitution Act, 1902, clearly envisages that any Bill to which it is proposed (should it turn out to be necessary) to apply the provisions of that section should originate in the Legislative Assembly. Considerable ingenuity has been exercised by counsel for the plaintiffs in attempts to demonstrate that the machinery of s. 5B is workable in relation to a Bill which has had origin in the Council. In our opinion, s. 5B is not workable in accordance with its intention, and was not intended to work, in that way, but clearly requires for its effective operation that the Bill in question originate in the Legislative Assembly.

The provisions of s. 5B expressly extend its application to any Bill " whether it is a Bill to which s. 7A applies or not " (subsection (5)); that is to say, it is expressly made applicable to, *inter alia*, Bills for the abolition of the Legislative Council or for the alteration of its constitution or powers. The existence of a privilege such as is claimed, or of a similar rule of law, would deprive s. 5B(5) of all effect. Assuming here in favour of the plaintiffs, but without deciding the question, that the privilege relied upon was an existing privilege of the Legislative Council in 1932, it is plain that, by its concurrence in the enactment of s. 5B, that House must fairly be taken as having waived or abandoned its privilege for the future to the extent necessary to give that section efficacy. Looking at the privilege claimed if it were, as is also claimed, a rule of law (for which purpose s. 15 of the Constitution Act, 1902, is relied upon by Mr. Bowen), and assuming again in favour of the plaintiffs, but without deciding the question that a standing rule in terms of Rule 2 of the Council's Standing Rules and Orders is capable (more especially in relevant respects) of being supported under s. 15 of the Constitution Act, 1902, we do not accede to the view that s. 15(2) gives such a standing rule an operation in law such as would override and render nugatory the provisions of s. 5B and especially 5B(5) of the same Act. For these reasons, we are of opinion that the present case must be decided on the footing that, *qua* the matter in hand, there is no such privilege of the Legislative Council, and no such rule of law, and that the Council's reliance upon such a privilege in the circumstances earlier related was plainly not well founded.

On the question of " manner and form," Owen, J., in his judgment[12] said:

. . . A submission was made to us that the laws and usages of the Parlia-

ment of New South Wales require that a Bill affecting the constitution, powers or privileges of either House shall first be introduced in that House. The House concerned may waive that right or privilege, but if it insists upon it, then to comply with " manner and form " the Bill must originate in that House. The statement of claim refers to a large number of Bills affecting the constitution, powers and privileges of the Council which have come before that House since 1855. The majority of these Bills were first introduced in the Council and these included the Bill to repeal s. 7A and the Bill to abolish the Council, which were the subject of the proceedings in Trethowan's Case. In the case of some of the others which were first introduced in the Assembly, the President of the Council of the day ruled that they should have been introduced in the Council, and in each such case the Council declined to take the Bill into consideration. In the remaining cases no point of privilege was taken or insisted upon by the Council. We were referred also to instances in which similar claims of privilege were made by the Assembly and to rulings given by the Speaker of that House in favour of such claims. But it is one thing to say that by the laws and usages of the parliament a Bill, such as the present one, should first be introduced into the House thereby affected and another thing to say that such a parliamentary law or usage constitutes " a law for the time being in force " in New South Wales prescribing a " manner and form " for the passage of a Bill into law within the meaning of s. 5 of the Colonial Laws Validity Act. Counsel for the plaintiffs sought to establish the submission by pointing first to s. 15 of the Constitution Act, 1902, which enables each House to prepare and adopt Standing Rules and Orders governing the conduct of parliamentary business and which provides that such rules and orders when approved by the Governor " shall become binding and of force ". He referred then to Rule 2 of the Rules and Standing Orders of the Council which states that in cases not specially provided for by those Rules and Orders " resort may be had to the Rules, Forms and Usages of the Imperial Parliament, as laid down in the latest edition of May's *Parliamentary Practice*, which shall be followed so far as the same can be applied to the proceedings of this House, . . ." There is no Rule or Standing Order of the Council which refers specifically to this particular privilege and, accordingly, counsel cited May's *Parliamentary Practice*, 16th ed., p. 492, where it is stated that " a Bill which concerns the privileges or proceedings of either House should, in courtesy, commence in that House to which it relates ".

For the purposes of the argument, I will assume that this statement means that a Bill affecting the privileges of one House must, if the point of privilege is raised and insisted upon, commence in that House. But even on that assumption, I am of opinion that s. 15 of the Constitution Act, Rule 2 of the Council's Rules and Standing Orders, and the statement in *May*, do not combine to produce, within the meaning of s. 5 of the Colonial Laws Validity Act, a law for the time being in force in New South Wales prescribing a manner and form for the making of laws by the Legislature of New South Wales. The most that can be said is that there is in New South Wales a parliamentary usage or convention that a Bill affecting the privileges of one of the Houses should commence in that House if the matter of privilege is raised and insisted upon. I think it unnecessary, therefore, to consider whether as a matter of law the terms of s. 5B have altered or abolished that usage or convention.

Herron, J., held[13]:

I turn now to the arguments advanced by the plaintiffs as to why the present Abolition Bill may not validly be submitted to a referendum pursuant to s. 5B.

The first submission was that as a matter of law or, alternatively, as a matter of practice, a Bill affecting the constitution, powers or privileges of the

Legislative Council must, if that House requires it, be introduced in the Legislative Council and, upon the Legislative Council requiring this to be done in the case of a Bill which has been introduced in and passed by the Assembly, the Bill thereupon lapses, ceases to be properly before Parliament and all prior proceedings on the Bill are void. As to this being a matter of law, reliance was placed upon s. 15 of the Constitution Act and Rule 2 of Legislative Council's Standing Rules and Orders whereby, it was argued, the Council adopted the privilege of the Houses of the Imperial Parliament expressed in May's *Parliamentary Practice*, 16th ed., p. 492, in the words, " A Bill which concerns the privileges or proceedings of either House should, in courtesy, commence in that House to which it relates ". As to this being a matter of practice, the plaintiffs relied upon the facts set forth in paragraph 27 of the statement of claim.

On this branch of the case I think that one must begin with the fact that colonial legislatures, including New South Wales, came into being as creatures of the Imperial Parliament. They had no ancient usage in which to found any claims of privilege. Their rights and powers are founded in grant, express or implied. This is the basis of the approach of the Privy Council to the questions raised in Fenton *v.* Hampton (1858) 11 Moo. P.C. 347; 14 E.R. 727; Doyle *v.* Falconer (1866), L.R. 1 P.C. 328, and Barton *v.* Taylor (1886), 11 A.C. 197. These cases establish that the *lex et consuetudo parliamenti* was not inherited by Colonial Legislatures and that the only powers incident to or inherent in such legislatures were those necessary to its existence and proper functioning as a legislature. These incidental or inherent powers lie in implied grant founded on necessity: see Barton *v.* Taylor, *supra*, at p. 203; Norton *v.* Crick (1894), 15 L.R. (N.S.W.) 172. I do not see how a rule as to where Bills should *originate* is necessary to the existence or functioning of the Legislative Council and, indeed, the plaintiffs did not put their case on any such basis. But even based on necessity the rule would depend on implied grant and a grant could not be implied contrary to the Statute which created the Legislature. The original Constitution Statute 18 and 19 Vict. c. 54, s. 1, empowered the Legislature it created to make laws for the peace, welfare and good government of the Colony subject to a proviso that Bills for appropriating public revenue or imposing taxes should originate in the Assembly. The clear implication was that all other Bills might originate in either House. This provision is preserved in s. 5 of the Constitution Act, 1902, and negatives any implied grant of the rule contended for. The plaintiffs must, therefore, rely upon a power to adopt the rule by way of a standing order. They point to s. 15 (1)(e) as the source of power. This authorises a standing rule or order regulating the " proper passing, entitling and numbering of the Bills to be introduced into and passed by the Council ". The only relevant word for present purposes is " passing ". The rule of privilege relied on is hardly a rule regulating the passing of Bills; if it exists, it would regulate the origination of Bills. In my opinion, the words of s. 15(1)(e) are not only inapt, but were not intended to confer power to either House to create for itself the privilege claimed in this case. They certainly do not appear to have been so intended by the Imperial Parliament when one compares s. 35 of the Constitution Act, 1855 (whence they came), with ss. 34 and 35 of the Victoria Government Act, 1855 (18 and 19 Vict. c. 55), in which it was thought necessary to provide a special provision to permit the adoption of privileges of the Imperial Parliament; cf. also ss. 49 and 50 of the Commonwealth of Australia Constitution Act, 1900. Furthermore, to so construe the power would involve a conflict with the clear implication in s. 5 of the Constitution that either House may originate any kind of Bill other than one of the kind mentioned in the proviso to that section which requires that certain Bills must originate in the Assembly. Finally, I think that s. 5B confers by necessary implication a right upon the Assembly to introduce any Bill in that

House, and if the rule contended for existed under the Standing Rules and Orders in force prior to Act No. 2 of 1933 coming into force, it was inconsistent with that Act and ceased to be in force by virtue of s. 6 of that Act.

In so far as practice is relied upon for the rule, it is to be noted that, apart from the Bill in this present case, no point of privilege has been taken by the Legislative Council in respect of any Bill affecting its powers and originating in the Legislative Assembly since 1933 when s. 5B was introduced (see paragraph 27(e)). But the question remains whether practice could create the privilege claimed. May's *Parliamentary Practice,* 16th ed., p. 44, states: "Some privileges rest solely upon the law and custom of Parliament while others have been defined by statute. Upon these grounds alone all privileges are founded." The law and custom of the Imperial Parliament was not inherited here and there is no statute conferring the privilege. I have already held that it does not exist under the Standing Rules and Orders. I can find no warrant for holding in the face of s. 5 and s. 5B, or at all, that practice could create a rule rendering nugatory the introduction and passing of a Bill in the Legislative Assembly. Accordingly, I reject the plaintiffs' submission that the Bill cannot proceed to a referendum because the Legislative Council, by requiring the Bill to originate in the House, caused it to lapse and rendered the proceedings in the Assembly void . . .

McLelland, C. J. in Equity, in his judgment, delivered the following[14]:

. . . The plaintiffs submitted that the proceedings relating to the Bill were void and of no effect because the Standing Rules and Orders of each House and the practice of Parliament were not observed in relation to it in that:

(i) Because of ss. 2(3) and 15 of the Constitution Act and Rule 2 of the Standing Orders of the Legislative Council, it is a rule of law that a Bill directly affecting the constitution, powers or privileges of any House shall be first introduced in that House, if that House requires it to be so introduced. The Legislative Council did require this to be done in this case and upon this happening the said Bill ceased to be properly and lawfully before Parliament and all prior proceedings in relation to it become of no effect.

(ii) Alternatively to (i) because the said rule is a rule of practice. Upon the Legislative Council taking the point of privilege the said Bill lapsed.

The passage in May's *Parliamentary Practice* relating to the origin of Bills concerning the privileges of one House which is said shall be resorted to under Rule 2 is in the following terms: "A Bill which concerns the privileges or proceedings of either House should, in courtesy, commence in that House to which it relates" (15th ed., p. 492).

I am of opinion that this submission cannot be supported on either ground. So far as the first ground is concerned, I am of opinion that the words "Rules, Forms and Usages" in Rule 2 of the Standing Rules and Orders are not appropriate to include a privilege of the kind claimed and that if they were, that the words "applied to the proceedings of this House" are not appropriate to include a privilege affecting the proceedings of the Legislative Assembly. Even if these views were not correct, the passage appearing in *May* refers only to a courtesy and does not purport to create the privilege claimed, it could not be supported under the provisions of s. 15 of the Constitution Act. The plaintiffs relied on s. 15(c), but the words of this subsection are clearly inapt for the purpose.

In support of the practice claimed to exist, the statement of claim makes reference to 46 Bills which, since the passing of the Constitution Statute and prior to 1959, had been introduced into the Parliament of New South Wales,

directly affected the constitution and/or powers and/or privileges of the Legislative Council. Of these Bills, 31 were each introduced in the Legislative Council and 15 were each introduced in the Legislative Assembly. Upon four of these latter Bills being sent by the Legislative Assembly to the Legislative Council, the President of the Legislative Council ruled that the said Bill should have been introduced in the Legislative Council on the grounds that they directly or immediately affected the constitution, powers and privileges of the Legislative Council, and in each case the Legislative Council declined to take the said Bill into consideration. In respect of 10 of the latter Bills being forwarded by the Legislative Assembly to the Legislative Council, no point of privilege was taken or insisted on in the Legislative Council and all were passed by the Legislative Council except one, which was defeated. In the case of the remaining one of the latter Bills, the Legislative Council proceeded to consider the Bill in circumstances which are mentioned in the statement of claim.

Reference is also made in the statement of claim to a Bill which was introduced in the Legislative Council and came before the Legislative Assembly in 1920 in respect of which the Speaker of the Legislative Assembly, having ruled that any Bill concerning the privileges or proceedings of either House should commence in the House to which it relates, the order of the day was discharged and the Bill was withdrawn.

Even if the facts stated were sufficient to prove that in practice a privilege, such as is relied upon, had been acted upon as existing, I do not think that this circumstance could create an enforceable privilege which because it had not been observed would invalidate the Bill in question in these proceedings. The privilege to have the effect claimed would have to be founded upon the *lex et consuetudo parliamenti* or upon statute and could not be created by practice.

The *lex et consuetudo parliamenti* was not inherited in N.S.W. and did not, except to a limited extent, which it is not relevant to consider for present circumstances, become part of the law and custom of the Legislature of New South Wales; see Barton *v.* Taylor (1886), 11 A.C. 197, at pp. 203-5, and the cases there referred to. We have not been referred to the provisions of any statute by or under the provisions of which such privilege as is claimed was created or recognised. As I have already said, Rule 2 of the Standing Orders of the Legislative Council did not and could not create such a privilege.

Even if prior to the enactment of s. 5B a privilege such as is claimed had been created by practice, it could not, I think, thereafter be inconsistent with such provisions.

Section 5B cannot be read as implying as a condition precedent that a Bill affecting the Legislative Council must be introduced in the Legislative Council if it so insists. The express words of s. 5B negative such an implication. The section is dealing with Bills passed by the Legislative Assembly and, when a Bill is so passed, the initiative thereafter in respect of it lies with the Legislative Assembly.

I am of opinion that the point of privilege was not validly taken by the Legislative Council and that the proceedings relating to the Bill were not void because it did not originate in the Legislative Council. . . .

In the High Court judgment of Dixon, C.J., McTiernan, Taylor and Windeyer, JJ., the following comments were made[15]:

The argument which seems to take its place in logical sequence is that the Bill should have been introduced in the Legislative Council and not in the Legislative Assembly because it dealt with the powers, privileges and status of the Legislative Council. It is objected that because it was sent up from the Assembly there was a fatal departure from the manner and form of law

making. Blackstone in his *Commentaries* says that all Bills that may in their consequences any way affect the right of the peerage are by the custom of parliament to have their first rise and beginning in the House of Peers, and to suffer no change or amendments in the House of Commons: 1 Bl. Com. 168. Erskine May states the rule somewhat differently and as one applying to either House: "A Bill which concerns the privileges of either House should in courtesy commence in the House to which it relates": May, *Parliamentary Practice*, 14th ed. (1946), p. 462. However it may be stated, it is in this rule of the Parliament at Westminster that the source is found of the privilege claimed for the Legislative Council. There is no express reference to the rule in the Standing Orders of the Legislative Council but r. 2 provides that in all cases not especially provided for resort may be had to the Rules Forms and Usages of the Imperial Parliament as laid down in the latest edition of May's *Parliamentary Practice* which shall be followed so far as the same can be applied to the proceedings of that House. On approval by the Governor the Rules and Orders of the Legislative Council and of the Legislative Assembly became "binding and of force": s. 15(2) of the Constitution Act, 1902-56. The act does not make them part of the general law. The use which the plaintiffs seek to make of the rule of privilege or practice which they invoke is twofold. Perhaps the most important application which they make of it is as the ground and explanation of the refusal to give consideration to the Bill: it amounted, they say, to no more than calling attention in the proper and received form to a privilege and to its non-observance and did not constitute a rejection of the Bill or a failure to pass it. But it meant also that there had been a failure to pursue the lawful procedure and moreover it meant that the Bill had lapsed on the privilege being enforced or acted upon and could not be thereafter treated as rejected and sent up a second time. There was, it is said, a failure to comply with the manner and form prescribed for legislation of the description to which the Bill belongs. It is necessary to separate these various arguments: they may depend on the same set of considerations but they place different complexions upon them. In the first place it seems clear enough that if it be right that the Bill ought to have originated in the Council, it is not because of a requirement which falls within the proviso to s. 5 of the Colonial Laws Validity Act, 1865, which formed the basis of the decision in Trethowan's Case (1932) A.C. 526; 44 C.L.R. 394; 31 S.R. (N.S.W.) 183. The terms of that proviso are these: "provided that such laws shall have been passed in such Manner and Form as may from Time to Time be required by any Act of Parliament Letters Patent Order in Council or Colonial Law for the time being in force in the said Colony". The requirement supposed that the Bill should originate in the Council is of a parliamentary kind which is not enforceable by law and it is not prescribed by an Act of Parliament, by Letters Patent, by Order-in-Council or by a "Colonial Law". It therefore cannot be within the provision. No doubt there are other reasons but that is enough. In the second place, the argument that, inasmuch as in form the Bill was one for the assent of both Houses and was for a purpose governed by s. 7A, it was necessary under the rule or privilege that it should be introduced in the Legislative Council, seems to give too little weight to the consideration that after all what is in question is compliance with s. 5B. Suppose it to be true that a Bill within s. 7A should, as a matter of parliamentary privilege rule or practice, originate in the Council, yet the very terms of sub-section (1) and sub-section (4) of s. 5B considered together show that it is contemplated that on two occasions after the Bill has been passed by the Assembly the Council must reject or fail to pass it.

But nevertheless the argument has an importance which is considerable. It is not that the existence and operation of the privilege claimed could go to the ultimate validity of a law originating in the Assembly if passed and approved under s. 5B or that it could affect the lawfulness of the proceedings. The importance is that privilege formed the ground upon which the Council

acted and it aids the contention that that action, explained by the claim of privilege, did not amount to a rejection or failure to pass the Bill. . . .

Special leave to appeal to the High Court of Australia was thus refused from a decree made by the Supreme Court of New South Wales and the plaintiffs after consideration decided not to take the question to the Privy Council.

In effect, the legal proceedings confirmed the validity of the action of the Government as regards the procedure set out in s. 5B of the Constitution Act, 1902, in relation to "deadlocks" between the two Houses. Although a joint conference had not been held, it was decided that the Legislative Council could not obstruct a referendum by failure to comply with the preliminary steps.

Pursuant to the Constitution Further Amendment (Referendum) Act, 1930-33, the Government issued a writ, on 23rd March, 1961, for a referendum to be held on 29th April, 1961.

Whilst the Act required amendment to bring it into line with the present Parliamentary Electorates and Elections Act, the Government considered it advisable not to attempt to pass any amending Bill in view of probable opposition in the Legislative Council. Accordingly the referendum was conducted in a similar manner to that on the question of the reform of the Legislative Council held on 13th May, 1933, except that electors outside New South Wales on polling day were not granted a postal vote.

The result of the referendum has been an overwhelming defeat for the Government's proposal of abolition, the figures being—

"YES"	802,512
"NO"	1,089,193

a majority of 286,681 out of a total of 1,891,705 formal votes, whilst 49,352 informal votes were cast, enrolments being 2,104,811. This may be compared with the referendum on reform in 1933, when the result then was—

"YES" (for reform)	716,938
"NO"	676,034

a majority of 40,904, out of a total of 1,392,972 formal votes, with 18,144 informal votes, the total enrolment in that year being 1,476,227.

[1] P. 592. [2] No. 33 of 1960. [3] P. 378. [4] S. 49. [5] S. 35 of which provides the privilege, immunities and powers to be defined, such definitions being provided in S. 12. [6] May, 16th Ed., p. 44. [7] *Ibid.*, p. 47. [8] *Fenton* v. *Hampton*, 11 Moo., P.C. 347; 14 E.R. 727, 729, 745. *Doyle* v. *Falconer*, L.R. 1 P.C., 328. *Barton* v. *Taylor*, 11 A.C., 197, 203, 204-5. *North* v. *Crick*, 15 N.S.W. L.R., 172, 176. [9] N.S.W. Reports, Nov., 1960, pp. 632-3.
[10] A.L.J.R., Vol. 34, No. 8, 29th Dec., 1960, at pp. 380-1. [11] N.S.W. Reports, Nov., 1960, pp. 620-1. [12] Pp. 633-4. [13] Pp. 646-7. [14] Pp. 665-7.
[15] A.L.J., Vol. 34, No. 8, 29th Dec., 1960, p. 383.

VIII. OPENING OF NEW CHAMBER OF THE LEGISLATIVE COUNCIL FOR THE TERRITORY OF PAPUA AND NEW GUINEA

By W. P. B. Smart
Clerk of the Legislative Council

Since its inauguration in November, 1951, the Legislative Council for the Territory of Papua and New Guinea had met in the Red Cross Hall. However, the Council now has its own Chamber and offices, which were opened by the Hon. P. M. C. Hasluck, Minister of State for Territories. The building, which was the former General Hospital, was re-designed to suit the needs of the Council by the former Clerk of the Council, Mr. D. I. McAlpin.

The first meeting of the Council in its new Chamber was honoured by the presence of Their Excellencies, the then Governor-General, Viscount Dunrossil, P.C., G.C.M.G., M.C., Q.C., and Lady Dunrossil. The Commonwealth Parliament also sent a delegation led by the Speaker of the House of Representatives. The delegation consisted of Members of the Senate and House of Representatives, who were accompanied by the Clerk Assistant of the House of Representatives.

The Hon. P. M. C. Hasluck, M.P., in the morning, in the presence of a large gathering of residents and visitors, unveiled a plaque to commemorate the opening of the new Chamber, bearing the legend: "These Chambers dedicated to the use of the Legislative Council for the Territory of Papua and New Guinea in the faith that lasting good will here be done in service to all peoples of the Territory." After the unveiling of the plaque, the Minister turned the key and declared the Chamber open.

In the afternoon, following the opening of the Chamber by the Minister, His Excellency, the Governor-General was pleased to deliver an inaugural address to the Council.

After the departure of Their Excellencies, the Commonwealth Parliamentary Delegation, led by Mr. Speaker, was announced by the Clerk of the Legislative Council, and with the concurrence of Members invited to enter by the President (His Honour the Administrator, D. M. Cleland, C.B.E.).

The Leader of the Delegation in his address to the Council, prior

to presenting a Presidential Chair to the Council, on behalf of the Delegation and their colleagues in the Commonwealth Parliament, said:

A little over 30 years ago, when the Australian Capital was established at Canberra, and our Commonwealth Parliament came into possession, for the first time, of its own home, the occasion was marked by presentations of a Speaker's Chair to the House of Representatives, from Members of the Parliament of the United Kingdom, and a President's Chair to the Senate, from the Government of our sister Dominion, Canada. More recently, in 1955, when the Legislative Council for the Northern Territory occupied its new building, the Commonwealth Parliament considered it fitting to make a gift to that Council of a President's Chair. And so, Mr. President, on this historic occasion in the life of the Legislative Council for the Territory of Papua and New Guinea—a Legislative body created by the act of our own Parliament—we felt that, guided by the precedents to which I have referred, it would be indeed appropriate, and a pleasure, for us to bring to you also the gift of a President's Chair. It is our hope that this Chair, modelled on the one used in our Senate, will long be preserved, not only as a visible link between the Commonwealth Parliament and the Council of this Territory, but also as tangible evidence of the friendly relations which exist between the Members of our respective Assemblies.

A Resolution of Thanks to the Commonwealth Parliament was agreed to by the Council and was later transmitted to both Houses of the Parliament.

IX. PRECEDENTS AND UNUSUAL POINTS OF PROCEDURE IN THE SOUTH AFRICAN HOUSE OF ASSEMBLY, 1960

By R. J. McFarlane
Clerk of the House of Assembly

Ministerial statement on matter to be debated at later stage on same day.—On 25th January Mr. Speaker intimated that he was prepared to allow a motion for the adjournment of the House on a definite matter of urgent public importance, viz., the incidents at Cato Manor, Durban, on 24th January, 1960, which resulted in the death of nine policemen.[1] In terms of Standing Order No. 33 the motion had to stand over until 8 p.m. on that day. Mr. Speaker subsequently allowed the Minister of Justice to make a statement in the House on the same day in regard to this matter immediately before the commencement of public business. When the Minister rose

to make his statement a Member on a point of order asked Mr. Speaker whether it was the practice to allow a Minister to make a statement which could not be debated in regard to a matter which was to form the subject of a debate at a later stage that day.

In his ruling Mr. Speaker stated:

> Since 1936 the practice of the House has been that it is in the discretion of the Speaker whether a Minister should or should not be allowed to make a statement in the House in regard to a matter of public interest, before the commencement of public business, but the Speaker in coming to a decision should interpret the feeling of the House. In connection with the Cato Manor incidents I feel that I shall be interpreting the wish of the House if I allow the Minister to make his statement. I must further point out that I have granted permission for a motion for the adjournment of the House on a definite matter of urgent public importance to be moved today in connection with this matter and after the statement of the Minister has been made I shall give the Member concerned an opportunity of asking for leave to move the motion.[2]

Debate on motion for leave to introduce Government Bill on private Members' day.—In terms of Standing Order No. 41(2) precedence is given to motions for leave to introduce Bills, whether public or private, on private Members' days, *i.e.*, on Fridays, but paragraph (4) lays down that if such a motion is opposed, Mr. Speaker, after a brief explanatory statement from the Member moving and the Member opposing the motion, may, without further debate, put the Question: "That the debate be now adjourned", and, thereafter, the Question of the day to which the debate shall be so adjourned.

Standing Order No. 161(3) provides that the debate on the motion for leave to introduce a Bill shall be limited to one hour and no speech shall exceed ten minutes.

On Friday, 11th March (a private Members' day) the Deputy Minister of the Interior moved, after notice, for leave to introduce the Referendum Bill, but, as the motion was opposed, Mr. Speaker, after allowing the Deputy Minister and the Member opposing the motion an opportunity of briefly stating their reasons for and against the introduction of the Bill, put the Question: "That the debate be now adjourned." This Question was negatived and the debate proceeded with. On the conclusion of the period of one hour allowed in terms of Standing Order No. 161(3) for the motion for leave to introduce a Bill Mr. Speaker interrupted the debate. As an amendment had been moved to the motion, the Deputy Minister of the Interior who did not have the right of reply[3] was allowed to address the House again but his remarks were confined strictly to the terms of the amendment.

Opposed business set down for next sitting by Mr. Speaker.—Standing Order No. 26(2) provides that a motion may be made by a Minister at the commencement of public business, to be decided without amendment or debate "That the proceedings on (naming the specified business), if under discussion at twenty-five minutes

past ten o'clock tonight, be not interrupted under Standing Order No. 26".

On 30th March the House adopted a resolution in terms of the above Standing Order in connection with the proceedings on the motion for the Second Reading of the Unlawful Organizations Bill. The Second Reading debate continued until approximately 8 a.m. on Thursday, 31st March, and after two amendments had been disposed of, the Bill was read a Second Time. The Minister in charge of the Bill then moved "That the House go into Committee on the Bill at its next sitting" (*i.e.*, at 2.15 p.m. on the same day), which was opposed by the Opposition.

Standing Order No. 26 provides further that when the specified business has been disposed of, no other opposed business shall be taken at that sitting, although unopposed business may without discussion be taken before the adjournment. In view of the fact that Opposition Members were not prepared to agree to the motion and wished to state the reasons for their opposition, Mr. Speaker directed that the consideration of the motion in connection with the Committee Stage of the Bill be set down for the next sitting of the House and immediately thereafter adjourned the House.

At the next sitting (at 2.15 p.m. on the same day) the motion was agreed to and the Committee Stage of the Bill was proceeded with immediately thereafter.

Amendment, raising matters not included in provisions of Bill, moved to motion for Third Reading.—Standing Order No. 180 provides that at the Third Reading of a Bill no amendments which raise matters not included in its provisions may be offered. On the motion for the Third Reading of the Senate Bill a Member moved a reasoned amendment but Mr. Speaker pointed out that as the reasons given in the amendment related to matters which were not included in the provisions of the Bill he regretted that he could not accept the amendment.[4]

Amendment to motion for adjournment of House.—On the last day of the session (Friday, 20th May) the Minister of Finance moved "That the House do now adjourn" and at the same time stated that a proclamation proroguing Parliament would be issued before the next sitting day, *i.e.*, Saturday, 21st May. Before the motion was moved, Mr. Speaker's opinion was sought privately by a Member as to whether an amendment to add at the end of the motion "until the 6th July" would be in order.

In a private ruling Mr. Speaker pointed out that Standing Order No. 25 provides that the House shall meet on each sitting day, namely, Monday, Tuesday, Wednesday, Thursday and Friday, and that when it rises on Friday it stands adjourned, unless otherwise ordered, until the following Monday. In terms of the Resolution of the House adopted on the 6th May, Saturday, the 21st May, was also a sitting day and consequently the House when it rose that evening

would stand adjourned until the following day at 10 o'clock a.m. Mr. Speaker indicated further that if the House were to be adjourned until the 6th July, the hon. Member should either have moved an unopposed motion "That notwithstanding the Resolution adopted by the House on the 6th May and Standing Order No. 25, the House at its rising today stand adjourned until the 6th July" or he should have given prior notice of such a motion. As the amendment which the hon. Member proposed to move sought to achieve an object which could only be achieved by the procedure outlined above, Mr. Speaker stated that he could not accept the amendment.

Scope of debate on motion for Third Reading of Bill.—In terms of Standing Order No. 180, which took effect from the commencement of the 1955 session, debate on the motion for the Third Reading of a Bill (other than an appropriation Bill) is confined to its contents and no amendments which raise matters not included in its provisions may be offered. As there appeared to be some doubt about the application of this Standing Order, Mr. Speaker in a ruling given for the guidance of Members during the 1955 session referred to the practice followed in the House of Commons in connection with Third Reading debates and stated that the debate should be confined strictly to the contents of the Bill and could not wander far afield as on the Second Reading.[5] During subsequent sessions Mr. Speaker had frequently to draw the attention of Members to the provisions of the rule and, as Members repeatedly asked for his guidance in regard to the matters which they could discuss during Third Reading debates, he deemed it advisable to amplify the ruling given by him in 1955. In a ruling given during the 1960 session he stated:

> . . . from the very nature of its terms the rule was obviously intended to have a narrow and restrictive effect. The tendency has now, however, developed for Members participating in the debate on the Third Reading of a Bill to preface their remarks with the words "The effects of the Bill are . . .", and then to proceed to deal in detail with what in their opinion will be the results of the Bill when passed by the House. The debate which thereupon ensues invariably goes far beyond the actual contents of the Bill, and as such a wide discussion was never intended at the time the rule was adopted in 1955. I shall in future be compelled to apply its provisions more strictly. . . . I trust, therefore, that in future when Members address the House during a debate on the Third Reading of a Bill they will confine their remarks *to matters which are strictly relevant to and directly connected with the provisions of such Bill.*[6]

Assembly Bill referred to Joint Committee after Second Reading.—During the 1937 session, when it was proposed to refer the Native Laws Amendment Bill to a Joint Committee after the Bill had been read a Second Time in the House of Assembly, it was pointed out that it would be impracticable to refer an Assembly Bill to a Joint Committee which would report the Bill to both Houses. The Order for the Second Reading was then discharged and the Bill withdrawn. Subsequently, the House appointed a Select Committee, to act in

conjunction with a similar Committee of the Senate, to consider the matters specified in the title of the Bill and transmitted a message to the Senate requesting it to appoint a Committee with similar powers to serve with the Members of the House of Assembly as a Joint Committee. The Senate concurred in the request and the Joint Committee brought up a report containing the draft of a revised Bill. This Bill was subsequently introduced in the House of Assembly and passed by both Houses in the usual way.[7]

Prior to the introduction of the Senate Bill in the 1960 session, Mr. Speaker's advice was sought as to whether it would be in order to refer the Bill to a Joint Committee of both Houses after it had been read a Second Time in the House of Assembly. After Mr. Speaker's attention had been drawn to the decision given in 1937 and to the practice followed in the House of Commons in connection with the appointment of Joint Committees,[8] he decided that there would be no objection to the proposal to refer the Bill to a Joint Committee after its Second Reading in the House of Assembly as the Senate was at liberty either to concur in or to refuse the Assembly's request for the appointment of a Joint Committee. After the Bill had been read a Second Time in the House of Assembly, a resolution was adopted referring it to a Select Committee for inquiry and report, the Committee to consist of eight Members, acting in conjunction with a similar Committee of the Senate as a Joint Committee. A message was then transmitted to the Senate informing it of the decision of the House of Assembly and requesting it to appoint an equal number of its Members to join with the Committee appointed by the House of Assembly. The Senate complied with this request and the Members of the Joint Committee were then appointed by the respective Houses. After the Joint Committee had concluded its investigations its report, submitting an amended Bill, was brought up in the House of Assembly by the Chairman, and ordered to be printed. A day was then fixed for the Committee Stage of the Bill.[9] The report was also brought up in the Senate by a senator who had served on the Committee, but no further action was taken in the Senate at that time.[10] After the Bill had been read a Third Time in the House of Assembly it was transmitted to the Senate for concurrence.

Amendment outside scope of motion.—To a motion requesting the Government to consider the advisability of instituting a national contributory pension scheme without the application of the means test, a Member proposed to move an amendment calling upon the Government to institute a comprehensive scheme for social security providing greater benefits, *inter alia,* in respect of unemployment benefits, disability grants and family allowances.

In a private ruling Mr. Speaker pointed out that the proposed amendment was not within the scope of the motion and he therefore regretted that he could not allow it to be moved.

Instruction destructive of main principle of Bill: (1) The Referendum Bill provided for a referendum of the White voters in the Union and South-West Africa, to be held on a date to be determined, for the purpose of ascertaining whether such voters were in favour of or against a republic for the Union. After the Bill had been read a Second Time, two Members gave notice of instructions to the Committee of the Whole House on the Bill. The first sought to grant leave to the Committee to consider the advisability of extending the right to vote at the referendum to all sections of the population. The second sought to grant leave to the Committee to consider the advisability of making provision in the Bill for (*a*) Cape Coloured voters to vote at the referendum as well, (*b*) a referendum on the question of a republic only within the Commonwealth, (*c*) a further referendum if at any time a republic outside the Commonwealth was contemplated, and (*d*) a period of 10 years to elapse after a referendum decision against a republic before legislative action for the establishment of a republic was taken.

In a considered ruling Mr. Speaker pointed out that the proposal contained in the first instruction, if adopted, would, in his opinion, be destructive of the main principle of the Bill as read a second time, namely, that only White voters should vote at the referendum. In the circumstances, he regretted that he could not allow the instruction to be moved. He went on to say that for the same reason he could not allow paragraph (*a*) of the second instruction and was further of the opinion that paragraphs (*c*) and (*d*) fell outside the scope and were irrelevant to the contents of the Bill as read a Second Time. Mr. Speaker suggested that if the hon. Member was prepared to amend his instruction by deleting paragraphs (*a*), (*c*) and (*d*), he would allow him to move it in the amended form. This advice was accepted by the Member concerned and only paragraph (*b*) of the instruction was moved.[11]

(2) After the Order for the House to go into Committee on the Senate Bill had been read, an instruction was moved to grant leave to the Committee to consider the advisability of making provision in the Bill for the Native and Cape Coloured peoples to be represented in the Senate by a limited number of White senators elected by qualified Natives and by registered Cape Coloured voters on separate voters' rolls respectively.

To this instruction an amendment was moved to the effect that the proposed representation should be by Coloured and/or White senators elected by registered Cape Coloured voters on the separate voters' roll and a limited number of White senators elected by qualified Natives.

Mr. Speaker immediately pointed out to the mover of the amendment that the Bill dealt with the reconstitution of the Senate, whereas the amendment related to the qualifications of senators dealt with in Section 26 of the South Africa Act, a section not referred to in the Bill.

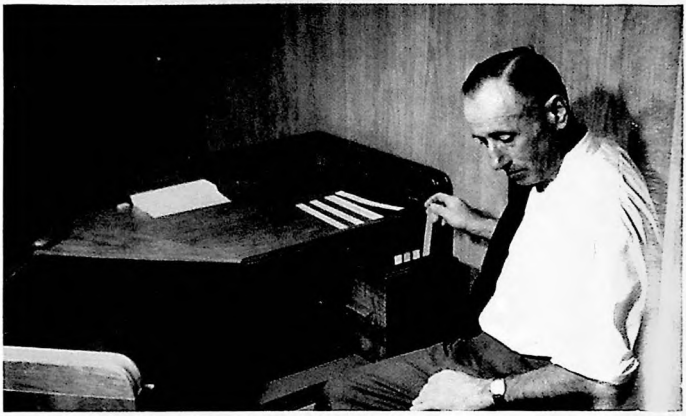
Section 26 of the South Africa Act provided, *inter alia,* that a senator must be a person of European descent and any amendment seeking to change that qualification, *e.g.,* by providing that a senator may be a Coloured person, would fall to be dealt with under that section. Moreover, as the Bill clearly contemplated that this particular qualification should remain unchanged, the amendment, if accepted, would, in Mr. Speaker's opinion, be destructive of the principle of European representation in the Senate. In the circumstances, he could not allow the amendment.[12]

Instruction similar in substance to amendment previously negatived on Second Reading.—After the Order for the House to go into Committee on the Senate Bill had been read, the Minister in charge of the Bill, on a point of order, drew attention to the notice of an instruction to the Committee of the Whole House on the Bill (referred to in paragraph (2) above) and pointed out that Standing Order No. 45 provided "That no motion or amendment shall be moved which is the same in substance as any motion or amendment which during the current session has been resolved in the affirmative or negative", and asked Mr. Speaker whether the proposed instruction was in order in that it was similar in substance to a reasoned amendment which had been moved to the motion for the Second Reading of the Bill and which had been negatived by the House.

After several Members had spoken to the point of order, Mr. Speaker stated that in view of the importance of the matter he was not prepared to give a ruling at that stage. He pointed out, however, that it had always been the practice of the House to allow the same amendments to be moved at the various stages of a Bill and that in view hereof, he would allow the hon. Member to move the instruction.[13]

The Guillotine.—Standing Orders Nos. 80 and 81 (adopted in 1954) provide that a Member in charge of a Bill or motion may at any stage request the Business Committee or the Committee on Standing Rules and Orders to propose a time table limiting debate on such Bill or motion. Since the adoption of these Standing Orders on only one occasion has resort been had to the procedure prescribed in Standing Order No. 81.[14] During the 1960 session a resolution was adopted limiting debate on the various stages of the Referendum Bill and the Senate Bill[15] and in order to expedite the disposal of business the House adopted the following resolution on 17th May:

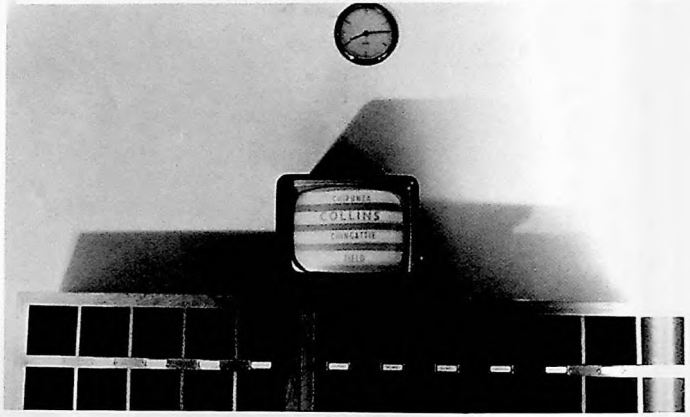
That in respect of any Bills or Notices of Motion upon the Order Paper or Bills introduced during the remainder of the present session a Minister or Deputy Minister may at any time declare such Bill or motion to be of an urgent nature and the proceedings on the various stages of such Bill or on the motion shall then be limited at the discretion of the Minister or Deputy Minister—to be announced forthwith and without debate—to the times stated in such announcement: Provided that if a Minister or Deputy Minister declares that a Bill is an urgent Bill at any time during its progress, the



RHODESIA AND NYASALAND FEDERAL ASSEMBLY

1. Operation of Annunciator.

The operator (in undress) inserts a card in a slot on the screen while watching the monitor (which is not visible in this picture). The bell push which operates the warning bells beside the viewers located in various places in the building can be seen above the camera box on the front of the desk.



RHODESIA AND NYASALAND FEDERAL ASSEMBLY

2. Viewer in Members' Lobby.

Names of Members are shown on screen. The small print can easily be read at a distance of 30 ft. The print used for the name "Collins" is clearly legible at a distance of 50 ft. The great majority of the matter transmitted is set in type of the larger size. The small size is not used.

To face p. 65

time already occupied on any stage shall be counted as part of the time allotted for that stage.[16]

A similar resolution was adopted during the 1952 session.[17]

The procedure provided for in the above resolution was applied on only two occasions, viz., on the motion for the approval, in terms of the Public Safety Act, of the Emergency Regulations which would have lapsed at the end of the session unless approved of by the House, and on the motions for the Second and Third Readings of the Appropriation Bill.

[1] V. & P., 1960, p. 69. [2] 103 *Hans.*, c. 300. [3] *See* THE TABLE, Vol. XXVIII, pp. 59-60. [4] V. & P., 1960, p. 688. [5] *See* THE TABLE, Vol. XXIV, p. 107; V. & P., 1955, pp. 101-2. [6] V. & P., 1960, p. 487. [7] *See* THE TABLE, Vol. VI, p. 209; V. & P., 1937, pp. 98, 158; Sen. Minutes, 1937, pp. 16, 20.
[8] May (16th Ed.), pp. 501, 659-65. [9] V. & P., 1960, pp. 391, 428, 511.
[10] Sen. Minutes, 1960, pp. 75, 77, 81, 123. [11] V. & P., 1960, p. 629.
[12] *Ibid.*, p. 653. [13] *Ibid.*, p. 653. [14] *See* THE TABLE, Vol. XXVIII, p. 170.
[15] V. & P., 1960, p. 597. [16] *Ibid.*, p. 778. [17] *See* THE TABLE, Vol. XXI, p. 165.

X. RHODESIA AND NYASALAND: AN INEXPENSIVE "ANNUNCIATOR" OR "BUSINESS INDICATOR" SYSTEM

By E. Grant-Dalton, M.A.
Clerk-Assistant of the Federal Assembly

The officers of those legislatures which do not possess an "annunciator" or "business indicator" for conveying information as to the business under consideration at any time in the Chamber and the name of the Member who has the floor to other places in the building, must often have envied the United Kingdom House of Commons the very efficient and comprehensive system she possesses. Hitherto the sole reason why annunciators have not been installed in more legislatures is probably the expense involved. Now, as a result of experiments in the Federal Assembly of Rhodesia and Nyasaland, a simple inexpensive system, well within the capacity of any legislature, has been devised.

Before describing the new device, brief details of three different systems which are in use elsewhere may be of interest.

At Westminster, electrically worked indicators placed in rooms and corridors frequented by Members show what the House of Commons is discussing, calls for and results of divisions, and the name of the Member who has the floor. Each annunciator is in effect a tape machine: its information is printed in large, easily-legible-at-a-dis-

tance, letters on broad strips of paper. There are some 40 annunciators distributed throughout the building all operated from a central control and words up to a total of 26 letters can be shown at one time. The annunciators are under the control of a private company and have been in operation over 60 years.

In the House of Commons of Northern Ireland at Stormont near Belfast, indicator boards fitted with a set of glass slides on which certain information is inscribed are located in several places in the building which are frequented by Members. Each board measures roughly 4 ft. 6 in. by 3 ft. 6 in. and is divided into three columns. In the left hand and right hand columns, respectively, are the names of the backbenchers in alphabetical order; in the centre column are, at the top, various stages of business (*e.g.* "Questions", "Orders") and below, the titles of the several Cabinet Ministers. Behind each slide is an electric lamp, which lights up when the operator at the control panel in the Chamber takes the action described below. The name of each Member is painted on a separate glass slide so that if a Member resigns or dies his slide can easily be taken out and a new one inserted in its place. The slides marked "Division" and "Count" are coloured red, so that they are particularly noticeable when lit. The remaining slides are black with white letters. The system is controlled by a messenger who sits at a panel in the Public Gallery. The panel corresponds to the indicator boards but is supplied with a pointer. When a Member rises to speak the messenger moves the pointer opposite to the name of that Member, whereupon that Member's name is lit up on all the boards and, in addition, a bell rings at each board to draw attention to the change of information. In a similar fashion, changes of business are indicated. As can be imagined, the wiring of this system is rather complicated.

In the Legislative Council of Kenya, loud-speakers are situated in various Committee Rooms, Library, Lounge, Bar, Ministerial Offices and so on. The Serjeant-at-Arms can from his seat in the Chamber switch on these loud-speakers, and over them announce the name of the person speaking and any special information which is not on the Order Paper, such as that a Minister is making a statement. This loud-speaker system is quite separate from the main system which broadcasts to a limited number of rooms within the building the actual speeches being made in the Council, a system which also operates in the Rhodesian Federal Assembly. Further, the Librarian has a small black-board on which she writes the name of the Member who has the floor. This board is swung out into a corridor where it is visible to Members who congregate in that vicinity. The Clerk of the Council states that this system is not altogether satisfactory. One obvious disadvantage is that, apart from the one place where the board is visible, there is no means of finding out what is going on if one does not hear the announcement.

The system now in use at the Federal Assembly employs closed-

circuit television. The whole installation, including the wiring, cost £1,023. No additional staff are required to operate the device, which we are reliably informed is inexpensive to maintain.

In the Federal Assembly Chamber, two "messengers" are always on duty, to carry messages to Members. These officials have desks in the corners to the right and the left of the Chair, respectively. Into one of these desks has been built a fitting to hold a 16 mm. television camera, together with the necessary lamps for illumination, permanently focused upon a slotted screen 5½ in. wide and 9 in. long (of which the effective area "seen" by the camera is 5½ in. by 5½ in.) made of matt black perspex upon which information printed on white cards can be displayed. The four slots on the screen provide ample facilities for displaying all the information which it is required to transmit from time to time during a sitting.

The ventilated box holding the camera and screen measures externally 9 in. by 9 in. by 24 in. The information cards (printed in black ink on matt white card) are 1/16 in. by ⅞ in. by 9 in., which allows about ¾ in. of card to project from the slot on the screen, to enable the operator to extract the card. Beside the slots is a bell push. Every time the operator inserts a card, he touches the bell push, causing a bell (in one case, a buzzer) to sound beside the viewing-screens located at certain points in the building, thus drawing the attention of those present to the fact that the information is changing.

The cards are printed (in capital letters ½ in. high) with: (1) the names of members; (2) portfolios of Ministers; (3) certain procedural information (*e.g.*, "Question", "Statement", "Third Reading", etc.); (4) certain other information, the need for which recurs (*e.g.*, the titles of the votes in the estimates). These printed cards are stored in racks above the camera-box. In addition, each morning the Chief Messenger letters, with a poster-pen, cards to convey such information as the titles of Bills, motions or statements.

Below the camera-box is the control unit which measures 18 in. by 10 in. by 24 in. (in effect, the transmitter) and, near it, an ordinary domestic 17 in. TV viewer which acts as a monitor to enable the operator to check the information he posts upon the screen. The control unit transmits the information to other 17 in. viewers located in the Members' Lobby, the restaurant and bar and the library. Further viewers can be installed wherever required, at a cost (including all wiring) of approximately £60 each. The exact cost depends largely upon the model of domestic viewer used. The most inexpensive available are perfectly satisfactory. With a 17 in. tube viewer, and cards printed as described, the information is easily legible at a distance of 50 ft.

The "messenger" who operates the set does so in addition to his normal duties in the Chamber. It is not, therefore, necessary to employ an official especially to operate this annunciator. Apart from

switching the sets on (which is done an hour before the day's sitting begins) the operator does not have to do anything other than insert the relevant cards in the appropriate slots on the camera-screen. He requires no technical knowledge relating to TV. So far as the business of the day in the House is concerned, he can be warned beforehand if any special business (such as a statement or a private notice question or an urgency motion) is to come up. For the rest, a reasonably intelligent man, by virtue of his service in the Chamber, knows enough about routine not to make mistakes. If he has any doubts, he can quickly consult the Clerk at the Table.

My thanks are due to the Second Clerk Assistant, House of Commons, N. Ireland, and to the Clerk of the Legislative Council, Kenya, for information about their annunciators.

XI. FEDERATION OF NIGERIA: STATE OPENING OF PARLIAMENT, 3RD OCTOBER, 1960

By B. A. Manuwa
Clerk of the Parliaments

The State Opening of Parliament on 3rd October, 1960, was performed by H.R.H. Princess Alexandra of Kent, who was Her Majesty's special representative at the Independence Celebrations in Nigeria. After a brief prorogation of the Federal Legislative Houses before the grant of Independence on 1st October, Parliament was summoned to meet at 8.30 a.m. on Monday, 3rd October, in the National Hall in Lagos, the capital city of the Federation.

The occasion was one of a joint sitting of the Senate and of the House of Representatives in the Chamber of the National Hall, the usual meeting-place of the House of Representatives which was, for the purpose of that Meeting of Parliament, declared by a Proclamation issued by the Governor-General to be the Chamber of the Senate. The object of the declaration was to enable the ceremony to be held in a building large enough to accommodate all the Senators and the Members of the House of Representatives, together with the 1,700 guests who watched the ceremony, comprising Heads of foreign States and representatives of Governments invited to the Independence Celebrations, men of the Diplomatic Corps, representatives of the World Press and the ecclesiastical and lay dignitaries invited to Lagos from all parts of the Federation.

Promptly at 8.30 a.m. on the appointed day Senators and Members of the House of Representatives took their seats in the Chamber and the Heads of State and all other persons to whom tickets had been issued for admission occupied their appointed places in the Gallery and in the lobbies of the National Hall. This was followed by the entry of the President of the Senate in a procession led by the Serjeant-at-Arms and including the Speaker of the House of Representatives and the Clerk of the Parliaments. The President took his seat at the high Table and read prayers, while Mr. Speaker occupied a seat provided for him a few feet from the long Table facing the Throne. Meanwhile, a Guard of Honour provided by the Royal Nigerian Navy with the Band of the Nigeria Police formed up in the forecourt of the Hall. Shortly afterwards His Excellency the Governor-General and Lady Robertson arrived at the National Hall and were met by the Deputy President of the Senate; the Guard of Honour gave a Royal Salute and the Band of the Nigeria Police played the Nigerian National Anthem.

At 8.55 a.m. the Royal Procession arrived at the entrance to the National Hall; the Royal Standard was broken at the mast-head on the Building and as Her Royal Highness alighted she was met by His Excellency. The Guard of Honour gave a Royal Salute and the Band played the first verse of the British National Anthem. His Excellency then escorted Her Royal Highness to the Robing-room.

After a short interval Her Royal Highness led a procession from the main foyer of the Building into the Chamber, being met at the Bar of the House by the President of the Senate who then led the procession up the floor of the House. This procession was formed by their Excellencies, H.R.H.'s Private Secretary and Lady in Waiting, H.R.H.'s Equerries, the Chief Justice of the Federation, the Chief Justices of the Regions and of Lagos, the Archbishop of West Africa, the Bishop of Lagos, the Federal Justices and the Justices of the High Court of Lagos.

When Her Royal Highness had taken her seat on the dais she prayed the House to be seated. The President of the Senate then read the Letters Patent appointing Her Royal Highness to open Parliament and the Prime Minister proceeded to the dais and handed the Speech from the Throne to Her Royal Highness who graciously delivered it. The Speech contained the following Message from Her Majesty:

> On the occasion of opening the first Nigerian Parliament, I offer you my personal congratulations on the success of your past efforts and my good wishes for the future prosperity of this country. I am confident that you will have an influence in the world at large, and I am happy to believe that you will use your influence only in support of a righteous cause. Your constitution is founded upon the highest principles which have been chosen by you yourselves. I pray that you may always have the faith and unity to preserve those principles intact, and that under the guidance of Almighty God you may work successfully for this land and all its peoples.

At the conclusion of the Speech, the Prime Minister again mounted the dais and received the Speech from Her Royal Highness who then left the Chamber in procession with the President of the Senate leading to the Bar of the House. As Her Royal Highness left the Building the Guard of Honour again gave a Royal Salute; the President resumed his seat; the Adjournment Motion was taken, and Parliament stood adjourned *sine die*.

XII. FEDERATION OF NIGERIA: CEREMONIAL OCCASIONS IN THE EASTERN REGIONAL LEGISLATURE

The Second Meeting of the Fourth Session of the Eastern Regional Legislature was held on 6th and 8th October, 1960, and was devoted almost entirely to ceremonial business connected with the attainment of Nigerian Independence. On the first day, certain presentations, including in both cases a Mace, were made to each House; and on the second, the two Houses were convened in a Joint Sitting to receive a visit from Her Royal Highness, Princess Alexandra of Kent. A brief description of each event is given below.

House of Chiefs

On Tuesday, 6th October the House met at 10 a.m., and the President (Chief the hon. Nyong Essien), preceded by the Clerk, the First and Second Clerks-Assistant and the Serjeant-at-Arms, entered the House in procession. After the President had announced the nature of the business to be transacted, the sitting was suspended for a short interval.

On the resumption of the sitting, the Serjeant-at-Arms made three obeisances to the Chair and reported the arrival of Dr. the hon. Nnamdi Azikiwe, President of the Senate and Governor-General designate of Nigeria. Members having signified their wish that he be admitted, the Serjeant-at-Arms conducted him to his seat, all Members standing as Dr. Azikiwe entered the House. On reaching his seat Dr. Azikiwe and the Serjeant-at-Arms bowed to the Chair and the latter withdrew.

In a speech of welcome to Dr. Azikiwe, the President paid tribute to the part which he had played in the general struggle for African emancipation from foreign rule, and warmly congratulated him upon his appointment as Governor-General.

Dr. Azikiwe replied in the following terms:

I consider it a great honour to be invited by the Government of Eastern Nigeria to be present here in this august Assembly not only to join you in your deliberations but also to have the unique privilege of presenting the Mace to the House of Chiefs. Sir, I feel very puny to be worthy of the very kind sentiments expressed by you about me and may I say too, in connection with the part I played in creating this august body, that in the true tradition of sportsmanship it was the result of team work. It so happened that I was elected the Captain at that time, so that it is not so much an individual scoring the winning goal as I think it may be rightly said that the glory belongs to the team.

The Mace, according to British tradition, is the symbol of authority. This Body of Chiefs is one which is charged with the sacred duty of delaying but not obstructing legislation. Members of this august body are rightly regarded as Elder Statesmen of the Region; therefore, I pray to God to grant them wisdom so that as Elder Statesmen they will give mature judgments to any legislative matters placed before them in order to preserve the stability of this Region and the unity of the Country as a whole.

Finally, may I thank you, Mr. President, for giving me the opportunity to address this House and may I through you extend my gratitude to the Government of Eastern Nigeria for doing me this honour. I pray to God to continue to shower His blessings on all of us so that in discharging our duties in this House as the most important arm of the State, we shall do so with the fear of God in our hearts and bring blessings and not curse upon our people.

It is with pleasure that I now present this Mace as a symbol of authority to the House of Chiefs. I hope that Members of this hon. House will live up to high expectation as Elder Statesmen of the Region.

The Clerk of the Legislature proceeded to the special Table on which the Mace lay, uncovered the Mace and handed it to Dr. Azikiwe who formally presented it by placing it on the right shoulder of the Serjeant-at-Arms. The Serjeant-at-Arms advanced, placed the Mace on the Table of the House, bowed to the Chair and retired to his seat. Dr. Azikiwe and all present then resumed their seats.

The Premier, Dr. M. I. Okpara, then moved:

That we the Members of the Eastern House of Chiefs in Parliament assembled express our humble thanks to Dr. the hon. Nnamdi Azikiwe, President of the Senate, and Governor-General designate of Nigeria, for his services to this Region, and in particular for the formal presentation of the Mace of the House made by him today. We welcome this gesture as a token of Dr. Azikiwe's friendship and goodwill towards this House and the people of the Eastern Region.

In the course of his speech, he said:

Many experts on constitutions have argued that in a unitary constitution, an Upper Chamber is unnecessary. They maintain that if an Upper House is opposed to the Lower House then it must be working against the wishes of the accredited representatives of the people and should therefore be scrapped; if it echoes what that House says or does, then it must be superflous. They argue further that in a world of mass communications—press, radio and television—the need for the Upper House to review the work of the Lower House is unnecessary as this is quite easily and normally covered by these media of publicity.

But in spite of these arguments, there is advantage in having an Upper Chamber where Bills and measures from the Lower House could be more thoroughly scrutinised with the wealth of experience of the more elderly Members. Members could also initiate non-money Bills, and surely no one will aver that it is only the Lower House that has Members capable of these exercises. But above all, Chiefs are an integral part of our society, and to move forward, we must move with them. Were they to compete for places in the Lower House of Parliament, many of them could probably not find their way in. And thus we would lose their mature experience and local knowledge of the rural areas that form the bulk of this Region.

By establishing this Chamber, the institution of chieftaincy has been given an honoured place in our society. No one will argue that Chiefs could exert a tremendous influence for good in their respective areas. All important Chiefs naturally could not be accommodated here. The House of Chiefs is merely a symbol of the Institution of Chieftaincy and therefore represents all Chiefs. By your behaviour inside and outside this Chamber will the institution be judged.

It is therefore my earnest hope that this Mace which is your symbol of authority in this House will remind you of your responsibility for restrained argument, mature and wise counsels in the highest Legislative Chamber in the Eastern Region.

The Motion was seconded by the Minister of Finance (Dr. S. E. Imoke) and agreed to. A copy of the Resolution was then signed and delivered by the Clerk to Dr. Azikiwe, who then left the House accompanied by the Premier and escorted by the Serjeant-at-Arms.[1]

Later in the same sitting, a Delegation of the United Kingdom Branch of the Commonwealth Parliamentary Association, who had been watching the earlier ceremonies, were conducted in through he " Ayes " door by the Serjeant-at-Arms, the pleasure of the House having been signified. The Delegation consisted of Sir Godfrey Nicholson, Bt., M.P., Lady Elliot of Harwood, D.B.E. (a Life Peeress) and Mr. Carol Johnson, C.B.E., M.P.

A specially-bound volume of Erskine May's *Parliamentary Practice* was presented by Lady Elliot, who in the course of her speech said:

Nigeria is a free and independent nation and through your Parliamentary Representations you have voted to join the Commonwealth of Nations, to be a partner with us in its deliberations and responsibilities, to enjoy Parliamentary Government under a system which is practically the same here as in Westminster.

This is what you have decided, and we Members of both Houses of Parliament have come to congratulate you and bring you some gifts as tokens of our good wishes today, and to bring you greetings from the United Kingdom Parliament from all Political Parties and all good wishes for the success of your Parliament.

Your experiences began in 1947 and the House of Chiefs in 1960 while ours began more than 700 years ago—way back about the year 1250—when the Barons and other nobles of the day joined together in Council with the King, to form the beginnings of the House of Lords, an older institution than the House of Commons. Ever since then, through many centuries we have been endeavouring to perfect our Parliamentary system.

It is only two years ago that women were admitted as Peers to the House of Lords, and I am the first to have the honour to represent the Upper House and take part in a ceremony of this kind, which makes today slightly different from other occasions in the past. You in the Eastern Region Parliament have done in one year what it took the House of Lords 700 years to do.

Lady Elliot made a formal presentation of the volume to the Clerk who proceeded to the Table, placed the book on it, bowed to the Chair and returned to his seat. The Prime Minister then moved:

That we the Members of the Eastern House of Chiefs in Parliament assembled, express our thanks to the United Kingdom Branch of the Commonwealth Parliamentary Association for the gift of a specially-bound and inscribed copy of *Erskine May* which that Branch has today presented to this House through its worthy Delegation in commemoration of the Nigerian Independence on 1st October, 1960. The House welcomes this gift as a gesture of friendship and goodwill of the Association towards this House and the Chiefs of the Eastern Region of Nigeria.

After the resolution had been agreed to, a copy of it was signed and delivered to the Delegation by the Clerk.

The Serjeant-at-Arms then advanced behind the Members of the Delegation and as he stopped and bowed to the Chair all present stood. The Members of the Delegation also rose and with the Serjeant-at-Arms bowed to the Chair. The Serjeant-at-Arms turned right about quickly and led the Members of the Delegation to the Ministers' Retiring Room.[2]

House of Assembly

The same afternoon, the House of Assembly met at two o'clock, the Speaker entering the House in procession. He made an announcement similar to that made in the other House by the President, and the sitting suspended, after which the Serjeant-at-Arms reported the arrival of the Delegation from the United Kingdom branch of the Commonwealth Parliamentary Association.

Having bidden the Delegation to be seated, Mr. Speaker welcomed them to the Assembly, and called upon Sir Godfrey Nicholson to address the House. The following are extracts from Sir Godfrey's speech.

What we are doing today is heavy with meaning. It is not just the presentation of the Mace, which is the symbol of authority of this House; it is two other things as well. It is a declaration of brotherhood and affection between two free peoples within the Commonwealth. We take it to be the greatest possible compliment to us, that as soon as you achieved Independence you asked for a Delegation from the United Kingdom Branch of the Commonwealth Parliamentary Association to visit you. It is also the affirmation or reaffirmation of our common faith in Parliamentary democracy. . . .

I bring two wishes from my Parliament, that we may ever be together in friendship and affection and keep the closest possible links and that this Parliament may flourish and endure. . . .

Now, Sir, when I was thinking what I was going to tell you here today, I thought I would like to know more about you all, and what your Assembly was like. I wrote to your excellent, kind and diligent Clerk, Mr. Eronini, and asked him to give me a copy of the Prayers that you use each day; for if you know what Prayers a man uses, you know what sort of man he is. And I was deeply touched to find that the Prayers that you use are the Prayers that are used in the House of Commons, including that significant Prayer for Parliament. I thought you might like to know the story behind that Prayer. I have it here ". . . Almighty God by whom alone Kings reign . . ." It is said that about 1670, nearly three hundred years ago, a Select Committee was appointed by the House of Commons to draw up a form of Prayer that should be used every day, and they decided on this and that Prayer; but they wanted a Prayer particularly for Parliament, for the House of Commons, and they asked the Chairman of this Select Committee to draw up such a Prayer. Then they adjourned. The next day he came back and said that during the night he had had a most extraordinary dream. He dreamt that he had been visited by an Angel who dictated a Prayer to him, but unfortunately he had forgotten what it was and it seemed to be just what they wanted. Well, they must have felt very angry with him, and quite rightly, so they suggested that if he went back to bed that night he might dream the same dream again. When he went back to bed he found on a pad by the side of his bed the Prayer that had been written down in his sleep the night before. And that is the Prayer that you see in front of you now and use every day. It is a legend, but I never dismiss legends; I think they have some element of truth. So there is something deeply impressive in the thought that two Parliaments separated by so many thousands of miles, different in geography, different in climate, different in race, should say the same Prayers in the same spirit of humility and use the same form of words, and I thank you for that. Sir, we start our devotion with the 67th Psalm. It begins with the words " God be merciful unto us and bless us ", and the Prayer I now utter for you (I speak for the whole of the Parliament of United Kingdom of Great Britain and Northern Ireland) is: " God be merciful unto you and bless you."

Mr. Speaker, with these solemn words, I present the Mace to the House.

Sir Godfrey then presented the Mace bv placing it on the right shoulder of the Serjeant-at-Arms. The latter advanced and placed the Mace on the Table, bowed to the Chair and returned to his seat. The Speaker then called Mr. Carol Johnson, who presented an Hour-glass on behalf of the Association, with the following observation:

It is . . . a source of satisfaction that we should be allowed to add, or perhaps even fill a gap in your parliamentary procedure. For centuries, in Westminster there has been an Hour-glass on the Table, and I know I express the hope on behalf of all my colleagues, that now for centuries to come, there will be an Hour-glass on yours. Nowadays, I am sorry to say, we use more prosaic methods for measuring time, but the use of the Hour-glass once formed part of our procedure at Westminster down to the year 1906. And you may be interested to know the reason for which it was used. A Standing Order prior to 1906 provides as follows:

> " Such Members as wish to abstain from voting must, while the bells are ringing, withdraw both from the House and the division lobbies. The interval is two minutes long and is measured by a sand-glass, which is turned by one of the Clerks at the Table at the moment when the Speaker directs strangers to withdraw."

Having met a number of your politicians, and having heard them in dis-

cussions, I can hardly imagine that any of you would wish to refrain from registering definitely decisively your vote on the matter before you. . . .

Mr. Johnson then formally presented the Hour-glass to the Clerk of the Legislature, who advanced, placed it on the Table, bowed to the Chair and returned to his seat. The Premier then moved:

That we the Members of the Eastern House of Assembly, in Parliament assembled, express our thanks to the United Kingdom Branch of the Commonwealth Parliamentary Association for the formal presentation to the House of its Mace by a Delegation of the Branch and for the gift of an Hour-glass which that Branch has today presented to this House through its worthy Delegation in commemoration of the Nigerian Independence on 1st October, 1960. The Members welcome this gesture of friendship and goodwill of the Association towards the House and the people of the Eastern Region of Nigeria which it represents.

Having been seconded by the Leader of the Opposition, the Motion was agreed to, and a signed copy of the Resolution was delivered to the Delegation, who then left the Chamber escorted by the Serjeant-at-Arms.[3]

Joint Sitting

Two days later, on Saturday, 8th October, the two Houses met in joint session at 9 a.m.

Shortly afterwards, H.R.H. Princess Alexandra of Kent entered the Chamber in procession, and when she was seated upon the Throne, the Premier read and presented a Loyal Address, during the course of which, having referred to the prolonged struggles of Dr. Aziwike and other national leaders in the cause of Nigerian independence, he paid tribute also to the work of the Christian Missions and the members of the administrative services. Recalling the day in February, 1956 when Her Majesty the Queen and the Duke of Edinburgh had been received in the same Chamber, he said:

One thing has not changed, and that is our loyalty to Her Majesty. Now that Nigeria is a fully independent nation and a full Member of the Commonwealth, and we in this Region have realised the greatest of our political ambitions, I can state emphatically on behalf of its people that never has our loyalty to Her Majesty and to Her Throne been more sincerely felt than it is today, nor our desire for continued friendship with the British people been greater than it is now.

Today, we welcome Your Royal Highness, as the personal representative not of the Queen of Great Britain and Northern Ireland and of Her Other Realms and Territories, but as the representative of Her Majesty the Queen of Nigeria, Head of the Commonwealth. We ask that you convey to our Queen, the Queen of Nigeria, these expressions of our loyalty. We ask that you tell Her how proud we are at this time in our freedom as a nation and in our full Membership of the Commonwealth. We ask that you tell Her how we here in the Eastern Region of Nigeria have dedicated ourselves to the task of so conducting our affairs that the Nigerian jewel She has now added as a new and distinct emblem in Her Crown shall ever shine more brightly and

progressively become Her ever greater pride. We hope that Your Royal Highness will convey to Her and Her husband our appreciation of their continued interest in our progress and tell them that we are eagerly looking forward to Their first visit to an Independent Nigeria.

Her Royal Highness replied as follows:

Mr. President, Mr. Speaker, hon. Members of the Legislature: I have it in command from Her Majesty The Queen to deliver to you the following message, and I have very great pleasure in doing so.

> " My husband and I remember vividly the visit which we paid to the Eastern Region of Nigeria four years ago. Since then I have watched with great interest the remarkable progress which you have achieved as a self-governing Region, and I now send you my best wishes as you prepare to participate in the full sovereignty of the great Federation of which you form a part. I am confident that you will continue to devote all your energies to the social and economic development of your country and I pray that your efforts may be rewarded and that you may achieve happiness and prosperity. May God bless you all."

For myself I thank you most sincerely for the welcome you have accorded to me this morning and for the address so expressively read by your Premier.

I have been deeply impressed by the many signs of progress which I have seen on every side. Observing the energy and enthusiasm with which you are all throwing yourselves into the varied tasks which you have undertaken in order to develop your country, I cannot but be hopeful for the future of this part of the world.

I shall be especially happy to tell Her Majesty the Queen of the moving expressions of loyalty and affection which you have asked me to convey to Her.

I now have great pleasure in handing to the Premier, as the representative of the people of the Eastern Region, a copy of the Instruments embodying the Independence Constitutions of the Federation and of the three Regions of Nigeria. (Applause.)

Her Royal Highness then presented the copy of the Instruments to the Premier. Thereafter, she left the Chamber in procession accompanied by the President and the Speaker.[4]

[1] E.N. Ch. *Hans.*, 1960-61, Second Meeting, cc. 1-9.
[2] E.N. Assem. *Hans.*, 1960-61, Second Meeting, cc. 1-14.
[3] *Ibid.*, cc. 11-19.
[4] *Ibid.*, cc. 15-21.

XIII. THE COUNCIL NEGRI OF SARAWAK*

By Yao Ping Hua
Clerk of Councils

1. A Short History of the Council Negri

The first meeting of the Council Negri was held at Bintulu on 8th September, 1867, and was presided over by the Tuan Muda (afterwards Rajah Sir Charles Brooke). Five Europeans and sixteen Sarawak subjects, mostly Malays, were present. At this first meeting, the Council was informed that the purpose of the Council was to deliberate on any matter of great importance to the population in general or any dispute among the different peoples about laws and customs.

The second meeting was held at Sibu in 1868. Subsequent meetings were held in Kuching, usually at intervals of three years.

In 1941 the Rajah (Sir Charles Vyner Brooke) decided to commemorate the Centenary Year of Brooke Rule in Sarawak by the inauguration of constitutional reforms to replace the autocratic rule by a form of government based on democratic principles. The result was the introduction of the Constitution Order on 24th September, 1941, which contained the famous Nine Cardinal Principles.

Under the Constitution Order, 1941, the Council Negri consisted of twenty-five Members, *i.e.*, fourteen official Members and eleven unofficial appointed Members. The first meeting of the reconstituted Council was held on 17th November, 1941. A few weeks later the country was overrun by the Japanese.

After the Liberation the Council Negri resumed its functions again. It was at a meeting held on 16th May, 1946, that the Council gave its consent to the Cession of Sarawak to the British Crown.

As a first step towards the achievement of self-government, the Council Negri was again reconstituted under the Sarawak (Constitution) Orders in Council, 1956, to consist of fourteen ex officio Members, twenty-four Elected Members, four Nominated Members and three Standing Members. The ex officio Members are the Chief Secretary, the Attorney-General, the Financial Secretary, the Residents of the five Divisions, and six other Government officers appointed by the Governor. The Standing Members are the Members

* Editorial Note: The two parts of this Article were prepared by the Clerk of Councils and issued by him together with the text of a lecture on the elements of procedure (not here reproduced) by the Attorney-General of Sarawak, for use by Members of the Council Negri.

of the Council Negri who were appointed by the Rajah and who are still in Government Service. When the seat of a Standing Member becomes vacant, it is not filled. Persons eligible for appointment as Elected or Nominated Members must be 25 years of age or upwards and must be British subjects or British protected persons. Furthermore, they must have been resident in Sarawak for seven out of the ten years preceding an election.

Elected Members of the Council Negri are elected by Divisional Advisory Councils and the three Urban Councils of Kuching, Sibu and Miri in accordance with the Council Negri Elections Ordinance, 1956, and are as follows:

First Divisional Advisory Council	5	representatives
Second ,, ,, ,,	4	,,
Third ,, ,, ,,	6	,,
Fourth ,, ,, ,,	4	,,
Fifth ,, ,, ,,	2	,,
Kuching Municipal Council	1	representative
Sibu Urban District Council	1	,,
Miri Urban District Council	1	,,
Total	24	

The name "Council Negri" is retained because in Sarawak we like to keep traditional names as well as customs. In neighbouring countries the legislature is known as the Legislative Council and in Singapore as the Legislative Assembly.

2. Notes on Procedure in the Council

(1) Administration of Oath

A new Member is required to take the Oath of Allegiance as prescribed in the Second Schedule to the Sarawak (Constitution) Orders in Council, 1956, at the first meeting he attends.

(i) The Clerk calls out the name of the new Member.
(ii) All other Members stand.
(iii) The Member comes forward and stands before the Clerk.
(iv) The Clerk hands him a Holy Bible (if he is a Christian).
(v) The Member recites the Oath and then signs the Oath Book and resumes his seat.

(Note.—In the case of a non-Christian Member, he affirms by raising his right hand and reading out the Oath (in English, or Malay or Iban).)

(2) Questions for Oral Answer

(i) When the time for asking questions has arrived, the Member

rises in his place and asks his question by reference to its number on the Order Paper, *i.e.*, " Mr. President, Question No. .....".

(ii) The Official Member to whom the question is addressed stands up to make his answer.

(NOTE.—Notice of question must be given to the Clerk not less than 48 hours before the meeting. (S.O. 21.) Longer notice should be given whenever possible so that adequate time can be given for a considered reply to be made. If an oral reply is requested the question should be marked " oral reply ". (S.O. 21.)

Any Member may ask a supplementary question for the purpose of elucidating any matter of fact regarding which an oral answer has been given, but it must not be used to introduce matter not related to the original question or answer. (S.O. 24(3).)

(3) **Motions**

(i) The Clerk calls the number of the item on the Order Paper and says, " Motion by ....." (name of Member).
(ii) The Member moves: " That ....." (term of motion).
(iii) A Member seconds.
(iv) Debate on the motion.

(NOTE.—Any Member may propose amendment to the motion in the Council or in a Committee if it is relevant thereto. In a Committee a seconder is not required. Every such amendment must after it has been moved and seconded and before the question on it is put from the Chair, be put into writing by the mover and delivered to the Clerk. (S.O. 27.)

Any amendment to an amendment may be moved and seconded at any time after the question upon the original amendment has been proposed by the President and before it has been put by the President at the conclusion of the debate on the original amendment. (S.O. 29(5)(a).)

(v) The President puts the question (in terms of the motion).
(vi) The President declares the motion carried or lost.

(4) **Speeches on the Adjournment**

(i) When the Adjournment has been moved (usually by a senior Resident, but not seconded), any Member other than a Member of the Supreme Council or a public officer may make a speech on the adjournment provided he has given notice in writing of his intention to the President (normally through Clerk) not less than 48 hours before the sitting at which he wishes to do so. The President may in his discretion dispense with such notice. (S.O. 17.)
(ii) A Member may not speak for more than ten minutes unless he is permitted to do so by the President.
(iii) Only 8 Members are allowed to speak on the adjournment.

If more than 8 Members have given notice, then the names of 8 Members should be selected by ballot.

(iv) A Member may speak on only one subject at the adjournment.

(5) **Procedure as to Voting and Division**

(S.O.s 41, 42, and 43)

(i) Every question proposed for decision in the Council is determined by a majority of the votes of Members present and voting.

(ii) No Member may speak to any question after the same has been fully put from the Chair.

(iii) On a question being put by the President or Chairman, the votes may be by voices, "Ayes" and "Noes", with show of hands, and the result will be declared by the President or Chairman.

(iv) Any Member who desires a division may call, "Mr. President/Mr. Chairman, I ask for a division".

(v) When a division is claimed, the Clerk shall ring a bell for five minutes.

(vi) Upon the conclusion of that time the votes shall be taken by the Clerk by calling the name of each Member separately in alphabetical order and asking how he desires to vote.

(vii) Every Member shall, upon his name being called, give his vote by saying "Aye" or "No" or by expressly stating that he abstains from voting.

(viii) When the votes have been taken by the Clerk, the President or Chairman shall declare the result and the Clerk shall enter the vote of each Member in the record of the proceedings.

(6) **Procedure on Bills**

First Reading

(i) Member in charge: "Sir, I beg to introduce a Bill intituled an Ordinance to ....." (S.O. 44.)
No seconder is required.

(ii) Clerk reads the short title as the First Reading.

(iii) After all the Bills have been introduced the Attorney-General (in the case of Government Bills) gives notice of the day on which they will be put down for Second Reading. (S.O. 45.)

Second Reading

(i) When the Clerk reads the Order of the Day for the Second Reading,
Member in charge moves:
"Sir, I beg to move that a Bill intituled an Ordinance to ..... be read a Second Time". (He should

follow this with a speech explaining the purpose of the Bill and dealing with such matters as have not been explained or sufficiently explained in the Objects and Reasons. (S.O. 46.)

(ii) Another Member seconds the motion.

(iii) President *proposes* the question:

"That the Bill be now read a Second Time."

(iv) Debate on Second Reading.

If there is no debate and no committal to a Select Committee.

(v) President *puts* the question and takes the votes.

(vi) If Second Reading agreed, Clerk reads short title.

(vii) Member in charge rises and says:

"I beg to propose that the Bill be considered in Committee at the conclusion of the Second Readings of all the Bills on the Order Paper." (S.O. 47(1).)

(viii) If, at this stage, any Member wishes to propose that the Bill be committed to a Select Committee, he should rise and say:

"I beg to move that this Bill be committed to a Select Committee."

(ix) A Member seconds.

(x) President *puts* the question forthwith.

(NOTE.—If the motion for committal to a Select Committee is agreed to, no further action will be taken until the Select Committee has been nominated by the Standing Orders and Business Committee and appointed by the Council in accordance with S.O.s 67(1)(b)(iii) and 68. (S.O. 47(1)(a) & (b).)

(xi) After the Second Readings of all the Bills on the Order Paper have been concluded, the President announces—

"That the Council will now resolve itself into Committee." (S.O. 49(1).)

Committee Stage

(i) President leaves the Chair of the Council without question put and takes the Chair in Committee.

(ii) Clerk calls the number of each clause in succession.

(NOTE.—(*a*) Amendment may be moved at this stage—

(i) If it is relevant to the Bill;

(ii) if it is not inconsistent with any clause already agree upon or any decision already come to by the Committee (S.O. 50(3));

(iii) if it has been handed to the Chairman in writing in any case in which no notice has been given. (S.O. 50(2).)

(*b*) A seconder for the amendment is not necessary.

(*c*) The amendment cannot be withdrawn except by consent of Committee before it is fully put.

(*d*) Any Member may speak on an amendment after it has been proposed by the Chairman.

(*e*) A Member must be prepared to answer questions and to give reasons for any proposed amendment or for opposing or accepting suggested amendments.

(*f*) The Chairman may refuse to propose the question if he considers the amendment—

(i) is frivolous;

(ii) would make the clause or schedule which it proposes to amend unintelligible or ungrammatical;

(iii) amounts to a proposal to omit the whole substance of a clause for the purpose of inserting other provisions.

(iii) After each clause or group of clauses, Chairman *proposes* the question—

"That the clause(s) (as amended) stand part of the Bill."

(iv) Debate may take place on details and amendments may be moved.

(v) Chairman *puts* the question and takes the votes.

(vi) Schedules and the addition of new schedules (if any) are then taken in the same way as clauses and new clauses (see procedure on new clauses.) (S.O. 50(7), (8), (9).)

(vii) At the conclusion of the proceedings, Clerk says—

"Enacting clause and title."

(viii) Committee then proceeds to the next Bill.

(ix) When all Bills have been considered, the Attorney-General moves—

"That all the Bills which have just been considered by the Committee be reported to the Council."

(x) Chairman *puts* the question and takes the votes.

(NOTE.—No amendment or debate is allowed.)

(xi) If agreed, President resumes Chair in Council.

Report Stage

(xii) The Attorney-General: "I beg to report that the ..... Bills (names the Bills) have been considered in Committee and agreed to (with or without amendment)."

Third Reading

(i) After calling this item Clerk calls each Bill in succession.

(ii) Member in charge says, "I beg to move that this Bill be read a third time and do pass".
(iii) A Member seconds.
(iv) President *puts* the question and takes the votes.
(v) If agreed, Clerk reads short title of the Bill.

Procedure on a New Clause

A new clause must be considered after the clauses of the Bill have been disposed of and before consideration of any schedule to the Bill.

(i) Member "brings up" the new clause in the same way as he would introduce a Bill, *i.e.*, he gives a *brief* statement of the nature of the new clause.
(ii) Clerk reads title of the new clause. This is the first reading.
(iii) Chairman *proposes* the question that the clause be read a Second Time.
(iv) Debate on principles may now take place.
(v) Chairman *puts* the question and takes the votes.
(vi) If agreed, Chairman calls the new clause.
(vii) Amendments (if any) moved and dealt with.
(viii) Chairman puts the question, "That the clause (as amended) be added to the Bill", and takes the votes.

(7) **Procedure on Supplementary Expenditure**

Schedule of Additional Provision (*S.O.* 66)

(i) The Financial Secretary lays the Schedule on the Table on the first day of the meeting.

(NOTE.—Every such Schedule should be circulated to Members at least three clear days before the opening of the meeting at which the motion is to be moved.)

(ii) The Financial Secretary moves—

"That this Council approves the supplementary expenditure of $ ..... under the heads of expenditure and for the services specified in the Schedule laid upon the Table by me on ....."

(iii) A Member seconds.
(iv) The President: "Committee of Supply, what day?"
(v) The Financial Secretary names a day which should be a day after an interval of at least one clear day after the motion is made.

In Committee

(i) The Chairman calls title of each Head.
(ii) The Chairman deals with amendments, if any.

(NOTE.—Any Member who wishes to raise any matter or to suggest the reconsideration of any matter by the Government during proceedings in Committee of Supply, should give to

the Clerk notice in writing of that matter and of the head and item or items which relate to it, not later than 4.30 p.m. on the first day of the meeting at which the motion is to be moved.)

(iii) Debate on policy.

(iv) The Chairman *puts* the question, "That the sum of $ ..... for Head ..... stand part of the Schedule", and takes the votes.

(v) When all Heads in the Schedule have been disposed of, the Chairman *puts* the question (without amendment or debate): "That this Schedule (as amended) be reported to the Council", and takes the votes.

(vi) The Chairman resumes Chair in the Council.

In Council

(i) The Financial Secretary: "I beg to report that the Schedule has been considered in Committee and agreed to (with or without amendment)".

(ii) The President: "The question is ..... (term of the motion)".

(NOTE.—Votes are then taken without amendment or debate.)

(8) **Procedure on the Appropriation Bill** (S.O.s 59 to 65)

Introduction and commencement of Second Reading

(i) The Financial Secretary introduces the Bill, and then lays the Estimates of Revenue and Expenditure on the Table.

(ii) The Clerk reads the short title as the First Reading.

(iii) The Financial Secretary gives notice of his intention to move the Second Reading of the Bill in the afternoon of the same day. (This is to save time.)

(iv) The Financial Secretary makes his Budget speech moving the Second Reading of the Bill.

(v) A Member seconds the motion.

(vi) The President announces that the debate on the motion will stand adjourned for not less than one clear day.

Resumed Debate on Second Reading

(i) The President announces resumption of the debate.

(ii) Debate on the general principles of Government policy and administration as indicated by the Bill and Estimates.

(iii) The President puts question that the Bill be read a Second Time.

(iv) If agreed, the Clerk reads the title as the Second Reading.

Procedure in Committee of Supply

(i) Council then goes into Committee of Supply. (Clauses of

the Bill stand postponed until after consideration of the Schedule.)

(ii) Chairman calls title of each Head of expenditure in turn and proposes the question—

"That the sum of $ ..... for Head ..... stand part of the Schedule."

(NOTE.—(*a*) At this stage any Member may raise any matter or suggest the reconsideration of any matter by the Government provided he has given the Clerk notice in writing of that matter and of the head and item or items which relate to it. Every such notice should be given before the resumption of the debate upon the second reading of the Bill. (S.O. 62(4).)

(*b*) In the same way he may move an amendment proposing a reduction in respect of any head or subhead. (S.O. 64(2).)

(*c*) No amendment to increase the sum to be allocated for any head of expenditure can be moved except by an ex officio Member, who shall signify the recommendation of the Governor to the amendment.

(*d*) Matters to be considered shall be placed upon the Order Paper and proceeded upon before any amendment (also on the Order Paper). (S.O. 64(3).)

(*e*) Forms of amendment are set out in S.O. 64(4), (5), & (6).

(iii) When all amendments standing on the Order Paper in respect of any particular head of expenditure have been disposed of, the Chairman shall again propose the question, "That the sum of $ ..... for head ..... stand part of the Schedule," or shall propose the amended question, "That the (increased) (reduced) sum of $ ..... for head ..... stand part of the Schedule," as the case may require. (S.O. 64(8).)

(iv) When all the heads in a Schedule have been disposed of, the Chairman shall put forthwith without amendment or debate, the question, "That the Schedule (as amended) stand part of the Bill". (S.O. 63(4).)

(v) When every Schedule has been disposed of, the Chairman shall call successively each clause of the Bill and shall forthwith propose the question, "That the clause stand part of the Bill," and, unless a consequential amendment is moved, that question shall be disposed of without amendment or debate. (S.O. 63(5).)

(vi) The Chairman leaves the Chair without question put after all clauses of the Bill have been decided. (S.O. 63(7).)

In Council

(i) The President reports to the Council that the Bill has been considered in Committee and agreed to (with or without amendment).
(ii) The Financial Secretary moves the third reading. (This motion is not required to be seconded.)
(iii) The President puts the question that the Bill be read a third time and passed.

(9) **Presentation of a Petition**

(S.O. 18.)

(i) The Member says:

"Mr. President, I beg leave to present a Petition from ..... It shows that ..... (a summary statement of the number and description of the Petitioners and the substance of the Petition).

The Petition closes with this prayer:

.....

.....

Mr. President, I move that the Petition be now read by the Clerk."

(ii) Another Member seconds the motion.
(iii) The President puts question (without amendment or debate). If motion is agreed to, the Clerk reads the Petition forthwith.
(iv) The Member presenting the Petition then lays it on the Table.
(v) The President says:

"The Petition stands referred to the Public Petitions Committee (*or, if it relates to a Bill* to the Committee on the Bill)."

XIV. APPLICATIONS OF PRIVILEGE, 1960

At Westminster

Reflection on Members.—On 11th April Mr. Emrys Hughes (South Ayrshire) raised as point of privilege a matter which, in his opinion, reflected on the women Members of the House. He read the following paragraph from the *Sunday Express* of the previous day:

Lady Hylton-Foster, wife of Sir Harry Hylton-Foster, who became Speaker of the House of Commons last October, holds strong views on women Members of Parliament. "I can't think why they do it," she tells me. "I just don't understand them. Women don't have enough education to become politicians . . . I know that many Labour M.P.s who have had no education have done extremely well, but they have bothered to find out things for themselves and read up what they don't know. Women don't."

Mr. Speaker, observing that he would not conceal from the House that he had already read the article in question, undertook to give a ruling the following day[1].

On 12th April Mr. Speaker accordingly ruled:

Yesterday, the hon. Member for South Ayrshire raised with me a complaint of Breach of Privilege relating to an article in the *Sunday Express* newspaper of last Sunday. I am obliged to him for the courteous manner in which he did so in circumstances difficult for any hon. Member.

I have consulted precedents and considered the matter. The question for me is whether or no the article or the words therein said to have been used by my wife constitute *prima facie* a contempt of this House of Parliament so as to entitle the hon. Member's complaint to precedence over the Notices of Motions and Orders of the Day standing on the Order Paper of Public Business of this House. In my opinion, they do not.

I regret that in this matter duty requires me to be a judge in my wife's cause, which is my own, but I cannot, in the service of the House on that account, allow myself to create a wrong precedent. I take comfort in the knowledge that my Ruling cannot in any way detract from the ancient and absolute right of this House to deal with such a matter precisely as it thinks fit.[2]

Threatening letter to a Member.—On 6th July Mr. Charles Pannell (Leeds, West) asked a Question and a supplementary Question concerning the circulation in telephone boxes in Leeds of anti-Semitic literature directed against coloured people of the Commonwealth, which were duly answered by the Assistant Postmaster-General.[3]

On 12th July Mr. Pannell informed the House that he had received a letter dated 8th July, on notepaper headed "For Race and Nation", from an organisation called the British National Party, in the following terms

Dear Sir,

My attention has been drawn to your reference in the Commons to leaflets in Leeds presumably issued by the British National Party, and from which it appears that, in return for the £1,000 p.a. which you receive from the British taxpayer ostensibly for the promotion of their interests, you are perfectly agreeable to see their land flooded with negroes and dominated by Jews, and feverishly anxious to deprive them of the freedom to criticise the intrusion of the racial aliens and to speak out for a Britain for the British.

No doubt, when you clamour for our prosecution, you will be commended by all the Jewish overlords of Leeds and their coloured allies for your zeal in the service of their interests, but you would do well at the same time to take into account the possibility that, in the resurgent Britain of tomorrow, it may

well be you and your fellow racial renegades who face trial for your complicity in the coloured invasion and Jewish control of our land.

Yours sincerely,
COLIN JORDAN,
National Organiser, B.N.P.

Mr. Speaker immediately gave his clear opinion that the letter constituted *prima facie* a case of breach of privilege, and called on Mr. Pannell to move a motion.

Mr. Pannell then moved "That the said letter constitutes a gross breach of the privileges of this House", a departure from the normal practice in recent years of moving the reference of the matter to the Committee of Privileges. He said:

> If the House accepts that Motion, as I hope it will, the result will be that we shall have made a finding, but will not have imposed a sanction. It really means that, if these people or this person does anything following such a Resolution by the House, he will be in contempt of the whole House. We shall thereby serve warning upon him, if he does anything like this again arising out of a purely Parliamentary procedure and holds a Member up to a threat, contempt or ridicule because of something done in Parliament, and it means that I am completely free to proceed either within or without the House. I believe that the letter as written is itself, of course, a libel.
>
> I wish to dispose of the matter in that way. It will have the added advantage, if the House agrees to accept the course I recommend, that the matter will be finished this afternoon for the time being. We shall not have a Motion of Privilege hanging over the House until October, and we shall have got rid of it. It is, I think, a procedure rather older than our usual Committee of Privileges Motion and it has respectable antecedents. It does not tend to inflate the issue of Privilege in this case beyond a point to which I think hon. Members generally would wish it to be inflated, but it does serve notice that any Member standing in the House and asking a Question on behalf of his constituents is not to be libelled and is not to be threatened. It serves notice that the House will act if there is any repetition from the same source.

Mr. S. Silverman (Nelson and Colne), while expressing sympathy with the motives behind the motion, objected to its unusual form and moved an amendment to leave out from the first word "the" to the end of the Question, and add the words "matter of the complaint be referred to the Committee of Privileges". After several speeches had been made, mostly in favour of Mr. Silverman's amendment, the Leader of the House (Mr. R. A. Butler) intervened to say that although his first reaction had been in favour of the course of action proposed by Mr. Pannell, sufficient doubt had been expressed to make him feel that they should not decide the matter summarily, but that it should go forward in the ordinary way and be referred to the Committee of Privileges. Mr. Pannell, while wishing that the House might have adopted his suggestion, bowed to the difference which had arisen, and Mr. Silverman's Amendment was accordingly agreed to without a division.[4]

The Committee of Privileges took evidence and deliberated during

the course of three sittings, on 18th, 21st and 26th July. Apart from Mr. Pannell and Mr. Jordan, the only witness heard by them was the Clerk of the House. The Chairman's draft report was considered by the Committee on 26th July, agreed to without any amendment, and reported to the House that day.[5]

After rehearsing the facts of the case, the Committee's Report read as follows:

4. As was said by the Committee of Privileges in 1947[6] "It is a breach of privilege to take or threaten action which is not merely calculated to effect the Member's course of action in Parliament, but is of a kind against which it is absolutely necessary that Members should be protected if they are to discharge their duties as such independently and without fear of punishment or hope of reward" and the House has always asserted that any attempt by improper means to influence a Member in his parliamentary conduct is a breach of privilege. It was the duty of Your Committee to decide whether the sending of this letter to Mr. Pannell and to the two newspapers for publication was an attempt by Mr. Jordan by improper means to influence Mr. Charles Pannell's conduct in Parliament.

5. Mr. Colin Jordan stated to Your Committee that it was not his intention when writing the letter to make any threat and that his object was to pass what he thought was fair comment on Mr. Pannell's references to the British National Party and its leaflet. He asserted that he was only exercising his right as a citizen and elector in writing as he did to a Member of Parliament.

6. In Your Committee's opinion the contents of the letter cannot be properly described as fair comment on the question and supplementary questior asked by Mr. Pannell on the 6th July. The letter begins by saying that Mr Jordan's attention had been drawn to Mr. Pannell's reference in the Com mons to leaflets in Leeds "presumably issued by the British National Party". Mr. Jordan said that he thought Mr. Pannell had been referring to leaflets issued by the British National Party. After referring to Mr. Pannell's suggestion of a prosecution the letter concludes with the following passage:

> "You would do well at the same time to take into account the possibility that, in the resurgent Britain of tomorrow, it may well be you and your fellow racial renegades who face trial for your complicity in the coloured invasion and Jewish control of our land."

7. Mr. Jordan regarded this possibility as "quite conceivable" and said that it was "within the realms of possibility" that Mr. Pannell might face trial. Mr. Pannell said that however ridiculous it sounded, he had no doubt that this passage was a threat to deter him from the performance of further Parliamentary duties in relation to the leaflets.

8. Your Committee are satisfied that Mr. Jordan wrote the letter to Mr. Pannell and sent copies to the Press as national organiser of the "British National Party" with the object of deterring Mr. Pannell from pursuing his activities in Parliament in relation to the distribution of leaflets for which the British National Party was responsible, and that Mr. Jordan was guilty of a breach of privilege in attempting by improper means to influence Mr. Pannell's conduct in Parliament. No citizen or elector has any right to seek by improper means to influence a Member of Parliament's activities in Parliament.

9. Mr. Pannell stated that since his receipt of the letter from Mr. Jordan he had received other communications of an offensive character in relation to his question on the 6th July. Mr. Jordan said that he had not communicated directly or indirectly with Mr. Pannell apart from this letter of 8th July, and that he had not induced people to write to Mr. Pannell or instigated any further activity directed towards Mr. Pannell and that he had no positive

knowledge of any other communications sent to Mr. Pannell on the subject. Accordingly Your Committee have ignored the other communications to which their attention was drawn by Mr. Pannell as there was no evidence of Mr. Jordan's responsibility for them.

10. Your Committee recommend that while Mr. Jordan's conduct constituted a breach of privilege, the House should not in this instance take any further notice of the offence.

11. Your Committee think it right to say that if such conduct by Mr. Jordan had been repeated or if it had been established that there had been a campaign to which Mr. Jordan was a party to put improper pressure on Mr. Pannell to influence his conduct as a Member of Parliament, Your Committee would have felt compelled to recommend a different course.[6]

In accordance with the Committee's recommendation, no further action in the matter was taken by the House.

Restriction on publication of correspondence with a Member.—On 14th July Mr. Lipton (Brixton) asked the Home Secretary:

Why he has refused to allow the contents of a letter received by the hon. Member for Brixton, from a prisoner in Wandsworth Prison, complaining of the circumstances in which he was kept in solitary confinement from 24th December, 1959, to 21st April, 1960, to be released to the Press.

The fact that such a refusal had taken place was admitted in the answer. Accordingly, at the end of Questions, Mr. Paget (Northampton) submitted that if a Minister sought to prevent a Member from communicating a grievance of an elector to the electors generally, whether by the Press or not, it was a breach of privilege.[7]

On the following day, Mr. Speaker ruled:

There was, as far as I can discover, no interference with the right of the hon. Member to bring the matter complained of to the attention of the House, and the proposed activity of the hon. Member which was prevented is not, in my view, a matter to which the privilege of this House extends. In the circumstances, I do not think that a *prima facie* case of breach of Privilege is made out.[8]

Improper influence on Members.—On 25th October Mr. Bowles (Nuneaton) raised in the House a matter reported in a newspaper which, in his opinion, constituted an example of conduct which tended to impair the independence of Members in the future performance of their duties. He said:

The newspaper to which I refer is *Reynolds News* of last Sunday, and I take the first opportunity to bring to your notice, Sir, and that of the House, an article headed:

"Beware the PR men as they invade the shrinking world of hard news!"

The article is by Ivan Yates and, if I may, I will read those extracts relevant to the point I now want to raise.

Hon. Members will have heard of Messrs. Coleman, Prentis and Varley, who have an associate firm called "Voice and Vision". The first extract reads:

"Then CPV took on another client—Sir Roy Welensky, Prime Minister

of the Central African Federation. CPV's associate Voice and Vision, public relations consultants, shouldered the task of putting Sir Roy in a favourable light."

The author then goes on to deal with other matters with which I do not think I need trouble the House, and continues.

"Soon after V and V took on Welensky's account, they offered free trips to M.P.s of all parties to see for themselves the wonder of partnership in the Federation. Three Tories and three Labour M.P.s——"

I do not know who they are—

"were given their tickets. After their tour the Federal Government threw a party for them and held a Press conference. They warmly backed the Federation and deplored any talk of secession."

I think, Sir, that you will remember my quotation from Erskine May:

"Conduct not amounting to a direct attempt to influence a Member in the discharge of his duties, but having a tendency to impair his independence in the future performance of his duty, will also be treated as a breach of privilege."

I suppose that this is as gross and grave a breach of Privilege as I can imagine, and what has been written has already been read by more than one million people. The article is either untrue and, therefore, a gross reflection on the Members concerned—and probably on this House, also—or it is true, in which case a firm of business consultants has tried, and possibly succeeded, to influence Members of Parliament over a very serious matter which is soon to be debated and decided by this House. In other words, the allegation is that those concerned were entertained out of moneys supplied by some business consultants.[9]

Mr. Speaker deferred his ruling until the following day, when he said:

Two quite distinct questions arise for me: whether the facts alleged in the article, if true, reveal conduct on the part of anyone which constitutes *prima facie* breach of Privilege of this House and, alternatively, the other way round, if the facts in the article are untrue, whether the publication of the article or the writing of it in itself constitutes a *prima facie* breach of Privilege of this House.

I have given the matter the best consideration I can and I have reached the firm conclusion that that is not so with regard to either position. I think it best to emphasise once again the effect of my opinion thus expressed. It has no bearing whatever on the substantive question of whether a breach of Privilege has been committed. Only the House can decide that. The sole effect of what I have said is that it does not enable me to give to the hon. Member's complaint priority over Orders of the Day. If the hon. Member wants to test the feeling of the House, he is, of course, perfectly free to put down an appropriate Motion.[10]

Alleged abuse of privilege of freedom of speech.—On 15th November Mr. George Thomson (Dundee, E.) drew attention to a letter in *The Times* of that day, written by Mr. Randolph Churchill, with reference to a statement made in the House on 9th November by Mr. Nabarro (Kidderminster). Mr. Nabarro, in interrupting another Member, had said:

The hon. Member should be careful. He must realise that free speech means that one may call a spade a spade, but not a coward a coward.[11]

Concerning this, Mr. Churchill had observed in his letter:

Unless Mr. Nabarro's words have no meaning at all, they were a plain reference to my recent action for slander against him, in which the jury awarded me £1,500 for the very word about me which he has chosen to repeat in the House of Commons. Surely this is an exceptionally gross abuse of privilege of Parliament?

Mr. Thomson submitted that if Mr. Churchill's statement was untrue, it would seem *prima facie* to be a breach of privilege on his part; if, however, it was true, Mr. Nabarro himself was in breach, in that he had frivolously abused the privilege of freedom of speech.[12]

Giving his ruling the next day, Mr. Speaker said:

The hon. Member . . . asked me to consider the position in two ways. He asked me to consider the position that the allegations of the writer of the letter in *The Times* were untrue. Without in any way judging of the facts myself, I have not felt called upon to rule upon that position, because, *prima facie*, there is nothing before me to suggest that they were untrue. On the contrary the hon. Member himself, in making his complaint, cited the relevant passage in the Official Report.

The hon. Member then asked me to consider the conduct of the hon. Member for Kidderminster (Mr. Nabarro) in using the words which are recorded in the Official Report. The substance of the complaint is this, that the hon. Member for Kidderminster, under the protection of that privilege against action at law which attaches to words spoken in this House, spoke words which, in the context in which they were spoken, defamed a person who is not a Member of either House of Parliament.

It is not for me, but for the House, to say whether or no such was the effect of the words used, but, assuming for the purpose of my present Ruling that such was their effect, in my view the speaking of these words does not, *prima facie*, give rise to a case of breach of Privilege of this House. As stated in Anson's *Law and Custom of the Constitution*, Fifth Edition, Volume I, page 172:

> "Speech and action in Parliament may thus be said to be unquestioned and free. But this freedom from external influence or interference does not involve any unrestrained licence of speech within the walls of the House."

I end my quotation there, and would add that, because hon. Members are protected by Privilege, the House has always been jealous to see that that Privilege is not abused. But to abuse Privilege is not in itself to commit a breach of the Privilege of this House, and it has never been so regarded, although the House has, from time to time, punished Members for offensive words spoken before the House.

Accordingly, my conclusion is that the complaint is not one to which I am entitled to give precedence over the Orders of the Day.

Mr. Nabarro then asked leave to make a personal statement, in the course of which he said:

I did not realise, when I made the intervention on 9th November, 1960—last Wednesday—during a speech being delivered to the House by the hon. Member for Newton and I employed the form of words to which the hon. Member for Dundee, East, referred yesterday, that such form of words could represent any abuse of Parliamentary Privilege. I did not realise that when

I used the words. The topic then being debated was an extremely controversial one, and my intervention was made immediately following the hon. Member for Newton accusing the entire Conservative Party, as I understand it, of political cowardice. . . The word "cowardice" was strangely reminiscent to me, having regard to my activities during the last few weeks. As I have unintentionally—I emphasise "unintentionally"—been guilty of an abuse of Parliamentary Privilege . . . I should like to seek your permission and the permission of the whole House unreservedly to withdraw the words referred to, though I recognise that they cannot now be expunged from the Official Report.[13]

CANADA: HOUSE OF COMMONS

Contributed by the Second Clerk-Assistant of the House of Commons

Reproduction of "Hansard" as a Trade Advertisement.—For some years, the use of "trading" or "discount" stamps by retail merchants has been a much-discussed subject in Canada.

On Tuesday, 26th January, Miss Margaret Aitkin, M.P., when discussing this subject in the House of Commons, suggested that there was no need for Parliament to legislate against the use of such stamps. She contended that Canadian women were capable of deciding whether or not they were receiving full value for their money; and, if not, their use would be discontinued, and very soon.

At the opening of the sitting on Monday, 15th February, the Member for Timmins (Mr. M. W. Martin) rose in his place and stated:

Mr. Speaker, I rise on a question of privilege involving this House and all hon. Members in it. I have in my possession a document which at first glance appears to be an official report of the debates of this House, but upon examination we find that it is a document put out by the Sperry and Hutchinson Company of Canada Limited. This would lead one to believe that this document was put out by this company with the official sanction of this House.

I might refer to the Revised Statutes of Canada, 1952, volume IV, chapter 274, section 14 of the Unfair Competition Act, which reads as follows:

> "(1) No person is entitled to adopt for use in connection with his business, as a trade mark or otherwise, any symbol consisting of, or so nearly resembling as to be likely to be mistaken for——
>
> (*e*) the arms or crest adopted and used at any time by Canada or by any province or municipal corporation in Canada——
>
> (*j*) any symbol adopted and used by any public authority in Canada as an official mark on similar wares."

My question of privilege is that this is a direct violation of the statutes and involves a privilege of this House. It was my intention to move that this be referred to the committee on privileges and elections of this House. As that committee has not yet been constituted I move, seconded by the hon. Member for Burnaby-Coquitlam (Mr. Regier):

> "That the president of the Sperry and Hutchinson Company of Canada Limited be ordered to attend at the bar of this House on the 18th day of February, 1960, at 2.30 p.m."[14]

Mr. Martin then handed to Mr. Speaker a four-paged document

which was a photographic reproduction of the cover-page and also of pages numbered 362-4, inclusive, of *Hansard* for Tuesday, 26th January. Superimposed on the texts of the inside pages were two black arrows indicating the beginning and also the pertinent portion of Miss Aitken's speech concerning the question of discount stamps. The document closed with the words:

From the: INFORMATION BUREAU ON DISCOUNT STAMPS
THE SPERRY AND HUTCHINSON COMPANY OF CANADA LIMITED
600 UNIVERSITY AVENUE, TORONTO

Whereupon, at the request of the Acting Leader of the House, the motion was allowed to stand over until the next sitting in order to provide other Members with an opportunity to examine the document.

The next day the Member for Timmins returned to his question of privilege and stated:

Mr. Speaker, first of all I should like to correct some wrong information which I inadvertently gave to the House yesterday with regard to the statutes to which I made reference. Since then it has been brought to my attention that those statutes have been repealed and that the statutes which in fact cover this matter are the statutes of Canada, 1952-53, chapter 49, section 9, sub-section (1)(d) and (n)(iii), which are to be found on pages 382 and 383. However, that is not the purpose of my point of privilege; I have every confidence that the Minister of Justice (Mr. Fulton) and his department will look after any violation of the statutes.

The motion I made yesterday referred to the president of this company. It has since been drawn to my attention that there is no such person. I feel that this is definitely a matter of the privileges of this House, in fact Your Honour is named in this particular document as well as the Queen's printer. For these and various other reasons I should now like to move, seconded by the hon. Member for Burnaby-Coquitlam:

"That the subject matter in this complaint be referred to the Standing Committee on Elections and Privileges for appropriate action."

The 1952-53 statutory provision referred to by Mr. Martin was, in substance, a re-enactment of the 1952 statutes.

After a debate in which several Members participated, including the Prime Minister, Mr. Speaker stated:

I think the matter has been sufficiently discussed now. In view of what I have to say there may be another opportunity, if hon. Members wish, to debate the issue.

The position, briefly, is that I have only to decide whether or not a prima facie case of breach of privilege has been made out by the matter which was brought forward by the hon Member for Timmins. If there appears to be a prima facie case, then it is for the House itself to determine whether anything is to be done, and if so what. I limit myself to the preliminary question. I want to say that I thank the Prime Minister, the Leader of the Opposition, and other Members who have assisted me in this rather novel case of breach of the privileges of the House.

There is very little learning or precedent about the use of our *Hansard*

and if we turn to the practice of the United Kingdom, which we are entitled to do where our own is silent, we find that the practice there is very similar. The reports are published under the authority of the Speaker through the use of funds which are voted by parliament. The public are allowed freely to use these reports, provided they use them fairly. It is only when there is an abuse of the reports that a question of the privileges of parliament has been raised. I refer hon. Members to *May*, 16th edition, at page 118, where there is a reference to the view I have just expressed.

The Prime Minister has indicated, and I think all Members accepted the view, that we publish our *Hansards* and they are sold on subscription and are used freely, both in their original form and as copied in the press, without objection or complaint by hon. Members unless the report is so altered or varied as to give a wrong impression of what took place here. I think we must look at this document in that light. As I understand it, the pages quoted are correctly quoted from *Hansard*, pages 362, 363 and 364 of the issue of Tuesday, 26th January, except that there is a large black arrow which obscures the remarks made by the hon. Member for Dollard (Mr. Rouleau). He may, I think, complain that the proper relative importance has not been given to what he said.

The second thing is, of course, that this appears to be an official report published under the name of your Speaker, and to that extent I think there is a question of privilege with which the House should be free to deal if it sees fit to do so. There has been no complaint about misrepresentation or other improper use of our reports, except this one matter to which the Prime Minister and other hon. Members referred, that it appeared that this was an official publication which had been circulated either by your Speaker or with his authority.

When hon. Members wish to have reprints of their speeches circulated throughout their ridings they obtain such reprints, but those reprints do not go out with the name of the Speaker on the cover and do not, therefore, give that possible impression. It is suggested that this is not more than a technical breach. I do not comment on that; that is for the House. But I do think that anything that relates to control by the House, present or future, over its own reports, having the possibility of abuse of such publications in mind—which is easily imaginable—requires me to allow this matter to go forward by finding at least prima facie grounds for complaint.

I should now put the motion which has been suggested by the hon. Member for Timmins in place of the other motion, and of course it is then for the House to decide what action it wishes to take. The motion is to the effect that the subject matter of this complaint be referred to the Standing Committee on Elections and Privileges for appropriate action.[15]

Whereupon, the complaint was referred to the Standing Committee on Privileges and Elections.

The Committee met on Tuesday, 23rd February, and deferred consideration of the complaint to Thursday, 10th March. At the latter meeting, the Chairman read into the record a letter, as follows:

Your election as chairman of the Committee of Elections and Privileges gives me an opportunity to write an apology for the unwitting affront to parliament I committed in reproducing the front page of *Hansard*. The realisation of what I did has caused me deep concern, and I am expressing very sincere apologies to you and your committee.

I assure you I had no idea that I was doing anything out of order. I believed that *Hansard*, as a report of our parliament in action, was public property. It may seem strange to you that someone who has been connected with pub-

lishing and reprinting all her business life had never heard of the ruling in regard to *Hansard*—but I give you my word that this is the case.

I am sorry to have caused so much trouble. I can only hope that the attention which has been drawn to my lapse may be of some help in spreading information in regard to parliamentary rules for reprinting *Hansard*.

I feel I should make one more statement. The idea of using *Hansard* as a reprint was my own idea, and mine alone. No person other than myself, had any idea that I was reproducing it in this way.

Sincerely,

BYRNE HOPE SANDERS,

Consultant.

During the course of the Committee's proceedings, one Member stated:

As an honourable Member very aptly pointed out, it would be possible if we did not check this thing, to take paragraphs out of their context in speeches and put them out as if they were the official publications of *Hansard* and not excerpts at all, and that they had the approval of Mr. Speaker, the Queen's Printer and so on.

That is why, Mr. Chairman, I would like to see appropriate care taken in dealing with this matter.

My friend raised the question about Miss Sanders taking the first opportunity to apologise. There is no doubt about that, and I am not suggesting she did not take that. But we have a duty to the House of Commons, and that is our duty.

I think we have to look into this matter further and I would like to ask you, Mr. Chairman, if you have obtained an opinion from the law clerk of the House as to exactly what breaches of privilege are involved in this matter. It seems to me that should be done, and then those breaches of privilege should be appropriately dealt with in a way that would involve an apology and protect the position of the House of Commons *vis-à-vis* its privileges in the future.[16]

Another commented as follows:

It would appear to me that there is bad feeling on the part of those who published this matter. There is a small arrow pointing to the fact that they favour the stamps, but when it comes to remarks that are unfavourable to the stamps, they have a big arrow which blanks out a few sentences which we cannot make out. It seems to be put there with purpose so that people would not read anything unfavourable about the stamps. That, to me, is the worst part of it.[17]

Later on, it was said:

I think one could argue that the fact that every publication of the House of Commons is paid for by a vote, which is approved by the commissioners of internal economy of the House of Commons, makes those things public documents, and this is an authorised version of what took place. But that would not necessarily in itself give anyone outside parliament a right freely to reproduce for false pretences what is said in proper circumstances. I do feel that if we are going to talk about a bill of rights in this parliament, one of the most fundamental rights of any citizen surely should be to publish freely what goes on in the parliament where his country's affairs are being discussed, and that a very much bigger issue, even, than the issue of this publication, has been raised and brought before us by this matter.

And again, later on, it was stated:

If I understand it correctly, there is no doubt about the right of any person to quote parts of *Hansard*. I think that is done all the time. And I think there is no doubt about the right of a person to pick out parts of *Hansard* and leave out others, and paraphrase speeches. That is done all the time by reporters. I am wondering where the breach of privilege commences. Is it one of two things? Is it the photographic reproduction of parts of *Hansard* or is it only the reproduction of the cover? It seems to me that is the only thing to which it boils down and, if we are going to go into this realm—which may be beyond our reference—that is the only thing we have to decide.[18]

And still later on:

The major thing is the cover; and one of the things that has not been mentioned is the crest on the front. Under the Trademarks Act no one can reproduce the crest of Canada. That is one point. Secondly, everything that is contained in the cover, assembled the way it is, is subject to copyright, but reproducing the crest is an offence against the Trademarks Act.[19]

The Law Clerk of the House, in his submission to the Committee, stated, in part, as follows:

Is a breach of privilege involved in the matter? I think the answer is to be found in the excerpt which I read before from the encyclopædia of parliament that

> " The publication of false or misrepresented reports of debates is still censured as though the very publication constitutes the offence."

That is the only direct answer I could find to that.

Now, there is a question of whether that is or not, and I have an example. I have a small book entitled *The Parliament at Westminster*, by Cocks. I notice something in it. This book reproduces writs of elections, writs of returns and so on, and I notice that every time it is marked " By permission of the public record office ". Further on there is a copy of a Bill which is really a photostatic copy of the first page of a Bill, and it says again, " By permission of the Controller, H.M. Stationery Office ".

Therefore I think there exists in all government publications a copyright which belongs to the government and which, like any other copyright, should not be infringed upon.

If you reproduce a book published by the government you should only do so with permission of the controller of stationery at least.[20]

Later on, a Member commented as follows:

The law clerk mentioned the question of copyright, which he dealt with earlier. As I understand his view, it is not to suggest that a breach of copyright is a breach of privilege and that if there is, in fact, a breach of copyright here there are other places where penalties for that breach can be enforced.[21]

And, still later on, it was stated:

So far as the reproduction of the speech is concerned, I do not think there is any breach of any kind of copyright, or anything else. If a man reproduced a speech from a magazine which he read, and if it was in that form, with an

arrow in it, I do not think anyone would have said a word about it. However, when the speech is sent out separately under that cover there is a big difference. If a magazine reproduced the cover of *Hansard* and included that speech, with the arrows, I do not think anyone would have said a word about it; but the fact it was set out in the form that we use for *Hansard* in the House of Commons, I think the breach was there, in reproducing the cover.[22]

The Committee then continued its sitting *in camera*.

On Tuesday, 15th March, the Committee reported, as follows:

SECOND REPORT

On Tuesday, 16th February, 1960, the House of Commons adopted the following Order:

> "That the subject-matter of the complaint brought to the attention of this House by the honourable Member for Timmins on the 15th and 16th of February, 1960, concerning the publication of a document by the Sperry and Hutchinson Company of Canada Limited, be referred to the Standing Committee on Privileges and Elections for appropriate action."

Respecting the publication of a document by the Sperry and Hutchinson Company of Canada Limited, your Committee finds that there has been a breach of the privileges of this House committed by Byrne Hope Sanders in that she is responsible for the printing and circulation of a misrepresented report of the House of Commons Debates. Your Committee is of the opinion that she has published as a Report something which is made to appear as an authorised and official version, which it is not; and also that she has failed to obtain from the proper authorities permission to reproduce the cover of a document belonging to the House of Commons.

However, in view of the new and exceptional circumstances of the case, and in view also of the explanations offered by the offender and of her expression of regret contained in a letter of apology addressed to the Chairman and Members of the Committee, your Committee is of the opinion that the House would best consult its own dignity by taking no further action in the matter.[23]

NEW SOUTH WALES: LEGISLATIVE ASSEMBLY

Contributed by the Clerk of the Legislative Assembly

Alleged political intimidation of a Member.—Details of the moves to abolish the Legislative Council of New South Wales have been given in THE TABLE by Major-General J. R. Stevenson, C.B.E., D.S.O., E.D., in pp. 44-57 of Vol. XXVIII and pp. 42-56 of the present Volume.

The Liberal Party, whilst being in favour of the bicameral system, object to the system of election to the Council and advocate reform of that House.

From the introduction of the Constitution Amendment (Legislative Council Abolition) Bill, in the Assembly, Mr. Kevin Ellis, LL.B., B.Ec., a member of the Liberal Party in the Assembly, had been most outspoken in his opinion of the Council, and consistently advocated straight-out abolition of that Chamber.

After trenchant criticism by Mr. Ellis on several occasions, the *Sydney Morning Herald* published a leading article headed "Toleration of a Maverick", in the following terms:

The Liberal Party rightly prides itself on allowing its parliamentary representatives a very real measure of freedom of conscience. Unlike the Labour Party, it will do almost anything to avoid expelling Members who refuse to toe the party line on specific issues. Nevertheless, there are, and must be, limits. Mr. Kevin Ellis, M.L.A. for Coogee, has surely come as close to them as possible (some people would say he has gone well beyond them) by his latest outburst over the Legislative Council.

His opposition to the continued existence of the Upper House is well known; he has not wavered on the point since he was first elected to the Legislative Assembly in 1948. He was fully entitled to act as he did last April, when he voted with the Government and against his own party. But his party, after early vacillation, has now firmly established its policy. It wants to retain, but reform, the Upper House; therefore it is strongly opposing abolition.

With ample publicity, Mr. Ellis has made his gesture in defiance of this policy. As a matter of ordinary courtesy to his colleagues, he should let it go at that, it would be easy to forgive him if he refused to campaign for a "No" vote at the referendum next month. Obviously, his principles would be respected. Apparently, however, he threatens to do far more than that and to campaign actively for a "Yes" vote. No other conclusion can be drawn from his gratuitous, unnecessary and foolish remarks in the Assembly on Thursday over a trifling machinery amendment made to a Bill by the Upper House.

The amendment, ironically, had been put forward by the Attorney-General —surely the last person to insist on demonstrating that the Council is "a useful House of review". Mr. Ellis' intemperate denunciation of it must have left a bad taste in the mouths of his Liberal colleagues. For the Opposition, after all, the coming referendum will be an important trial of strength. It should not have to face active sabotage from within its own ranks. If Mr. Ellis cannot, out of the most elementary loyalty to his party, remain silent, he can hardly complain if, in due course, he loses official party endorsement for his electorate.

On the next occasion on which the House met, Mr. R. J. Kelly, a Labour Party Member, moved as a matter of privilege, the following motion:

> That this House deprecates the writing and publication of the article "Toleration of a Maverick" in *The Sydney Morning Herald* of 4th March, 1961.

In support of his motion, Mr. Kelly said that the article in question blatantly infringed the right of freedom of speech and claimed that an attempt had been made to stifle Mr. Ellis and amounted to nothing more or less than political blackmail of the lowest order.

Mr. Ellis, speaking to the motion, defended the right of the Press to criticise him as freely and as frequently as it cares, but did not think it was in the true interests of journalism to use the freedom of the Press to criticise a man and accompany the criticism by threats and intimidation.

The motion was opposed by the Liberal and Country Party Opposition, but was carried on division of the House, Mr. Ellis crossing the Chamber to act as one of the Tellers for the Motion.[24]

UNION OF SOUTH AFRICA: UNION PARLIAMENT

Contributed by the Clerk of the House of Assembly

Complaint by Senate against Member of the House of Assembly.—In consequence of a report which appeared in the *Cape Times* of 16th February, 1960, of a speech made outside the House by the hon. Member for Wynberg, the Senate, which was in recess at the time, adopted the following resolution on the day it re-assembled (8th March):

That a Select Committee on a Question of Privilege be appointed to inquire into and report upon the matter of a complaint of breach of privilege alleged to be constituted under section *thirty-six* of the Powers and Privileges of Parliament Act, 1911, by the following passage in a speech appearing in the *Cape Times* of the 16th February, 1960, purported to have been made by the Honourable Member of the House of Assembly for Wynberg, Mr. J. H. Russell: "The Senate would not have become a House of ill-fame peopled by gentlemen of easy virtue"; the Committee to have power to hear evidence and call for papers.

and on 14th March requested the House of Assembly to grant leave, in terms of s. 6 of the Powers and Privileges of Parliament Act, 1911, to Mr. Russell to appear before the Senate Select Committee. Leave was granted by the House,[25] and on 21st March Mr. Russell gave evidence before the Committee appointed by the Senate.

On 29th March the Select Committee of the Senate reported that it "has no hesitation in coming to the conclusion that Mr. Russell by the use of these words offered a grave indignity to this House by casting a most gross reflection on its character and that of its Members and is therefore guilty of an aggravated breach of privilege".

After the report had been adopted by the Senate, a further resolution was adopted: That the report of the Select Committee, together with the proceedings and evidence, be transmitted to the House of Assembly with the request that the House of Assembly be pleased to take such action as it might deem fit. This course was followed as it has always been recognised that the two Houses are entirely independent of each other and that neither House can take upon itself the right to punish any breach of privilege or contempt offered to it by any Member of the other House.[26]

The Report was considered by the House of Assembly on 5th April and on the motion: "That the report be approved of" an amendment was moved: "To omit all the words after 'That' and to substitute 'the Report be referred to a Select Committee for inquiry and report'." The hon. Member for Wynberg who took part in the debate immediately after the motion: "That the report be approved of" had been moved and seconded, left the Chamber shortly after the conclusion of his speech because, to use his own words, "by doing so I believe that my friends and opponents will be able to

discuss my case with greater freedom and less embarrassment". The motion was subsequently agreed to on a division and thereafter a motion that Mr. Russell be suspended from the service of the House for fourteen days was also agreed to on a division Mr. Russell was informed by Mr. Speaker of the decision arrived at and was requested to observe the resolution by withdrawing from the precincts of the House.[27]

It may also be mentioned that on the day after the Senate appointed its Select Committee a letter was received from the Editor of the *Cape Times* in which he admitted the accuracy of the report and gave an explanation for its publication, dissociating himself and his newspaper from any innuendo which might be found to be contained in the words and offering an apology to the Senate and its Members for publishing the passage. The Senate Select Committee, however, considered it a matter for surprise that the Editor had not immediately and timeously published an apology, giving it the same wide publication as was given to the report of the speech, and was of the opinion that so belated an apology, prompted only weeks later by the appointment of a Select Committee and without publication of that apology in the newspaper, need be given little, if any, consideration in mitigation of the contempt. The Committee further reported that it wished to associate itself most strongly with the accepted view that it was incumbent upon Parliament to be most assiduous in the protection of its dignity against the publication of contemptuous abuse in the Press and accordingly recommended that the House should mark its disapproval by summoning the Editor of the *Cape Times* to be reprimanded at the Bar of the House.

The Senate adopted the Select Committee's recommendations and the Editor of the newspaper was duly reprimanded by Mr. President at the Bar of the House.[28]

South Africa: Cape Provincial Council

Contributed by the Clerk of the Provincial Council

Service of judicial notice on the Chairman of the Council.—After the adjournment of the Council on 9th June, 1960, a Member (acting as attorney for another Member) met the Chairman in the passage in front of the Tea Room and intimated to him that in a few moments he would hand certain documents to him if the Chairman would wait there. Shortly thereafter the Member returned, followed by a group of Members and two newspaper reporters. When they came to the Chairman where he was standing, the group took up a position of onlookers behind the Member and the Member for whom he was acting, facing the Chairman; there were also members of the public in the Lobby nearby. The Member then handed certain papers to the Chairman and stated that he had to serve them on him. The group thereupon dispersed.

At the sitting of the Council on the next day a motion was agreed to without debate, appointing a Select Committee on a Question of Privilege:[29]

To investigate and report on the manner in which the notice of an application to the Supreme Court was served on the Chairman of this Council on the 9th June, 1960, in connection with a ruling given by him at the Council's sitting on that day.

The Committee was given power to take evidence and call for papers. Its report[30] was tabled on 23rd June, 1960, and on the same day considered and adopted.

The Committee's report, after a summary of the facts deduced in evidence, stated:

The Committee has come to the conclusion that the publicity at the serving of the papers was neither previously arranged nor contemplated by any Member; moreover, there was no ulterior motive. However, the appearance of Members at the serving in that particular place in the Lobby certainly did cause the Chairman to feel embarrassed in the presence of onlookers.

The Committee should point out that although the application to Court was regarded as urgent, little time, if any, would have been lost by service in the Chairman's office. An attorney in such a matter who is also a Member of the Council would be familiar with the office facilities of the Council. The Committee is therefore of opinion that it would have been desirable and proper to have served the papers on the Chairman in his office. This opinion was also expressed by Members when interrogated.

Having enquired into and carefully considered all the circumstances the Committee is of opinion that the matter may now be left there and recommends accordingly.

India: Lok Sabha

Contributed by the Secretary of the Lok Sabha

Publication of expunged proceedings of the House by a newspaper.—*Facts of the Case.*—On 21st December, 1959, Shri Surendranath Dwivedy, a Member, sought to raise a question of privilege stating that the *Free Press Journal* of Bombay, in its issue dated 17th December, 1959, had published a portion of the proceedings of the House, dated 16th December, 1959, which had been expunged by the Speaker. Shri Dwivedy contended that the publication of the expunged proceedings appeared to be intentional because after publishing the expunged portion, it was added in the newspaper that it was later expunged by the Speaker.

The Speaker (Shri M. A. Ayyangar) observed, *inter alia,* as follows:

I have drawn the Editor's attention to it and I have asked for an explanation. . . . After the receipt of this reply, I will bring it before the House for such action as it may deem proper.

On 9th February, 1960, the Speaker informed the House as under:

The Editor of the *Free Press Journal* has since expressed unconditional apology for the oversight in a letter, dated 21st December, 1959, which reached me on the 23rd December, 1959, that is, after the House had adjourned *sine die* and was, therefore, published in Bulletin Part II, dated the 23rd December, 1959.

In view of this unconditional apology, the matter may be closed.

The House agreed and the matter was closed.

The text of the letter to which the Speaker referred, which was published in para. 3237 of Lok Sabha Bulletin Part II, dated 23rd December, 1959, was as follows:

Our Delhi Office has communicated to us late on Saturday afternoon the text of an urgent and confidential letter No. 797-CI/59, dated 18th December, 1959, addressed by the Deputy Secretary, Lok Sabha, to the Editor, *Free Press Journal*. I have not still received the said letter but I do not wish to delay my reply to it and therefore hasten to send this reply.

In fact, immediately my attention was drawn to the report of the Lok Sabha proceedings in the *Free Press Journal* of 17th December, 1959, I myself intended to write to you, regretting the mistake made.

I may add that I am informed that the expunging of the objectionable portion was not announced by the Hon'able Speaker in the House but was subsequently communicated to the P.T.I., who communicated the same to the Press.

It appears that due to pressure of work, the Sub-Editor overlooked the matter. I may further add that I have taken stern action against the Sub-Editor concerned. I deeply regret the error and express my unconditional apology for the same. I can assure you that the *Free Press Journal* is, as it has always been, anxious to uphold the highest traditions of parliamentary practice and I have issued instructions to see that utmost care is exercised in the sub-editing of the parliamentary proceedings.

I hope the Hon'ble Speaker will be good enough to accept my unconditional apology for the oversight.

Derogatory references to a Member and the Auditor General by a Minister in the House.—*Facts of the Case.*—On 14th March, 1960, the Speaker informed the House that he had received notice of a question of privilege regarding certain observations made by the Minister of Defence (Shri Krishna Menon) in the House on 10th March, 1960. The Speaker added that Shri N. G. Goray, a Member, had also earlier written to him requesting for expunction of certain portions of the speech of the Defence Minister.

Referring to the speech of Shri Mahanty, a Member, delivered in the House on 8th March, 1960, the Defence Minister had said as follows:

If the hon. gentleman thinks that the moral sanction of the House resides in him, he is very much mistaken. That is an attitude of mind that requires treatment other than by my answering speeches.

Referring to the Defence Audit Report for 1959, the Defence Minister had said:

If it had not come from the Auditor General and we were not familiar with

it, and if I so wanted to say—I do not want to—I could have said that this was a malicious overstatement but I do not intend to say so, Sir.

The Speaker observed *inter alia*:

. . . so far as expunction is concerned, I would like to have a precedent or follow a convention that whenever an hon. Minister makes a statement which is considered defamatory or undignified, instead of my exercising the right, that is, instead of the Chair exercising the right to expunge such portions, I would like that the hon. Ministers themselves, when that is the sense of the House or the opinion of the Speaker, should explain to the House or withdraw that portion; that will be more graceful.

The Minister of Defence (Shri Krishna Menon), withdrawing his remarks, stated:

I do not want to explain any of these, because it is likely not only to convey the wrong impression but in a sense make the expression of regret qualified. Therefore, I would like to express my regret in regard to these two statements, to which you have made reference, and request that, as you direct, they may be withdrawn.

Publication in the Press of a news item concerning the contents of the Chinese Government's reply to the Government of India's note, before the House was informed of it.—*Facts of the Case.*—On 8th April, 1960, Shri A. B. Vajpayee, a Member, drew[1] the attention of the House to the publication in the Press of a news item concerning the contents of the reported reply of the Chinese Government to the Government of India's note of 12th February, 1960, before the House was informed of it. He contended that the publication of that news was an impropriety, if not a technical breach of privilege.

The Prime Minister (Shri Jawaharlal Nehru) stated *inter alia*:

I should like to be clear on this subject of what is sometimes referred to as a privilege of this House. I am not aware of any such privilege that I should control the Press as to what they should print or not print when they get it. . . . I think it is a novel proposition of which I have not been aware in any country. . . . I want to be clear on this matter which is referred to again and again, to my knowledge, without any justification in parliamentary practice in any country. In fact, it would become almost impossible for Parliament to function if I am supposed to tell them of all military moves, all diplomatic moves from day to day. That is not parliamentary government, so far as I know. But that is by the way.

We have been trying to keep the House fully informed of these developments. Sometimes, it so happens that newspapers get some information and they publish it—not because we give it to them. We do not want to encourage publication in newspapers before we have decided that it should be published. A reply has come from the Chinese Government and we were waiting to find out the exact date of publication by them and by us and then I shall place it before the House. . . . I do not think that it leaked out. The newspaper concerned has correspondents abroad too and those correspondents get it from other sources also.

Obviously, it is a matter not of privilege but pure courtesy even that it should be placed before the House before it is sent to the Press. But some-

times it so happens—apart from the papers—that we have Press Conferences and there are questions and answers. Something is said and an answer has to be given. That is not a matter of discourtesy to anybody that an answer is given. Can it be said that every answer should be given here before it is given in the Press conference?

Ruling by the Speaker.—The Speaker ruled *inter alia* as under:

With respect to these matters, I would like the hon. Members to know what exactly I am going to allow and not to allow. It is for the hon. Minister to find out and to decide for himself, whether a particular document ought to be placed on the Table of the House or not. If he makes up his mind that it ought to be placed here, the hon. Members expect that this House must be the first to get information before it is given to the Press. But it is for the hon. Minister to decide whether it is a matter which is so important that the information ought to be given first to the House, or whether it is not of such importance and might be given out to the Press.

Alleged reflections against legislators of a particular political party.—*Facts of the Case.*—On 20th April, 1960, the Speaker informed the House that he had received notice of a question of privilege from Shri R. K. Khadilkar, a Member, which stated *inter alia*:

A friend of mine drew my attention to a speech delivered by Shri C. Rajagopalachari at Chandigarh on the 24th March, 1960. It has been reported in the leading English daily, *The Indian Express*, of the 26th March, 1960. The report says:

> "Mr. Rajagopalachari said that its (Congress) representatives in the legislatures were such people whom any first class magistrate would round up. They were men without any appreciable means of livelihood."

Prima facie, it is a contempt of the House and therefore serious notice of it should be taken.

Ruling by the Speaker.—The Speaker, disallowing the question of privilege, ruled[32] *inter alia*:

A similar question arose in the House of Commons, U.K., on the 21st June, 1954, when a Member, Sir H. Williams, brought to the notice of the Speaker the following portion of a speech, attributed to another Member, Mr. Shinwell, appearing in that day's *Daily Mail*:

> "Mr. E. Shinwell, Socialist M.P. . . . predicted an election at the end of the year when he spoke at a Labour Party Gala. He said it would be an opportunity to 'get rid of the crazy Tories—the wretches, the rascals, the rapscallions'."

The Member contended that the reference was clearly to Members on the side of the Treasury Benches and as such it was a gross breach of the privilege of the House. Thereupon the Speaker observed[33]:

> ". . . My view of it is that hard words used against persons and parties are dealt with, if necessary, by the law of defamation, and it is only where the House as a whole is affected by the spoken word that, to my mind, a question of privilege arises. In this case, it seems to me that these offensive epithets are selective in their application. Therefore, of the words complained of, I could not really find a *prima facie* case of breach of privilege. . . ."

I only want to tell hon. Members that we ought not to be a little too

touchy with respect to these matters. Each party attacks the other party. . . . I may refer to the ruling given by the Speaker of the House of Commons, U.K., in another case, which may be borne in mind by all hon. Members. It reads:

". . . however grave the charges and imputations made in that article may be, I do not think it is a case of privilege. It has been the practice of this House to restrain privilege under great limitations and conditions; and these restrictions and limitations have been, in my opinion, very wisely imposed by the House upon itself. The rule is that, when imputations are made, in order to raise a case of privilege, the imputation must refer to the action of honourable Members in the discharge of their duties in the actual transaction of the business of this House; and though I quite understand the honourable Baronet having brought this matter to my notice, I cannot rule that this is a case of privilege. Of course, if the honourable Members think themselves aggrieved, they have a remedy; and they will not be precluded from pursuing their remedy elsewhere than in this House."

This matter is closed."

Alleged tapping of telephone of a Member.—*Facts of the case and ruling by the Speaker.*—On 29th April, 1960, the Speaker informed the House that he had received notice of a question of privilege from Shri Braj Raj Singh, a Member, stating that his (Shri Braj Raj Singh's) telephone was being tapped for the last two days and the Member suspected that that was being done to prevent the satyagraha which the Socialist Party was about to start.

The Speaker then ruled[34]:

Hon. Members are aware that it has been said repeatedly, both in England and here, that except in the discharge of their duties, for which they have some privileges here, Members ought not to claim any special privileges outside which an ordinary citizen does not have. If the same thing had happened with respect to any ordinary citizen, it could not be brought up here as a breach of privilege; those things may be taken up with the Government in other ways. Therefore, I refuse to give my consent.

Casting aspersions on the Speaker by a news magazine.—*Facts of the Case.*—On 17th November, 1960, the Speaker informed[35] the House that he had received notice of a question of privilege from Shri A. M. Tariq, a Member, regarding the following passage published in the *Time*, a weekly magazine, dated 26th September, 1960:

At session's end, irate Speaker Ayyangar scheduled a 30-minute debate on Air-India International's flip public relations image, then cancelled the debate after friends of the airline management asked him to tone down the attack.

He also informed the House that he had subsequently received the following letter, dated 15th November, 1060, from Mr. James Shepherd, the local correspondent of the *Time*:

With very genuine regret I apologise on behalf of *Time* Magazine and myself for the unfortunate misstatement of fact regarding yourself which

appeared in the item entitled "The Dangers of Wit" published in the 26th September, 1960, issue of *Time*. In reporting the references made in the Lok Sabha to the publicity campaign of Air-India International, the magazine had said that a debate which had been scheduled was cancelled by you "after friends of the airline management asked (you) to tone down the attack". This is, of course, a complete error of fact.

Since then the magazine in its issue of 14th November, 1960, has published a letter from Mr. A. M. Tariq, M.P., in which he has drawn attention to our error.

In explanation for this error I can only say that the editors of *Time* had been misinformed of the real reason as to why the debate was not held. I do not offer this explanation as an excuse but only as a statement of what happened. It is the policy of *Time* to report events as accurately as is possible and this makes us all the more regretful of the mistake we have made.

Once again permit me to assure you that we are extremely sorry.

In view of the letter of regret, the Speaker added, that the House might be pleased to close the matter.

The matter was closed in accordance with the general sense of the House.

Casting aspersions on the Speaker and the House in a printed pamphlet.—*Facts of the case and reference to Committee of Privileges.*—On 30th August, 1960, Shri Hem Barua, a Member, drew the attention of the House to the following passage appearing in a pamphlet entitled "An Open Letter to Jawaharlal Nehru, *in re* Assam Tragedy (1960)" by Shri Dhirendra Bhowmick of Calcutta:

Is there any democratic country in the civilised world whose legislature would cold-storage a debate on a momentous issue like the one concerning the Assam atrocities because it does not suit the interests of some of the leaders of the ruling party? The most august body, the Parliament, has been turned into a private club by the Congress Government headed by Jawaharlal Nehru. The Speaker himself most shamelessly chose to be the second fiddle in the hands of the ruling party, so unlike the late V. J. Patel of hallowed memory. Thus every sacred institution of the country is being debased by the accursed leadership which is purblind and is in the leading strings of others who are stone-blind. Parliament has lost its dignity in the hands of docile and "Jo-Hukum" Members. Are we not already witnessing the dictatorship of Congress Party in operation? Look at the arguments put forward by Jawaharlal and Govind Ballav Pant in favour of postponement of the Assam debate *sine die,* encroaching on the sacred democratic rights of Members of the Parliament to debate the issue. A child would hate to sponsor such silly arguments. But all the same, they carried the day with the help of an obliging Speaker. The whole thing was fraud on the conscience of the nation.

He contended that the passage cast aspersions on the Speaker and the House and, therefore, constituted a breach of privilege of the House. He then moved and the House agreed:

That this matter be referred to the Committee of Privileges for consideration and report.[56]

Findings of the Committee.—The Committee of Privileges, in their

Eleventh Report presented[37] to the House on 12th December, reported *inter alia* as follows:

(i) The Committee have carefully considered the matter referred to them and the explanation dated 6th October, 1960, submitted by Shri Dhirendra Bhowmick. . . . Having read the pamphlet . . . and the explanation submitted by Shri Dhirendra Bhowmick, the Committee have come to the conclusion that the passage complained of (*see* para. 1 above) casts aspersions on the Speaker and the House and, therefore, constitutes a breach of privilege and contempt of the House.

(ii) However, from the incoherence of his reply and the tenor thereof, the Committee have come to the conclusion that Shri Dhirendra Bhowmick is not a person whose writing should be taken notice of seriously. The Committee are, therefore, of the view that the House would best consult its own dignity by taking no further notice of the matter. This would be in conformity with the traditions of the House.

(iii) The Committee noted incidentally that the pamphlet . . . did not indicate the name of the printer and the place of printing of the pamphlet, as required by section 3 of the Press and Registration of Books Act, 1867. . . . The Ministry of Home Affairs informed the Committee that the Government of West Bengal had furnished the following information in their letter dated 20th October, 1960:

> ". . . that the publication referred to above came to the State Government's notice only last month and that necessary action is being taken in respect of the contravention of section 3 of the Press and Registration of Books Act, 1867."

The Committee recommended that no further action be taken by the House in this case.

No further action was taken by the House.

KERALA: LEGISLATIVE ASSEMBLY

Imputation of improper conduct to Speaker and a Member.—On 22nd June, 1960, several notices under Rule 66 of the Rules of Procedure and Conduct of Business in the Assembly were received, and among them were two notices, one from Shri P. Gopalan and another from Shri T. C. Narayanan Nambiar, both dealing with the same matter, viz., the condition of labourers in the Commonwealth Weaving Factory at Kozhikode. The Speaker considered this matter important, and, taking into account the time of receipt of these notices, the notice from Shri P. Gopalan, which was received first, was called by him.

The next day the *Desabhimani*, a Malayalam daily newspaper, made a comment on these proceedings, of which the following is a translation:

In the meanwhile a Congress Member, in an attempt to acquire cheap popularity without much cost, was seen to be striving to get priority in bringing forward the Commonwealth factory issue. Shri P. Gopalan is the Member

concerned. He had given notice under Rule 66 of the Assembly Rules to raise this urgent matter. Even though Communist Members also had given notice on the same question it was the Congress Member whom the Speaker called.

Shri P. Gopalan sought permission to raise a question of privilege in respect of the above report of the proceedings as appearing in the paper. According to him, the report was an attempt to cast aspersions on him, calculated to bring him into discredit, and was also an attempt to attribute partiality to the Speaker. The Speaker allowed him to raise the question in the House on 28th June. On a motion by the Leader of the House, leave was granted to refer the matter to the Committee of Privileges for examination, investigation and report.

The Committee at its first sitting observed that though the Press had freedom of expression, any allegation imputing motives or reflecting upon the conduct of Members of the House would amount to a breach of privilege. The Committee examined the contents of the passage referred to and was *prima facie* of the view that the report would seem to imply that the Member giving notice under Rule 66 did so to obtain cheap popularity and not with a view to eliciting information and that would amount to imputations against the Member involving a breach of privilege. Further, the portion in the report stating that *even though* a Communist Member had given notice, the Speaker preferred a Congress Member, was definitely attributing partiality on the part of the Speaker. After considering all the aspects of the matter, the Committee came to the conclusion that there was a clear case of breach of privilege of the House and directed that notice be given to the Editor and Printer and Publisher to show cause why action should not be taken against them and the paper. As authorised by the Committee, the Secretary, Legislative Assembly, wrote letters to the Editor and to the Printer and Publisher of *Desabhimani*, incorporating the decisions of the Committee and requesting them to show cause before 3 p.m. on 28th July why action should not be taken against them and the paper.

In the course of a lengthy reply to this letter, the Editor and Publisher jointly made the following observation:

We would not have at all mentioned what we have been constrained painfully to state above, but for the fact that we were genuinely alarmed in the statement in your letter to the effect that " the Committee after considering the question in all its aspects came to the decision that the passage extracted above is objectionable in so far as it constitutes a contempt of the House and a breach of privilege, imputing partiality to the Speaker also. The Committee therefore resolved that the Editor, Printer and Publisher of the paper be requested to show cause why action should not be taken against them and the paper ". It is apparent that the decision has been taken and judgment delivered against us. It is violative of the canons of all natural justice and fair play that we should be found guilty and called upon to show cause why action should not be taken. If it were some other body which did like this we

might have been justified in describing such a show cause notice as farcical and a sham enquiry just to comply with the formalities of a hearing. But as we owe great respect to the Privileges Committee, and as we desire to continue our respect to the said Committee we would like to point out this circumstance and pray that the attitude of holding guilty first and giving an opportunity to show cause against it next may not be taken in the matter of the final disposal of this proceeding. We wonder whether there is anything more left to the Privileges Committee except to decide upon the punishment in the light of the passages extracted above. If this were the spirit in which the notice was sent, we humbly submit that it was purposeless and indeed a travesty of justice. Further, we hope that the Committee of Privileges will give some thought to what we have pointed out and try to be a little more fair in this matter than we are led to believe from the phraseology of your letter.

They further stated that they had not intended in any way to express irreverence for the Chair or to disparage Shri Gopalan, and expressed their profound regret if their remarks were found to be in any way objectionable.

In its First Report, which was presented to the House on 27th September, the Committee said:

Regarding the point raised *inter alia* in the reply that the Committee would appear to have prejudged the issue, the Committee observed that this was not the case and that the show cause notice could be issued only if the Committee felt it would be necessary so that they might examine the issues in the light of the reply given. The two aspects of breach of privilege involved, viz. (1) imputing motive to the Member Shri P. Gopalan and (2) attributing partiality to the Speaker were considered. With regard to the breach of privilege imputing partiality to the Speaker, the Committee, after considering the explanation offered and having regard to the regret expressed decided to recommend that the House need not take any further action in this regard.

In regard to the other question, viz., imputing motive to the Member Shri P. Gopalan, the Committee felt that there were reflections on the conduct of the Member, but in view of the expression of regret contained in the explanation and the conduct complained of also not being such a breach of privilege of the House as call for any further action, the matter need not be pursued further.

The Committee recommended that the question be dropped in the circumstances.

The report was agreed to by the Assembly on 12th December.

Allegation of wrongful acquisition and use of information by a Member.—On 2nd July, a Malayalam daily newspaper, the *Kerala Janatha*, published an article of which the following is a translation:

HONOUR AND SELF-RESPECT

When, in this civilised age, a person claiming privilege as representative of the people stands on the floor of the Assembly, exhibits stolen property piece by piece and reads private letters in the House and after having done so still moves about as a free citizen, it is no wonder that people are led to suspect whether there is a duly constituted Government responsible for the preservation of Law and Order and whether the citizens are assured of the fundamental rights guaranteed under the constitution.

We are surprised when a Member of the Assembly without any regard to the normal codes of decency takes pride in such acts by producing letters stolen either from the post office or from others and thus publicly admits his guilt and takes upon himself the responsibility for a heinous crime.

People with self-respect must be ashamed of him. He is a disgrace to the Legislative Assembly, a blot on public life and not a desirable element in the community. Not only his constituency, the whole country may have to lower its head at this contemptuous conduct of this representative of the people who has shed all honour and self-respect.

On 9th July Shri P. K. Kunjachan sought permission to raise a question of privilege arising out of certain passages in this editorial. He pointed out that the editorial would amount to an infringement of the rights and privileges of the particular Member referred to therein who had produced the photostat copies of letters and that the editorial in general criticised the action of the Member in this regard. The Speaker allowed the Member to raise the question, and on a motion by the Leader of the House the matter was referred to the Committee of Privileges for examination, investigation and report.

The Committee, at its sitting held on 27th September, examined the question and, finding that there was a *prima facie* case of breach of privilege, decided to call for the explanation of the Managing Editor and the Chief Editor of the *Kerala Janatha* to show cause why action should not be taken against them and the paper. As authorised by the Committee, the Secretary, Legislative Assembly, wrote a letter on 4th October to the Managing Editor and also to the Chief Editor of the *Kerala Janatha* incorporating the decision of the Committee and requesting them to show cause before 3 p.m. on 12th October why action should not be taken against them and the paper.

In his reply, dated 12th October, the Managing Director of the newspaper stated as follows:

(1) I may be permitted to state at the outset that there was no intention to commit any breach of the privileges of the Assembly or the Member and that I tender my contrition for having published an article viewed offensive.

(2) It is submitted that the writing deals with an act of getting wrongful possession of private letters addressed to other persons. We bona fide believe that it is the privilege and duty of the Press to fairly and reasonably comment on such wrongful act or acts. The publication was intended for the high purpose of bringing to light matters which were true so that an end might be put to them.

(3) The said wrongful act of seizure of private letters was not apparently during any proceedings of the Assembly and in the commission of the said act the person concerned was not exercising his function as a Member of the House.

The Chief Editor, in a reply of the same date, contented himself with saying that he was at present in hospital, and that he had nothing more to say in explanation than the Managing Director.

In their Second Report, dated 17th December, the Committee made the following observation:

The Committee felt that the editorial in question would constitute a breach of privilege being in the nature of a libel on the Member but were of the view that, having regard to the expression of contrition contained in the replies, the matter might not be pursued further.

The Committee therefore recommended that further proceedings be dropped.

The Second Report was agreed to by the Assembly on 19th June, 1961.

MADRAS: LEGISLATIVE COUNCIL

Contributed by the Secretary to the Legislative Council

Leakage of Budget proposals.—On 18th March, Dr. A. Lakshmanaswami Mudaliar, Leader of the Opposition, raised a question of privilege on the alleged leakage of Budget proposals in regard to the exemption of certain perishables from the levy of sales tax, long before the date when the Budget was presented to the Legislature, by way of a statement attributed to the President of the Tamil Nad Congress Committee published in two of the Dailies of Madras, dated 14th and 15th February, 1960, respectively, in which he was alleged to have said that the sales tax on perishables now in force would be removed next year and that the subject would come up for consideration during the Budget Session of the State Assembly early in March, 1960.

The Hon. Shri R. Venkataraman, Minister for Industries (Leader of the House) explained the Government point of view in the matter.

The Hon. Chairman ruled as follows:

I have heard the Hon. Leader of the Opposition and the Hon. the Leader of the House. In the matter of determination of the privileges of the House, we are governed by Article 194(3) of the Constitution, which says that the powers, privileges and immunities of a House of the Legislature of a State and of the Members and the Committees of a House thereof shall be such as may, from time to time, be defined by the Legislature by law and until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom and of its Members and Committees, at the commencement of this Constitution. Therefore the precedents of the Mother of Parliaments are a guide in this matter. Only in two cases, known as " The Thomas Case " and " The Dalton Case ", the House of Commons took notice of the leakage of Budget proposals. It is pertinent to point out here that, in both the cases, the leakage of Budget proposals was not treated as a breach of privilege of the House. They were not referred to the Committee of Privileges. Both in the Indian Parliament and in our Legislature, it has been ruled repeatedly that leakage of Budget proposals was not a breach of privilege of the House. It is needless to canvass this first principle. The prevalent view is that, until the financial proposals are placed before the House, they are an official secret, but not a privilege of the House.

As to the principle involved, what is alleged is a divulgence or leakage of a Cabinet secret. The Cabinet is entitled in its discretion to treat its discussions and decisions as secret until it itself permits their disclosure. But the privilege of secrecy of a Cabinet decision is that of the Cabinet and its protection is its own concern. The secrecy of Cabinet decisions cannot be and are not a

privilege of the House though the House will be justified in the public interest in its maintenance; nor is the first disclosure to the Legislature of the Government's taxation proposal included among the recognised privileges. The words " Privileges of Parliament " are technical in their import and restricted in their content. They must not be confused with the Functions of Parliament. They have become defined and demarcated by the practice of centuries in England where it is settled law that no new privilege can be created. In the circumstances, I rule that no *prima facie* case of breach of privilege exists in the instant case.[38]

MADRAS: LEGISLATIVE ASSEMBLY

Contributed by the Secretary to the Legislature

Resolution by City Council criticising statements made in Legislative Assembly.—During the General Discussion on the Budget for 1960-61, certain members of the Legislative Assembly, in the course of their speeches on the floor of the Assembly during March, 1960, made certain statements touching the administration of the Madras City Corporation.

A resolution was passed by the Council of the Madras City Corporation at its meeting held on 15th March, regretting the statements thus made.

Shri A. A. Rasheed raised a point of privilege on 17th March in the Assembly, stating that the resolution passed by the Corporation of Madras on 15th March regretting the speeches made by certain Members in the Assembly, and the speeches of certain Corporation Councillors made during the discussion of that resolution, amounted to a breach of privilege. The Hon. Speaker held that a *prima facie* case existed, and on the motion of Shri A. A. Rasheed the matter was referred to the Committee of Privileges.

When the matter was pending before the Committee, a meeting of the Council of the Corporation of Madras was held on 2nd September, at which a resolution was passed rescinding its previous resolution dated 15th March.

In view of the fact that the original resolution had been rescinded unanimously and in view also of the fact that the speeches and the resolution of the two Councillors objected to fell into the category of incidents which it would be inconsistent with the dignity of the House and of the Committee to examine further, the Committee recommended to the House that no further action need be taken on the matter.

The Report of the Committee was presented to the Assembly on 10th March, and adopted.

Incorrect Publication of Proceedings.—(a) On 17th March, the Hon. Shri C. Subramaniam, Minister for Finance, raised a point of privilege that the remarks of the Leader of the Dravida Munnetra Kazhagam Legislature Party withdrawing unconditionally certain

statements had not been published in the newspapers. The matter was dropped, since all the newspapers subsequently published a correct version of the proceedings and also stated that they omitted to publish the fact of withdrawal as their Reporters did not hear it.

(b) On 18th March, Shri A. Govindaswamy, M.L.A., raised a matter of privilege against the garbled publication in the Tamil daily *Nave India,* in its issue dated 17th March, of the speech of the Minister for Finance in the Assembly on that date. The matter was dropped, since the Editor of the newspaper had subsequently published what exactly was said in the House and also had expressed regret for the mistake.[39]

Arrest of a Member.—On 9th August, 1960, Shri M. Kalyanasundaram, M.L.A., raised a question of privilege regarding his arrest on 13th July by the Police under Section 151 of the Criminal Procedure Code and subsequent detention in the Central Jail, Madras, till 19th July, as a result of which his service to the Legislative Assembly had been interfered with during the period of immunity, namely, 40 days before the commencement of a session and 40 days after the close of a session. A ruling was given by the Hon. Speaker on 23rd August, that since the arrest was not under civil process no *prima facie* case had been made out.[40]

Judgment of the High Court.—(a) On 5th September, Shri S. Lazar, M.L.A., raised a matter of privilege regarding certain observations made in the course of the order of the Madras High Court pronounced on a writ petition, affecting the conduct, character, prestige and privilege of a Member of the Assembly, who was also Leader of the House. As this matter involved some substantial issues, the Hon. Speaker postponed his ruling. The matter subsequently lapsed due to the prorogation of the Legislature on 29th September.

(b) Shri M. Kalyanasundaram raised a matter of privilege that the notice served by the Madras High Court on the Speaker directing him to forbear from allowing consideration or discussion of the privilege matter raised by Shri S. Lazar amounted to an interference with the privilege of the House.

The ruling on the matter was postponed but subsequently the matter lapsed on account of the prorogation of the Legislature.

(c) Shri V. S. Manickasundaram raised a matter of privilege that the admission of writ petition in the Madras High Court against the Speaker tended to lower the dignity of the Chair, interfered with the conduct of the business of the House and also interfered with the freedom of speech of the Members and therefore constituted a breach of privilege.

The ruling on the matter was postponed, but subsequently the session of the House was prorogued and the matter lapsed.

(d) Shri T. Sampath raised a matter of privilege that the filing of

a contempt petition in the Madras High Court by Shri A. Ramachandran against a Member of the House, viz., Shri S. Lazar, violated Article 194 of the Constitution and therefore amounted to a breach of privilege.

The ruling on the matter was postponed and the matter subsequently lapsed on account of the prorogation of the session of the House.

PUNJAB: LEGISLATIVE COUNCIL

Contributed by the Secretary of the Legislative Council

Unauthorised entry of staff of other House.—On Tuesday, 16th February, a reference having been made by Babu Shri Chand, M.L.C., to a notice of privilege Motion given by him, the Chairman observed that he had received a notice which ran as follows:

> The sitting of two intruders suspected to be the people of Intelligence Department amongst the Members of the House when the Governor was inaugurating the Session constituted a breach of privilege of this August House.

The Chair added that the Member had desired that the matter be gone into by a Committee of Privileges of the House. The Chair observed that he would find out the facts and also like to know the Government's position in that behalf.

On 17th February, the Finance Minister, while clarifying the position in the House, said that mention had been made regarding the same matter in the Punjab Vidhan Sabha on the previous day, and that the Hon. Speaker had thereupon said that the two persons who had entered the chamber on 15th February, 1960, were the clerks of Punjab Vidhan Sabha Secretariat and that they did so under some confusion and that he had observed further that some action shall be taken against them.

Babu Shri Chang, M.L.C., desired to withdraw his privilege motion after the statement made by the Leader of the House. The Chair observed that that stage had not come as it had not been admitted till then.

Failure to lay essential information before the House.—Shri Krishan Lal, M.L.C., at the sitting of the House held on 16th March, referred to a privilege motion, given notice of by him, to the effect that by announcement of concessions by the Government after presentation of Budget to the House, in the matter of abolishing purchase tax on iron, steel, coal, lubricants and timber, amounted to a breach of privilege of the Members of the House, as in his opinion the said concessions would entail financial implications and change the complexion and structure of the annual Budget which was sure to bring about some shortfall in the income of the Government. He added in

the notice that the Budget as presented to the House did not contain any proposals to meet the said shortfall.

The Finance Minister during the course of general discussion on the Budget stated at the sitting of the House held on the same day that for some time past a demand had been expressed that some facilities and concessions should be allowed to industrialists, with a view to ensuring that industry flourished in the Punjab. He could not see what harm would result if the details of facilities which were extended by the State Government so as to let industry flourish in the State, were announced.

The Finance Minister further clarified the position by observing that previously a levy had been charged from those industrialists also who produced power from their own generators; it had since been decided not to charge the said levy, as it was considered that charging it was not proper since on the one hand the Government could not supply power to them, and on the other hand they were asked to pay levy too when they produced power from their own generators. He added that he had already stated clearly in his Budget speech made to the House that in allowing that concession the State would undergo a loss of nine lakhs of rupees and that no tax was proposed to cover that loss specifically.

When Shri Krishan Lal, M.L.C., in the sitting held on 17th March, desired to know the ruling of the Chair on the motion, the Chair observed that there was no privilege involved in the matter.

Allegation of misleading the House.—At the sitting of the House held on 20th March, S. Gurcharan Singh, M.L.C., referred to a privilege motion given notice of by him, regarding breach of privilege of the House by the Education Minister, Punjab, who had, he alleged, given false information to the House in answer to Unstarred Question No. 81 supplied on 18th March. The Chair observed that Member could bring in a substantive motion against the Government if he so desired, and that the Chair had no remedy in the matter.

The Finance Minister clarified the position of the Government on the point and stated that the matter could be looked into to find out if there was actually any contradiction in the reply referred to by the Member. He added that the appropriate course would be to give an opportunity to the Government to find out the facts of the case so that the Government could give information and if any mistake was found out the Government would own it.

The matter was dropped eventually.

Deferment by the Chair of resumption of session.—At the sitting of the House held on 25th April, B. Shri Chand, M.L.C., referred to a privilege motion given notice of by him to the effect that breach of privilege of the House was involved by adjourning the session of the Punjab Legislative Council from 4th to 25th April, without the consent and order of the House itself.

The Chair explained that there was no business for being transacted by the House if it was to meet on 4th April, and keeping in view the best interests of the State's finances the Council, in the peculiar circumstances, was adjourned to meet on 25th April. In regard to the point raised by the Members, during discussion on the admissibility of the motion, to the effect that the Chairman was not competent to thus adjourn the meeting and that it could be done by the House only, the Chair observed that he could do so as the rules of the House on the point were silent and he had to take that decision taking into account so many factors.

The notice was accordingly ruled out of order.

Ministerial statement made to one House only.—At the sitting of the House held on 26th April, Shri Virendra, M.L.C., referred to a notice of the privilege motion given by him desiring to discuss the failure of the Chief Minister to make a statement in the Punjab Legislative Council regarding the appointment of a Committee to enquire into the allegations of corruption against officials and non-officials which he made in the lower House on 25th April.

The Chair observed that many statements were also made by the Government in one House without their being repeated in the other House but no question of privilege arises in such cases.

The notice was ruled out of order.

Sitting of the House on a public holiday.—At the sitting of the House held on 19th October, Shri Krishan Lal, M.L.C., referred to the notice of privilege motion given by him to the effect that a breach of privilege of the House was committed by the acting Leader of the House when, at the sitting of the House held on 20th October, he gave incorrect and wrong information while stating that Diwali was not a holiday gazetted by the Punjab Government. In this behalf he referred, in the notice, to the notification published in the *Tribune* dated 19th October, wherein it was mentioned that Dewali holidays would be observed by the Punjab Government on 19th and 20th October, instead of 20th and 21st October, as notified previously.

The acting Leader of the House explained the whole position and stated that the notification under reference was issued on 18th October between 5 and 6 p.m. He added that it was so done to amend the previous notification issued on the subject under section 25 of the Negotiable Instruments Act, 1881. He observed that it was absolutely incorrect to say that the notification had been issued earlier to his making a statement on subject in the House on 18th October. He urged upon the Member not to indulge in the practice of making statements which contained wrong allegations against responsible persons.

The Chair agreed with the view expressed by the acting Leader of the House and ruled the notice out of order.

In regard to a further notice of privilege motion given notice of by

Shri Krishan Lal, M.L.C., to the effect that the sitting of the House being held 19th October was illegal and unconstitutional, as the said day was a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, the acting Leader of the House observed that after a long and heated discussion, it had been decided by the House to have a sitting on that day. He added that the House was fully authorised to take a decision in that behalf.

The Chair observed that in view of the position explained by the acting Leader of the House in regard to another notice of privilege motion, he was of the opinion that the Member should not try to bring forward motions in the House unless he had got full facts with him as otherwise precious time of the House was wasted.

The notice was ruled out of order.

UTTAR PRADESH: LEGISLATIVE ASSEMBLY

Contributed by the Secretary of the Legislature

Premature publication of draft Bill.—At a time when the Uttar Pradesh Co-operative Societies Bill, 1960, had been drafted by the Government, but had not yet been introduced in the House nor published in the Government *Gazette*, the *Naya Bharat*, a Hindu weekly of Lucknow, published an article by one Shri Madan Mohan with the title, "Uttar Pradesh men Sahkarita Ka vikas". The article appeared on page 7 of the *Naya Bharat* dated 8th February, 1961.

On 16th February, Shri Gauri Shanker Rai gave notice to raise a question of contempt of the House against the Chief Editor of the paper (Shri Jagan Prasad Rawat, General Secretary of Uttar Pradesh Congress Committee). Shri Rai alleged that the above article did not put forth the Government's viewpoint about co-operation in Uttar Pradesh but that it revealed the contents of the Co-operative Societies Bill, 1960, yet unpublished. Publication of contents of a Bill, prior to its introduction in the House or its publication in the Official *Gazette*, amounted to a contempt of the House, according to the complaint.

The Editor (Shri Rawat) submitted that the article had already been published in other papers and that therefore he did not secure any advantage over other editors by publishing the article.

On 17th February, Shri Speaker informed the House about the explanation received from Shri Rawat and said that the article published in the *Naya Bharat* was based on an article published in other papers and that therefore Shri Rawat did not secure an undue advantage; and as such, Shri Rawat was not at all guilty of contempt of the House. He refused to allow the question to be raised but he warned the Press and the Information Department that while giving articles to the papers they should bear in mind the traditions of the House. The Speaker also requested the Government that in future,

in the case of Bills to be introduced in the House, information about their objects and reasons and principles, etc., should be given to the House after their drafts are ready. The Press should be supplied with the information only after the House has been informed.[41]

Allegation of conspiracy by Members.—11th April, 1960, was a day allotted for non-official business in the Legislative Assembly. A non-official resolution purporting to give certain facilities to the Scheduled Castes was moved by a Member (Shri Ram Vachan Yadav). Shri Bhup Kishore, M.L.A., spoke on the resolution and alleged that in the past caste Hindus had been unfair to the Scheduled Castes. To prove this allegation, he quoted some couplets from the *Ramayan* of Tulsi Das—a famous and much-respected religious book of the Hindus. He resented the couplets very much and tore some pages out of a copy of the *Ramayan* which he had brought with him.[42]

Shri Lal Bahadur, M.L.A., gave notice to raise a question of breach of privilege against Shri Bhup Kishore on 12th April. Shri Bhup Kishore was given an opportunity by the Chair to explain his position. The Deputy Speaker, who was in the Chair, heard him and some other Members about the matter and refused permission to raise the question. But he said that hon. Members should make no such demonstration inside the House as would injure the feelings of others.[43]

Shri Sripal Singh, M.L.A., then gave a notice to raise a question of breach of privilege against Shri Bhup Kishore and Shri Raj Narain, M.L.A. Shri Singh alleged that while giving his explanation, Shri Bhup Kishore had made certain mis-statements and that Shri Bhup Kishore and Shri Raj Narain had conspired together to bring about the unfortunate position.

On 14th April, Shri Bhup Kishore was again ordered by the Speaker to explain the position. Shri Bhup Kishore pleaded not guilty. The Speaker referred the matter to the Committee on Privileges for investigation and for report on the question whether Shri Bhup Kishore had made mis-statements in his speech.[44]

After their deliberations, the Committee reported to the Speaker that allegations made against Shri Bhup Kishore were correct, while Shri Raj Narain had nothing to do with the matter and that there was no conspiracy. The report of the Committee is still under consideration of Shri Speaker.

Reflection on statements made in Assembly.—In August, 1960, there were some disturbances in the Lucknow University during the course of an agitation by the students against the refusal of admission to some candidates and the arrest of certain students. As the University authorities apprehended a breach of peace, they requested the Government for help. So some personnel of the Provincial Armed Constabulary were posted in the University Campus to maintain law

and order. On 8th August, there was a discussion on the notice of Shri Madan Pandey under Rule 52 to call attention to the situation arising out of the entry of Provincial Armed Constabulary into the premises of the University.[45]

Shri Triloki Singh, Leader of the Opposition, gave notice of raising a discussion on the situation arising out of the Police help sought by the Vice-Chancellor of the University. As the matter was considered to be of urgent public importance, a discussion was held on 9th August, under Rule 53 of the Rules of Procedure and Conduct of Business of the Assembly.[46]

The Executive Committee of the Lucknow University Teachers' Association held an emergency meeting on 10th August, 1960, and unanimously passed the following resolution:

> This meeting of the Executive Committee of the Lucknow University Teachers' Association is grieved and shocked at the reports of the proceedings of the Assembly which have appeared in the local press during the last two days. The criticism which has been levelled against the teachers of the University is extremely ill-informed and regrettable. As leaders of the public opinion, whose views are entitled to the greatest respect and consideration, the Hon'ble Members should have taken care to ascertain true facts from those whom they have sought to condemn. Nowhere in the reports has it been hinted that any Member took the slightest trouble to contact any section of the teachers. It may be emphasised that the strongest reason for the reaction of the teachers was the organised attack on their name, reputation and even safety by violent and unruly persons, most of whom were outsiders and over whom no authority in the University could exercise any control. The teachers still believe that if adequate means are devised to keep this element out, they would be able to exercise healthy influence on the students.

Shri Gauri Shanker Rai, M.L.A., gave notice to raise a question of breach of privilege against the President of the said meeting and other teachers who took part in the proceedings of the Executive Committee. He took exception particularly to the words "extremely ill-informed and regrettable" used in the resolution, and alleged that Members of the Legislature had been brought into ridicule by the University teachers. On 12th August. 1960, the Speaker referred the question to the Privileges Committee for investigation and report.[47]

The matter is under consideration of the Committee.

SOUTHERN RHODESIA: LEGISLATIVE ASSEMBLY

Contributed by the Clerk-Assistant of the Legislative Assembly

Purported inquiry into speeches in Parliament.—On 20th November, Dr. A. Palley (Southern Rhodesia Party Member for Greendale), brought up a matter of privilege in the House. The gist of it was that he had, some weeks earlier, raised certain matters regarding interference by the Executive in the discretion of Magistrates' Courts in the Colony. He had asked that a judicial Commission be ap-

pointed to investigate these matters and in due course a Commission was set up by the Governor. The terms of reference of the Commission included the words:

To investigate and report upon certain allegations made in the Legislative Assembly by the Honourable Member for Greendale. . . .

After the Commission had been set up, Dr. Palley was requested to give evidence before it, presumably in regard to the "allegations" he had made in the House. He declined to appear before the Commission on the ground that, in so doing, he would himself be committing a breach of privilege. The Minister of Justice and Internal Affairs agreed with Dr. Palley's remarks and added ". . . the matter into which the Commission is inquiring is not the speech made by the Honourable Member but the facts contained in the speech."

Mr. Speaker stated:

I think it is only fair that I should point out that in May's *Parliamentary Practice* it is clearly laid down that speeches of whatever character made in Parliament cannot be inquired into out of Parliament.[18]

[1] 621 *Com. Hans.*, 890-1. [2] *Ibid.*, 1087. [3] 626 *ibid.*, 446-7. [4] *Ibid.*, 1184-94. [5] H.C. 284 (1956-60). [6] *Ibid.*, pp. vi-vii. [7] 626 *Com. Hans.*, 1611-2. [8] *Ibid.*, 385-7. [9] 627 *ibid*, 215-8. [10] *Ibid.*, 2355. [11] 629 *ibid.*, 1065. [12] 630 *ibid.*, 218-9. [13] *Ibid.*, 385-7. [14] 1960 *Can. Com. Hans.*, 1055. [15] *Ibid.*, 1104. [16] St. Co. on Privileges and Elections, Min. of Proc. and Evidence, No. 1, pp. 12-13. [17] *Ibid.*, p. 13. [18] *Ibid.*, p. 14. [19] *Ibid*, p. 16. [20] *Ibid.*, pp. 26-7. [21] *Ibid.*, p. 31. [22] *Ibid.*, p. 32. [23] *Ibid.*, p. 4. [24] V. & P., 7th March, 1961, p. 3; 1960-61 *N.S.W. Hans.*, 2936-51. [25] V. & P., p. 380. [26] *See* May, 16th Ed., p. 144. [27] *See* Report of Sen. Sel. Co. on Privilege (SC 2-'60), *Assem V. & P.*, pp. 481 and 502-5, and 104 *Hans.*, 4840 *et seq.* [28] *See Sen. Minutes*, pp. 109 and 113. [29] *Minutes*, 1960, p. 85; *Hans.*, Vol. 1, p. 91. [30] *Minutes*, 1960, pp. 139 and 140; *Hans.*, Vol. 4, pp. 642, 645-6. [31] *L.S. Debs.*, 8.4.1960, cc. 10376-80. [32] *Ibid.*, 20.4.1960, cc. 12729-34. [33] 529 *Com. Hans.*, 35-6; *see also* THE TABLE, Vol. XXIII, p. 134. [34] *L.S. Debs.*, 29.4.1960, cc. 14709-11. [35] *Ibid.*, 17.11.1960, cc. 855-8. [36] *Ibid.*, 30.8.1960, cc. 5652-4. [37] *Ibid.*, 12.12.1960, c. 5039. [38] 1960 *Madras L.C. Debs.*, Vol 36, pp. 159-66. [39] 1960 *Madras Assem. Debs.*, Vol. 29, No. 3. [40] *Ibid.*, Vol. 25, No. 5. [41] 209 *U.P. Assem. Debs.*, 280-1. [42] 212 *Ibid.*, 567-75. [43] *Ibid.*, 652-9. [44] *Ibid.*, 902-4. [45] 215 *ibid.*, 20-8. [46] *Ibid.*, 137-61. [47] *Ibid.*, 404-8. [48] 1960 *S. Rhod. Hans.*, 3928-30.

XV. MISCELLANEOUS NOTES

1. CONSTITUTIONAL

Australia: Northern Territory (Constitutional).—By the Northern Territory (Administration) Act (Act No. 28 of 1959 of the Commonwealth Parliament) the constitution of the Legislative Council of the

Northern Territory was changed from seven Official Members nominated by the Administrator and six Elected Members representing the electoral districts of the Territory, to six Official Members nominated as before, eight Elected Members and three Non-Official Members, whose appointment is by nomination as in the case of Official Members (s. 8). The effect of this is that the passage of any measure must have the support of the Non-Official Members.

The electoral system is unchanged in that the adult citizen franchise still applies, but electoral boundaries have been redrawn to provide eight electoral districts (s. 10).

Also constituted by the Act was a body consisting of five Members of the Legislative Council known as the Administrator's Council, whose function it is to advise the Administrator on various matters (s. 18). Its functions are very similar to those of an Executive Council, and it is considered as a first step towards self-government.

(*Contributed by the Clerk of the Legislative Council.*)

Union of South Africa (Constitution).—The following amendments were made during 1960:

South Africa Act, 1909:

S. 52 (Member of either House disqualified for being Member of the other House): Provision was made for a Member of either House of Parliament to be a candidate for the other House without first having to resign. With effect from the date upon which he becomes a Member of such other House, he ceases to be a Member of the first-mentioned House. (*See* Senate Act (No. 53 of 1960), s. 1.)

Ss. 76 (Allowances of provincial councillors) and 78 (Provincial executive committees): Provincial councils were empowered to make ordinances relating to pensions for Members or widows of Members of a provincial council or executive committee, such pension not to exceed an amount which, if calculated over a period of twelve months, is equal to half of the highest amount that was payable under the above sections in respect of any year during the period of office of the Member concerned. (*See* Provincial Powers Extension Act (No. 42 of 1960), s. 1.)

South-West Africa Affairs Amendment Act (No. 23 of 1949):

S. 30 (Representation of South-West Africa in the Senate):

(*a*) The pre-1955 provision for the election of senators according to the principle of proportional representation, with each voter having one transferable vote, was restored.

(*b*) The senators nominated or elected under this Act will now be in addition to those provided for in the Senate Act, 1955, and the Separate Representation of Voters Act, 1951, instead of, as previously, in addition to those provided for in the South Africa Act, 1909, and the Representation of Natives Act, 1936. (*See* Senate Act (No. 53 of 1960), s. 2.)

SENATE ACT (No. 53 OF 1955):

S. 2 (Constitution of the Senate). The Senate is reconstituted to consist of—

(*a*) eight nominated senators, two from each province;

(*b*) so many elected senators, but not less than eight, for each province as are equal to one-tenth of the number of electoral divisions in that province for the election of Members of the House of Assembly, together with the electoral divisions for the election of provincial councillors, making a total of 41 elected senators (instead of the 65 in the previous Senate), *i.e.* (with previous figures in brackets) Transvaal 14 (27), Cape Province 11 (22), Orange Free State 8 (8) and Natal 8 (8);

(*c*) four senators, as before, elected and nominated under the South-West Africa Affairs Amendment Act, 1949;

(*d*) one senator, as before, nominated under the Separate Representation of Voters Act, 1951.

Total: 54 (instead of 90 in the previous Senate—including four senators elected under the Representation of Natives Act, 1936). (*See* Senate Act (No. 53 of 1960), s. 3.)

S. 3 (Nominated senators): The Governor-General is required, when nominating senators, to have regard to—

(*a*) the desirability of ensuring that the Senate will as far as practicable consist of persons having knowledge of matters affecting the various interests of the inhabitants of the Union; and

(*b*) the requirement that at least one of the two senators nominated from each province shall be thoroughly acquainted, by reason of official experience or otherwise, with the interests of the Coloured population in that province and that this senator should be capable *inter alia* of serving as the channel through which the interests of the Coloured population in that province may be promoted.

S. 4 (Elected senators): The pre-1955 provision for the election of senators according to the principle of proportional representation, with each voter having one transferable vote, was restored. (*See* Senate Act (No. 53 of 1960), s. 5.)

SENATE ACT (No. 53 OF 1960):

In addition to the above-mentioned amending provisions contained in this Act, provision was also made for the Senate to establish standing committees to which, on the motion of a Minister or Deputy Minister, various matters may be referred for investigation and report (s. 6); and that the Prime Minister or a Minister on his behalf shall at the commencement of each session and may from time to time dur-

ing a session make known what Bills are to be introduced in the Senate during that session (s. 7).

REFERENDUM ACT (No. 52 OF 1960):

Although not actually amending the constitution, reference should be made to the above-mentioned Act which provided for the holding of a referendum for the purpose of determining whether the White voters in the Union and South-West Africa are in favour of or against a republic for the Union, the date for the holding of the referendum to be determined by the Governor-General by proclamation in the *Gazette*.

The referendum was held on 5th October, 1960, the result being 850,458 votes in favour of and 775,878 against a republic. (*See Government Notice* No. 1744 of 26th October, 1960.)

A draft constitution for the Republic of South Africa, to be introduced in Parliament during 1961, was published in a *Government Gazette Extraordinary* dated 9th December, 1960.

(*Contributed by the Clerk of the House of Assembly.*)

Union of South Africa (Natives' Representatives).—In terms of the Promotion of Bantu Self-government Act (No. 46 of 1959: *see* THE TABLE, Vol. XXVIII, p. 156) the members representing the electoral circles of Cape Eastern, Cape Western and Transkei, viz., Mrs. V. M. L. Ballinger, Mr. L. B. Lee-Warden and Mr. W. P. Stanford, D.F.C., ceased to be members of the House of Assembly with effect from 30th June, 1960.

(*Contributed by the Clerk of the House of Assembly.*)

India (Reorganisation of State Boundaries).—The Bombay Reorganisation Act, 1960 (Act No. 11 of 1960), which came into force on 1st May, made provisions for the reorganisation of the then existing State of Bombay by reconstituting it as two separate States, namely, Gujarat and Maharashtra.

Section 3 of the Act provided for the formation of a new State of Gujarat by transferring thereto certain territories from the then existing State of Bombay and also provided that the residuary State of Bombay would be known as the State of Maharashtra.

Section 4 made consequential amendments in the First Schedule to the Constitution (containing the names and territories of the States).

Sections 6 to 9 and the Second Schedule dealt with the representation of the States of Gujarat and Maharashtra in the Council of States.

Section 6 amended the Fourth Schedule to the Constitution (showing the allocation of seats in the Council of States) so as to allot 11 seats to the State of Gujarat and 19 seats to the State of Maharashtra in the Council of States making a total of 30 seats for the two States together as against 27 seats originally allotted to the individual State

of Bombay. There was thus an increase of 3 seats in the Council of States, the total number of Members now becoming 236.

Section 7 of the Act read with the Second Schedule thereto provided for the allocation of the sitting Members of the Council of States representing the State of Bombay among the States of Gujarat and Maharashtra.

Sections 8 and 9 made provision for the holding of by-elections to fill vacancies in the seats allotted to the States of Gujarat and Maharashtra and for the fixation of the term of office of the Members representing those States.

Sections 10 to 12 and the Third Schedule dealt with the representation of the States of Gujarat and Maharashtra in the House of the People. Of the 66 seats in the House allotted originally to the erstwhile State of Bombay, 22 seats were allotted to the State of Gujarat and 44 to the State of Maharashtra.

The Act also made provisions in respect of the Legislatures of the two States, the State of Maharashtra having a Legislative Assembly as well as a Legislative Council and the State of Gujarat having only a Legislative Assembly.

(*Contributed by the Secretary of the Rajya Sabha.*)

India (Acquired Territories).—Agreements beween the Governments of India and Pakistan dated 10th September, 1958, 23rd October, 1959, and 11th January, 1960, settled certain boundary disputes between the Governments of India and Pakistan relating, *inter alia*, to the borders of the States of Assam, Punjab and West Bengal.

According to these agreements, certain territories were to be transferred to India from Pakistan after demarcation. The Acquired Territories (Merger) Act, 1960 (No. 64 of 1960) made provision for the merger into the States of Assam, Punjab and West Bengal of the territories acquired in pursuance of these agreements and also made the necessary supplemental and incidental provisions relating to representation in Parliament and in the State Legislatures, the vesting of property and assets and other matters. It was provided in sub-section(1) of section 6 of this Act that every sitting Member of the House of the People representing any Parliamentary constituency the extent of which had been altered by virtue of the provisions of this Act would, notwithstanding such alteration, be deemed to have been elected as from the appointed day to that House by the constituency so altered.

Provision was made in s. 3 of the Constitution (Ninth Amendment) Act, 1960, for the amendment of the First Schedule to the Constitution to give effect to the transfer of the territories concerned.

(*Contributed by the Secretary of the Rajya Sabha.*)

Madras (Alteration of Boundaries).—The Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act No. 56

of 1959) provides for the alteration of boundaries of the Madras State and of Andhra Pradesh and for matters connected therewith. According to this the strength of the Legislative Assembly of the Madras State has been increased by one from April, 1960, and the representation in the Council of States has also been increased by one from the above date. The strength of the Assembly is now 207 and the representation of the Madras State in the Council of States is 18.

(*Contributed by the Secretary to the Legislature.*)

Maharashtra (Creation of new State).—Under the provisions of the Bombay Reorganisation Act, 1960 (No. 11 of 1960), the State of Bombay was reorganised into two States from 1st May, namely, the State of Gujarat and the State of Maharashtra. The consequent changes made in the Constitution of India by the said Act are shown in detail on pp. 124-5.

The present strength of Maharashtra Legislative Assembly is 265, including one Member nominated by the Governor. The present strength of the Maharashtra Legislative Council is 78, as shown below:

(1) Members elected by Graduates' Constituencies	7
(2) Members elected by Teachers' Constituencies ...	7
(3) Members elected by Local Authorities	22
(4) Members elected by Members of the Legislative Assembly	30
(5) Members nominated by the Governor	12

(*Contributed by the Secretary of the Legislative Department.*)

Southern Rhodesia (Members to be Commissioners of Oaths).—The Commissioners of Oaths Amendment Act (No. 23, 1961) appointed all Members of the Legislative Assembly and of the Federal Assembly representing constituencies in the Colony Commissioners of Oaths.

It was introduced as the result of a question by a Member.

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

Southern Rhodesia (Referendum).—The object of the Referendum Act (No. 25, 1961), was to provide for the holding of a referendum for the purpose of determining whether or not the voters of the Colony are in favour of certain draft proposals for the amendment of the Constitution of Southern Rhodesia. It laid down that only persons who were registered voters in terms of the Electoral Act were eligible to vote in the referendum, and a simple majority of votes cast throughout the Colony would decide the issue.

Certain provisions contained in the Electoral Act, with appropriate modifications, were made applicable to the conduct of the referendum. Provision was also made for an appeal to be made to the High Court in connection with the admission or rejection of a vote.

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

East Africa High Commission (Constitutional).—The East Africa (High Commission) (Amendment) Order in Council, 1960 (S.I., 1960, No. 1965), came into operation on 2nd November, 1960, and provided, in the main, for the three Unofficial Members of the Assembly who had been elected by the Tanganyika Legislative Council to continue to be Members of the Assembly notwithstanding the fact that they ceased to be elected Members of their Territorial Legislative Council when it was dissolved: such continuation of membership lasted until the day before the new Tanganyika Legislative Council met.

(*Contributed by the Clerk of the Assembly.*)

Malta (Suspension of Constitution).—On 21st April, 1958, the Governor accepted the resignation of the Government. The Leader of the Opposition when asked to form an alternative Government declined the invitation with the result that the Governor, by Proclamation of 24th April, dissolved the Legislative Assembly and took over the administration of the Island. On 30th April, by another Proclamation, the Governor declared a state of public emergency for the purposes of the Malta (Emergency Powers) Order in Council, 1953.

Such was the constitutional position in Malta at the beginning of 1959. On 5th January, 1959, the Governor announced that a new constitution for Malta would be promulgated and the 1947 Constitution revoked. On 8th April, the new Constitution consisting of two instruments was published in the Government *Gazette*; the Malta (Constitution) Order in Council, 1959 (unnumbered), and the Malta Royal Instructions, 1959. The Order in Council established an Executive Council for Malta which advises the Governor on the administration of the Island. This Council, whose meetings are presided over by the Governor, consists of three *ex-officio* Members, and such other Members (known as nominated Members) as the Governor may appoint. The *ex-officio* Members comprise the Chief Secretary, the Legal Secretary, and the Financial Secretary. The nominated Members comprise three officials, the Attorney-General, the Administrative Secretary, and the Deputy Financial Secretary, and four non-officials. The Order in Council provided that, subject to certain exceptions, the Governor shall consult the Executive Council in the formulation of policy and in the exercise of powers conferred upon him under the Order in Council or under any other law. He must also consult the Council in the making of laws, which are called Ordinances.

The Order in Council further dealt with the Civil Service. The power to make appointments to public offices, and to dismiss and exercise disciplinary control over public officials, was vested in the Governor acting on the recommendations of a Public Service Commission, which was established under the Order. A Judicial Service Commission was also created. This body advises the Governor as

regards his power to appoint Magistrates and certain officers connected with the Courts. Its Chairman is the Chief Justice. In the case of both of these Commissions, the Governor is bound to act on their recommendations, although he has the power to refer a question back once to either of them for reconsideration.

(*Contributed by the Clerk of the Executive Council.*)

Kenya (Constitutional Changes).—The Kenya (Constitution) (Amendment No. 2) Order in Council, 1960 (S.I., 1960, No. 2201), brought about several changes in the Council of Ministers and in the Legislative Council of Kenya.

The Council of Ministers will be reduced from 16 to 12 Members, but at the same time eight of those Members will be Elected Members of the Legislative Council (in the past there were only four). Of these Elected Members, four will be African, three European and one Asian. The *ex-officio* Members being the Chief Secretary and the Ministers for Legal Affairs, Finance and for Defence (all paid civil servants). The Governor's Advisor on Arab Affairs will be in attendance.

A further change is the creation of the post of Parliamentary Secretary in the place of Assistant Minister.

In the Legislative Council, the African Elected Members will now have a clear majority. The Council will consist of: (a) 53 Constituency Members, of whom 10 shall be European, eight Asian and two Arab, the remaining 33 being African; and (b) 12 National Members, to be elected by the Constituency Members sitting as an electoral college. Of this number four are to be European, four African, three Asian and one Arab.

The power of the Governor to appoint as many Nominated Members as may be necessary to give the Government a majority is retained, and these Nominated Members, together with the four *ex-officio* Ministers, will make up the Council.

Candidates of the immigrant races who stand for reserved seats must contest two elections; firstly, the Primary Elections, where they will be obliged to obtain 25 per cent. of the votes cast (only the particular racial group for whom the seat is reserved being qualified to vote). Those candidates obtaining this percentage will then go forward to the Common Roll Election, where all persons living within the constituency—irrespective of race—will be eligible to vote.

Opportunity was taken to effect a number of other minor amendments; these included the Qualifications and Disqualifications for election or appointment of Members. These qualifications had not previously appeared in the Order in Council itself but in a separate Ordinance. Of the qualifications themselves the main change has been to alter the term of imprisonment which disqualifies a Member from one of six months to one of two years.

(*Contributed by the Clerk of the Legislative Council.*)

Saint Vincent (Constitutional).—New provision was made for the government of Saint Vincent by the Saint Vincent (Constitution) Order in Council, 1959 (S.I., 1959, No. 2201).

The Administrator.—Ss. 3-10 of the Order provide for the creation of an Administrator appointed by Her Majesty (with provision for the appointment of an Acting or Deputy Administrator where appropriate), with powers to dispose of land, constitute offices, make appointments and grant pardons in the Queen's name.

The Executive Council.—An Executive Council, consisting of a Chief Minister, three other Ministers, and one other Member, is provided for by s. 12, the Chief Minister being that elected Member of the Legislative Council who, in the opinion of the Administrator, is most likely to command the confidence of a majority of the elected Members; the remaining Ministers and the other Members are appointed on the advice of the Chief Minister (s. 13). The responsibilities of Ministers are assigned by the Administrator in accordance with the Chief Minister's advice (s. 17). The Council is summoned at the discretion of the Administrator (and must always be summoned when the Chief Minister requests) (s. 19); it is normally to be presided over by the Administrator, and its quorum is three (s. 20).

The Legislature.—A Legislative Council is set up by s. 24, consisting of one *ex-officio* Member (the principal Law Officer), two nominated Members and nine Elected Members. The latter must be British subjects aged twenty-one or more, have resided in Saint Vincent for at least one year immediately previous to nomination for election, and be able to speak and read English (s. 27); the usual disqualifications are imposed. Nominated Members hold their seats during Her Majesty's pleasure, with provision for resignation, vacation by prolonged absence, or disqualification (s. 29). During the absence from Saint Vincent of the *ex-officio* Member or any of the nominated Members, a Temporary Member may be appointed in lieu (s. 31).

Provision is made for a Speaker to be elected by the Council, either from among its number (apart from such as are Members of the Executive Council) or from outside; the Deputy Speaker is similarly elected, but not from outside the Council's membership (s. 32). In the absence of both, the Council may be presided over by a Member elected for the sitting in question (s. 36). The person presiding has no vote except in cases of equality, when he has a casting vote (s. 37). The quorum of the Council is seven exclusive of the person presiding (s. 39).

Bills may be introduced, motions proposed and petitions presented by any Member of the Council, but the Administrator's recommendation is required for any such proceeding which would

dispose or charge any public revenue or public funds of Saint Vincent or alter any disposition thereof or charge thereon or impose, alter or repeal any rate, tax or duty (s. 40).

The Assent in the Queen's name of either the Administrator or the Secretary of State is required for a Bill to become law and Bills in certain categories must be reserved for Her Majesty's pleasure (s. 41). Laws assented to by the Administrator may be disallowed by the Secretary of State (s. 43).

The Council may determine its own privileges, which must not, however, exceed those of the United Kingdom House of Commons (s. 44). The dates of its sessions are determined by the Administrator, but the interval between the end of a session and the beginning of the next must not be more than twelve months (s. 45). Questions concerning the validity of elections of Members, of the Speaker (if not a Member) and vacations of seats are to be determined by the Supreme Court (s. 48). The penalty for unauthorised sitting and voting in the Council is 100 dollars per day.

The remaining sections of the Order deal with the Public Service (ss. 50-61), Finance (ss. 62-6), and transitional provisions (ss. 67-72).

The Order came into operation on 1st January, 1960, with the exception of that part relating to the Legislative Council, which became operative on the dissolution of the existing Legislative Council (s. 1).

Tanganyika (Constitutional).—Many important constitutional changes were effected during 1960. The Legislative Council (Amendment) Order in Council, passed in February (S.I. 1960, No. 206), provided, *inter alia*, that when the existing Legislative Council was dissolved the electorate should return 71 Members to the next Council. Eleven of these were to be Asian, ten to be Europeans and the remaining fifty could be of any race. Nominated and *ex-officio* Members could, however, still be appointed to Legislative Council in such numbers (without limit) as directed by the Secretary of State. But the requirement that "the Governor shall not appoint as a Nominated Member any person not holding office of emolument under the Crown in the Territory unless he is satisfied that such person will support government policy in the Council when requested by him to do so" which had been introduced by the 1955 Order in Council (S.I. 1955, No. 430) and had caused the unfortunate nominees to be called "Government stooges" and other epithets, was withdrawn. The Governor was authorised to legislate for elections to Legislative Council by regulation and new law was necessary because it had been decided to widen extensively the franchise provided by the current electoral Ordinance.

The Governor's electoral regulations were published immediately. The former ten constituencies became fifty. A fresh registration of voters took place in March and produced an electorate of some 900,000 instead of the previous 60,000. The Legislative Council was dissolved at the end of June and the elections were held in August.

In September the Executive Council was superseded by a Council

of Ministers created by the Tanganyika Royal Instructions, 1960. A Chief Minister and eleven other Ministers were appointed. Two of them were civil servants and *ex-officio* Members of Legislative Council, one was a Nominated non-official Member and the other nine, including the Chief Minister, were Elected Members of the Council.

At the same time the substantive post of Deputy Governor was created by the Tanganyika Order in Council (S.I. 1960, No. 1373) and the Deputy Governor was made a Member of the Council of Ministers which was presided over by the Governor.

In September also a further Legislative Council (Amendment) Order in Council (S.I. 1960, No. 1374) provided that no Bills or Motions affecting the emoluments (including pensions) or conditions of service of public officers, or relating to external affairs, defence or the use and operational control of the police should be introduced into Legislative Council without the Governor's recommendation or consent. The same Order reduced the maximum life of the Council from five to four years.

The Governor nominated nine Members to the new Legislative Council so that by the end of the year it comprised 82 Members of whom 71 were elected, nine nominated and two *ex-officio*. The racial composition was 53 African, 13 Asian and 16 European. Of the Ministers seven were African, one Asian and four European. The 16 European Members included two Greek, two Swiss, one Swedish and one American.

In addressing the first sitting of the new Legislative Council on 11th October, 1960, the Governor summed up:

> The Government of Tanganyika is now constituted in such a way that responsibility for all but a small sector of the Territory's affairs rests with Ministers who are not civil servants but who owe their position to their Membership of this House. (*Hansard*, Col. 4.)

(*Contributed by the Clerk of the Legislative Council.*)

Zanzibar (Constitutional).—Further alterations to the provisions of the Councils Decree (see THE TABLE, Vol. XIV, pp. 107-10 and Vol. XXV, p. 138) were made by the Councils (Amendment) (No. 2) Decree, 1960 (No. 12 of 1960) which received the Sultan's Assent in November.

Provision is made in s. 1(2) that the Decree shall come into operation, whether in whole or in part, on such dates as the British Resident may appoint; and the only parts which have so far been brought into operation are those which concern the appointment and powers of a Speaker (ss. 11 and 12 in part, 20, 23 to 28 and 30 to 32 (see also pp. 9 and 157).

It is provided that the Speaker shall be a person, not a Member of the Legislative Council, appointed by the Sultan on the advice of

the British Resident, that he shall hold office during the Sultan's pleasure, and that the appointment may be terminated either by the Speaker's resignation or by decision of the Sultan on the advice of the British Resident (s. 12).

Other provisions not yet brought into force concern—

(a) the composition of the *Executive Council* (to consist of the British Resident, three *ex-officio* Members and not more than five Appointed Members of whom one, an Elected Member of the Legislative Council having the support of the majority party, is to be styled Chief Minister (s. 3);

(b) the appointment of an *Assistant Minister* (s. 5);

(c) the composition of the *Legislative Council* (to consist of the Speaker, three *ex-officio* Members, twenty-two Elected Members and five Appointed Members, with provision for Temporary Members to act in certain circumstances in place of *ex-officio* and Appointed Members), (ss. 11 and 17);

(d) a *Deputy Speaker*, to be elected by the Council (s. 12);

(e) *voting by the Chair* (s. 23). This provision has subsequently been incorporated in a Standing Order (see p. 157).

2. General Parliamentary Usage

House of Commons (Admission of Black Rod).—On 13th April, at the end of questions, the Minister of Defence made a statement announcing the discontinuation of the development, as a military weapon, of the long-range ballistic missile Blue Streak. In the course of prolonged interchanges which followed, Black Rod sought admission to deliver a Message requesting the attendance of the House in the House of Lords, to hear a Royal Commission signifying assent to various Acts. After his entry had been interrupted by shouts of "Lock the doors", and his customary speech by loud cries of "No", Mr. Speaker said:

> I would ask hon. Members to consult the dignity of the House to assist me at this time in the maintenance of order. Our matters can, without inconvenience, and I hope with due courtesy to everybody concerned, be considered when we have dealt with this matter.

On the return of the House to its own Chamber, several Members asked whether it was right that Black Rod should have been admitted despite the fact that such admission manifestly did not have the unanimous leave of the House. Mr. Charles Pannell (Leeds, W.) submitted that the House, in moments of stress or argument, or when it thought that it had more important business to discuss, could assert its right to exclude the representative of the Monarch. This, he said, did not necessarily mean any disrespect to the Monarch, but merely that the House kept its priorities right. Indeed, as another

Member suggested, was it not right "that at a time like this, Blue Streak and Black Knight should have priority over Black Rod?"

Mr. Speaker said in reply:

I imagine that what happens nowadays is that mutual consultation takes place about what is convenient for the two Houses. On behalf of this House, in the ordinary way, the Chair is asked, courteously, whether it would be convenient to this House to receive a Commission at a given hour on a given day, fitting in with mutual arrangements. For my part, I did not like the first suggestion, and the time finally arranged for this particular day represented what I had hoped would be a convenient compromise for this House. Of course, it turned out to be the most inconvenient possible moment. It is terribly difficult to estimate beforehand with any accuracy how much Blue Streak, or whatever it may be, will flash.

I hope that the House will regard me as one by nature enthusiastic for the support of the Privilege of this House against anybody else or any other place. If, this day, in what, after all, if I may say so, was not the quietest moment, I did a little, in seeking peace for the entertainment of the guest already on the Floor, go a little faster than the House meant me then to go, I apologise to the House.

May we now get on with our business? (621 *Com. Hans.*, 1275-9.)

House of Commons (Place of Member for City of London on Treasury Bench).—It has long been customary for the Member representing the City of London, whether or not a Member of the Government, to sit on the Government Front Bench on the first day of the debate on the Address, and during the delivery of the annual Budget speech by the Chancellor of the Exchequer.

A departure from this custom was necessarily made when the Budget was opened on 4th April, in the first session of the current Parliament, since the Member for the City of London was none other than Mr. Speaker (Sir Harry Hylton-Foster). Rising to a point of order, Mr. Grant-Ferris (Nantwich) said:

Owing to the fact that it is quite impossible for one Member of Parliament to be in two places at the same time, would you, Mr. Speaker, care to rule that the City of London will lose none of its privileges by reason of the fact that you occupy a higher place than is normal today?

Mr. Speaker replied:

I do not so rule, because it is the House which confers the privileges, and only the House can take them away, but I am obliged to the hon. Gentleman for his courtesy. (621 *Hans.*, 1.)

House of Commons (Communications from Minister to Members).—On 10th February, Mr. S. Silverman (Nelson and Colne) drew the attention of the House to the following communication from the Parliamentary Secretary to the Board of Trade which he had received at 3.30 p.m. on the previous day:

"May I draw your attention to the reply made this afternoon by the President of the Board of Trade, announcing the list of places expected

to be initially eligible to receive Government assistance under the Local Employment Bill. You will see that a part or all of your constituency . . . is not included. I appreciate that this may be a disappointment to you and others to whom I am sending similar letters, but we feel that if our policy is to be effective it is necessary to concentrate assistance where it is most needed."

He went on to say:

You will see, Sir, that although this refers to an Answer by the President of the Board of Trade, it does not refer to any Question to the President of the Board of Trade nor to any hon. Member who asked such a question. The reason for that may be that, on looking at yesterday's Order Paper, I can find no such Question, either among the list of Questions for Oral Answer or among the list of Questions not for Oral Answer. In spite of that, there appears in c. 29 in *Hansard* a Written Question to the President of the Board of Trade by the hon. Member for Blackpool, South (Sir R. Robinson), followed by the Minister's Answer. This page in *Hansard* is dated 9th February.

So far as I have been able to discover, no hon. Member addressed a Question to the President of the Board of Trade on this or any other subject on 9th February. Nevertheless, there is virtually a whole column of areas which are to get assistance under the Bill. This was clearly a matter which the Government thought they ought to communicate, as a matter of urgency, to the House and which hon. Members, as a matter of urgency, wanted to have. Unless I am right in suggesting that the whole machinery of communication has broken down through neglect or abuse, it would seem to follow that the Minister's procedure was adopted not so much to communicate information at the earliest possible moment, but to withhold it until he had communicated it to the Press outside. . . .

I submit to you, Sir, that it is preposterous that the machinery of the House should be so abused as to protect the Minister from being asked Questions and supplementary questions in order that we should understand what is in his mind and what the Government are doing.

Mr. Speaker said that he would like to acquaint himself with the facts before replying. (617 *Com. Hans.*, cc. 464-6.)

The next day, Mr. Speaker made the following statement:

Much of what the hon. Member was complaining about appears to be directed to the method adopted by the Minister of disseminating information to hon. Members. That is a matter for the Minister. I understand that he wants to make a statement about it, and I have little doubt that the House will think that it is desirable and fair that he should be given the opportunity of doing so.

As far as the matters resting within my responsibility are concerned, the facts are as follows. On Friday last, the hon. Member for Blackpool, South (Sir R. Robinson), gave notice of the relevant Question to the President of the Board of Trade as one not for Oral Answer. The Question accordingly appeared among the Questions not for Oral Answer on Monday's Order Paper, on page 1597. It was answered by way of Written Answer with commendable promptitude on Tuesday. The Question and Answer appeared in Tuesday's Official Report, that is, the Official Report available to hon. Members on Wednesday.

I am unable to detect any irregularity on the part of the officers of the House in that, and I am unaware of any point of order which arises.

The Parliamentary Secretary to the Board of Trade (Mr. J. Rodgers) then made the following statement:

As you have said, Mr. Speaker, on Friday, 5th February, my hon. Friend the Member for Blackpool, South (Sir R. Robinson), put down a question for Written Answer on Monday, 8th February, which appeared on page 1587 of the Votes and Proceedings for that day. The Question was as follows:

"Sir Roland Robinson. To ask the President of the Board of Trade, whether he is yet able to announce which places he expects to include in the first list of development districts which will be eligible for assistance under the terms of the Local Employment Bill when that Measure becomes law."

The Written Answer to that Question was made available to the hon Member and to the Official Report immediately after Questions on Tuesday, 9th February, well within the time normally allowed for answering Written Questions. The Answer appeared in the Official Report for Tuesday, in column 30.

In accordance with the usual practice, the Answer was given to Members of the Press at the House at 3.45 p.m. Also in accordance with custom, the Press at the House were supplied with a summary of background information, all of which had been given to the House on previous occasions.

As a courtesy to hon. Members, I wrote to all those whose constituencies are at present on the D.A.T.A.C. list, but were not included in the list of places announced by my right hon. Friend. I did not write to Members whose constituencies were not on the D.A.T.A.C. list.

To avoid any question of breach of Privilege, those letters were dispatched from the Board of Trade at 3.20 p.m. to arrive at the House at 3.30 p.m. The time of 3.15 p.m. referred to by the hon. Member for Nelson and Colne (Mr. S. Silverman) was the time the letters left my office and was affixed by the Board of Trade. They did not leave the Board of Trade until at least 3.20 p.m., and did not arrive at the House before 3.30 p.m.

It is my belief that we have faithfully carried out the normal procedure. My letter to certain hon. Members on both sides was intended purely as a courtesy.

Mr. Silverman, being unsatisfied with this statement, contended that the procedure adopted had had the "calculated and intended" effect of making it impossible for Members to know what had been done until after communication had been made to the Press, since a statement given in writing would not appear in *Hansard* until the following morning, by which time it would already be in the newspapers; it followed, therefore, that there had been a grave abuse of the procedure of the House.

Mr. Speaker replied:

If the hon. Member wishes to pursue his complaints against the Minister about his conduct, he is perfectly entitled to do so within the rules of order and will have the protection of the Chair to do so, but I am quite unable to find, in the history of this matter, any point of order for consideration by me at all. I cannot allow the hon. Member to pursue his complaints against the Minister under the guise of a point of order. (*Ibid.*, cc. 668-71.)

House of Commons (Ministers of the Crown: Private interests).—On 28th January Mr. Mellish (Bermondsey) asked the Prime

Minister what conditions governed the relationship of Ministers with firms likely to obtain official contracts. Replying for the Prime Minister, the Leader of the House (Mr. R. A. Butler) answered:

> The directions given to Ministers on matters of this kind are set out in a statement made by my right hon. Friend the Member for Woodford (Sir W. Churchill) in this House on 25th February, 1952. It may be for the convenience of the House if I circulate the text of this statement again in the Official Report.
>
> The general principle is that Ministers must so order their affairs that no conflict arises, or appears to arise, between their private interests and their public duties.

Mr. Mellish then asked if Mr. Butler was aware

> that there has been a Press Report, which I am unable to confirm or deny, that the Minister of Transport was in fact the senior partner of a firm of contractors which has obtained a contract worth £250,000 and that we understand, according to this Press report, that the right hon. Gentleman is now trying to dispose of the shares he has. In a case of this kind, does not the right hon. Gentleman think it most improper, at any rate, that any Minister of the Crown should be associated with any company with which such a contract is placed?

Mr. Butler suggested that the best thing would be to wait for a personal statement which the Minister of Transport (Mr. Ernest Marples) was to make later that day. This statement was accordingly made, as follows:

> I was at one time a director of a company called Kirk and Kirk. I entirely severed my connection with the company in 1950. Before I became a junior Minister, in November, 1951, I was managing director of Marples, Ridgway and Partners, and I held a controlling interest in that company. As soon as I became a junior Minister I resigned my directorship and ceased to take any active part in the business.
>
> When I became Minister of Transport last October, I realised that there was a risk of a conflict of interest appearing to arise in consequence of my holding a controlling interest in the company. I immediately took steps to effect a sale of my shares. It has taken some time to arrange this as the company is a private one engaged in long-term contracts in civil engineering, but I hope that it will be completed very soon. Then I shall have no financial interest in the company. But I think that I should tell the House that the prospective purchasers have required me to undertake to buy the shares back from them at the price they are to pay if they ask me to do so after I have ceased to hold office. I myself have no option to buy the shares back
>
> I have not, of course, had anything whatsoever to do with any tenders put in by the company while I have been a member of the Government.

The statement made by Sir Winston Churchill in 1952, to which Mr. Butler referred in his original answer, was reprinted in accordance with Mr. Butler's undertaking, and reads as follows:

> 1. It is a principle of public life that Ministers must so order their affairs that no conflict arises, or appears to arise, between their private interests and their public duties.

2. Such a conflict may arise if a Minister takes an active part in any undertaking which may have contractual or other relations with a Government Department, more particularly with his own Department. It may arise, not only if the Minister has a financial interest in such an undertaking, but also if he is actively associated with any body, even of a philanthropic character, which might have negotiations or other dealings with the Government or be involved in disputes with it. Furthermore, Ministers should be free to give full attention to their official duties, and they should not engage in other activities which might be thought to distract their attention from those duties.
3. Each Minister must decide for himself how these principles apply to him. Over much of the field, as is shown below, there are established precedents; but in any case of doubt the Prime Minister of the day must be the final judge, and Ministers should submit any such case to him for his direction.
4. Where it is proper for a Minister to retain any private interest, it is the rule that he should declare that interest to his colleagues if they have to discuss public business in any way affecting it, and that he should entirely detach himself from the consideration of that business.
5. Ministers include all Members of the Government except unpaid Assistant Government Whips.

Directorships

6. Ministers must, on assuming office, resign any directorships which they may hold, whether in public or in private companies and whether the directorship carries remuneration or is honorary. The only exception to this rule is that directorships in private companies established for the maintenance of private family estates, and only incidentally concerned in trading, may be retained subject to this reservation—that if at any time the Minister feels that conflict is likely to arise between this private interest and his public duty, he should even in those cases divest himself of his directorship. Directorships or offices held in connection with philanthropic undertakings should also be resigned if there is any risk of conflict arising between the interests of the undertakings and the Government.

Shareholdings

7. Ministers cannot be expected, on assuming office, to dispose of all their investments. But if a Minister holds a controlling interest in any company, considerations arise which are not unlike those governing the holding of directorships and if there is any danger of a conflict of interest, the right course is for the Minister to divest himself of his controlling interest in the company. There may also be exceptional cases where, even though no controlling interest is involved, the actual holding of particular shares in concerns closely associated with a Minister's own Department may create the danger of a conflict of interest. Where a Minister considers this to be the case, he should divest himself of the holding.
8. Ministers should scrupulously avoid speculative investments in securities about which they have, or may be thought to have, early or confidential information likely to affect the price of these securities. (616 *Com. Hans.*, cc. 371-3, 380-1.)

House of Commons (Personal Statements).—On 2nd November, the Speaker having called on the Prime Minister to make a personal explanation (which, it was generally known, was to deal with a re-

mark he had made about an assurance he had given during negotiations with the Prime Minister of the Federation of Rhodesia and Nyasaland), several Members objected that the restriction on any discussion of a personal explanation would apply unfairly in the present case, and that the statement ought in fact to be made not as a personal explanation, but as a Ministerial statement. Mr. Speaker said:

> I do not know, at all events officially, what the Prime Minister will say. Until I hear that statement, I cannot form any view whether it is rightly or not rightly a matter of personal explanation.

The next day, Mr. Speaker made a further statement on the matter:

> I have an apology to make. I regret, and I must ask the forgiveness of the House, that in the course of exchanges yesterday about the Prime Minister's statement in personal explanation I said that which was wrong. The Prime Minister submitted to me what he proposed to say and, having read it, I gave leave for him to make that statement by way of personal explanation. In all that, the proper practice was most exactly followed.
>
> What was wrong was that I used words to the effect that I did not officially know what the Prime Minister was going to say and so had formed no opinion about it until I heard it in public. That was wrong, because it is an essential step in protecting the House against any abuse of the right to make a statement in personal explanation that an hon. Member should submit to the Chair what he proposes to say when seeking leave to make one.
>
> I have never wished to depart from the practice of my predecessors in this matter, and I am grateful to the House for allowing me to correct my mistake, and to maintain the matter clear for the future. (629 *Hans.*, 179-80, 368.)

House of Commons (Questions to Ministers: Answering of several together).—On 28th April, sixteen questions stood on the paper, in the names of nine Members, asking for statistical information concerning various aspects of industry in Scotland between 1948 and 1959, the last question in the name of each Member concluding with the words

> and if he will compare Scottish growth or decline over this period with that of the rest of Great Britain.

When the President of the Board of Trade (Mr. Maudling) announced that, "with permission", he proposed to answer all sixteen questions together, a Member asked whether it was in order for a whole group of questions dealing with quite separate matters to be taken in that way. Mr. Speaker said:

> Being apprised of this intention, I had a look at the precedents this morning. I do not think we are in a position to stop it. [Interruption.] It is very interesting, but I believe that is right. I hope that, on any view, the hon. Gentleman would bear this in mind; I do not know at all what the Minister's intentions are, but it presumably means that he has prepared one answer to all these sixteen Questions. If we were to deal with them singly, I

suppose he would be entitled to repeat the same answer sixteen times, which really is not very much help. [Interruption.] No. There is no question of hon. Members' rights being infringed if that were to happen, because if a comprehensive answer in these circumstances failed to answer properly or fully some points in any of the sixteen Questions, the matter would be open to further questioning by hon. Members. I think that is right.

Being asked to clarify the meaning of the words "with permission", Mr. Speaker replied:

I am glad that the right. hon. Gentleman asked me that. I did not know, and I have looked at the precedent this morning. I find that my immediate predecessor declared that in this context it is merely a courtesy phrase. It does not mean that there is a requirement of the permission of anybody. (622 *Com. Hans.*, 370-3.)

A similar occasion arose on 10th May, although the Minister concerned, in announcing his intention to answer eleven questions (also relating to Scotland) together, did not make use of the words "with permission". Despite pressure from several Members, Mr. Speaker maintained the view which he had previously expressed, and said:

If I saw anything which looked like an abuse, I should feel concerned to consider it. I hope I may, with courtesy, point out that the best way of getting Questions answered is not to have a repetition of Rulings I made a short time ago on this point. (623 *Com. Hans.*, cc. 184-7; *see also* THE TABLE, Vol. XXVI, p. 151.)

Mauritius (Leader of the House).—On the assumption of duty of the new Colonial Secretary (Hon. T. D. Vickers, C.M.G.) on 4th November, 1960, an important change was made on the official bench. At a sitting of the Legislative Council held on that date Mr. Speaker informed the Council that he had been advised that His Excellency the Governor had charged Dr. the Honourable S. Ramgoolam, Minister of Finance, with the duties of Leader of the House, hitherto informally falling to the Colonial Secretary, whose responsibilities had included the arrangements for meetings of the Legislative Council and the co-ordination of Government business in the Council.

His Excellency had considered it opportune on the assumption of office by a new Colonial Secretary and more in keeping with the stage of constitutional development which Mauritius had reached, to transfer these responsibilities to a senior elected Member.

(*Contributed by the Clerk of the Legislative Council.*)

3. PRIVILEGE

New South Wales (Right of House to originate Bills affecting its own constitution).—The Constitution (Legislative Council Elections) Amendment Act (No. 1 of 1961)—a Bill concerning the privileges and proceedings of the Legislative Council (see pp. 42-56)—was

introduced in the Legislative Assembly but received in the Council without objection (22nd February, 1961, Minutes, Vol. 146, 1960-61, p. 125, Parl. Deb., Vol. 34, pp. 2,546, 2,693; cf. May, p. 492, 16th ed.; THE TABLE, Vol. XXVIII, pp. 48-56). In the case of Clayton and Ors. *v.* Heffron and Ors. it was held

> That there is no such privilege of the Legislative Council (that a Bill " which concerns the privileges or proceedings of either House should . . . commence in that House to which it relates ") and no such rule of law, and that the Council's reliance upon such a privilege in the circumstance earlier related was plainly not well founded. (N.S.W. State Reports No. 690 of 1960.)

(*Contributed by the Clerk of the Parliaments.*)

Western Samoa (Privileges Ordinance).—The Legislative Assembly Powers and Privileges Ordinance, 1960 (No. 13 of 1960) which was enacted on 26th August, contains provisions for freedom of speech, evidence before select committees (including examination of witnesses on oath, privilege of witnesses, false evidence, refusal to answer to questions or failure to attend, fabricating evidence), conduct of strangers, influencing Members, conduct of Members, contempt, evidence of proceedings, publications and reports, penalties and other miscellaneous provisions, and is similar in form to the legislation in force in various countries whose autonomy is similar to that of Western Samoa.

(*Contributed by the Clerk to the Legislative Assembly.*)

Cape of Good Hope (Petition to Court of Law for an order directing the restoration of a Notice of Motion to the Order Paper).—In the Provincial Council, on 7th June, a Member gave notice of a motion which appeared on the Order Paper for 9th June, but on that date was ruled out of order by the Chairman of the Council under Rule 38, which reads:

> No motion or amendment shall be moved which is the same in substance as any question which during the current Session has been resolved in the affirmative or negative, unless the order, resolution or vote on such motion or amendment shall have been rescinded.

The Member thereupon applied to the Supreme Court for an order directing the Chairman to restore the Notice of Motion to the Order Paper. The application was heard by the Court on 13th and 14th June, and on 21st June judgment was delivered by de Villiers, A. J., van Winsen, J., concurring, dismissing the application with costs.

The following points in the judgment, of which extracts are appended, are noteworthy:

1. Proceedings in Provincial Councils are not excluded entirely from cognisance in a Court of Law (Extract I).

2. In the absence of special provision—by statute, constitution or rule—and in the absence of privilege or discretion, there seems to be no reason for regarding a wrong ruling by a Chairman at a meeting

as being incapable of suitable redress, as to its merits, in a Court of Law (Extract II).

3. In particular instances where a Rule authorises the Chairman to do something, if in his opinion he should do so, the function of the Court would be confined to review; but outside such cases, the Court would be entitled and obliged to adjudicate upon and if necessary correct rulings and decisions of the Chairman (Extract III).

4. In the application of Rule 38 (Restriction on same question) the Chairman may well have a better grasp of implications, and be better informed as to considerations of custom and precedent, than a Court of Law. A Court should not be astute to overrule a Chairman's ruling in such a case and should uphold it unless satisfied that it is clearly wrong (Extract IV).

Extract I

The first question to be considered pertains to the function of the Court in a matter of the present kind. It was common cause between counsel and it seems clear to me that the relationship to the Court of Provincial Councils in regard to matters of their own procedure is not the same as that of the Houses of Parliament. Section 36 of the Powers and Privileges of Parliament Act, No. 19 of 1911, confers upon the Senate and the House of Assembly and their Members " such and the like privileges, amenities and powers as at the time of the promulgation of the South Africa Act, 1909, were held and enjoyed and exercised by the Commons House of the Parliament of the United Kingdom and by the Members thereof. . . ." The effect of this provision is to render the Houses of Parliament masters of their own procedure, and to exclude decisions by the Houses or their presiding officers on matters of procedure from cognisance in a Court of Law, in accordance with the position obtaining in the United Kingdom as expressed in the well-known judgment in Bradlaugh *v.* Gossett, 1884 (12) Q.B.D. 271. Section 36 of the Powers and Privileges of Parliament Act does not, however, apply to Provincial Councils. And although there is an Act styled the Powers and Privileges of Provincial Councils Act, No. 16, of 1948, neither that Act nor any other statutory provision confers upon Provincial Councils the above mentioned powers and privileges enjoyed by the Houses of Parliament. Indeed the only privilege relevant to the present enquiry is that of freedom of speech conferred on Members of Provincial Councils by Section 77 of the South Africa Act, 1909. As to proceedings in Provincial Councils the only relevant provision in the South Africa Act is Section 75, which provides as follows:

> " The Provincial Council shall elect from among its Members a chairman, and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the administrator to the Governor-General, and shall have full force and effect unless and until the Governor-General-in-Council shall express his disapproval thereof in writing addressed to the administrator."

Extract II

Some regard is to be had to the nature of functions of chairmen of meetings in general. At any formal meeting the maintenance of order is essential: the transaction of the business of the meeting would be impossible without it. Furthermore, every such meeting has a purpose: the body of persons assembled at it has certain powers or functions to perform, and the individuals of which the meeting is comprised have certain rights to be exercised thereat. With a view to the maintenance of order, the due performance by the meeting of its powers or functions, and the affording of proper facilities for the exercise

of the rights of its Members, the proceedings at every such meeting are governed by principles and rules, sometimes statutory, sometimes arising from constitutional agreement, sometimes derived from common law and custom, and frequently provided by some combination of these sources. Yet the purposes for which these rules and principles are intended would not be achieved in a practical manner without an instantaneous application of the rules and principles to the situations that arise at the meeting. No meeting could proceed practicably if every dispute as to matters of order and procedure would first have to be settled by agreement or by recourse to a Court of Law. The function of instantaneous application falls on the Chairman, and he performs it, from the very nature of things, by rulings and decisions. With a view to the maintenance of order, such rulings and decisions must necessarily be binding at and during the meeting—in the absence of special provision to the contrary. But such necessity is confined to the occasion of the meeting itself, and does not extend beyond it. Consequently, if a ruling should proceed from disregard, misinterpretation or misapplication of a rule or principle (which *ex hypothesi* is binding on the Chairman as on anyone else), and result in infringement of a right of a Member of the meeting, there would be no necessity for regarding that ruling as a bar to ordinary enforcement of his right by the Member in a Court of Law. On the contrary the logical way of looking at the matter would be to regard the ruling as an unlawful act which necessitates recourse to law. Naturally this would only apply as a general proposition, *i.e.*, in the absence of special provision to the contrary. Sometimes rules contain special provision for referring a disputed ruling to arbitration or like determination. Sometimes the wording of a specific rule or the content of a specific principle is such as to vest in the Chairman a discretion which, if *bona fide* exercised, would leave the person affected thereby without redress. These examples are not intended to be exhaustive. But in the absence of special provision—by statute, constitution or rule—and in the absence of privilege or discretion, I can in general see no reason for regarding a wrong ruling by a Chairman at a meeting as being incapable of suitable redress, as to its merits, in a Court of Law.

Extract III

Certain specific Rules expressly confer on the Chairman a discretionary power, confined, however, to the application of the particular Rule itself. A notable example is Rule 29, which authorises the Chairman to decline to put a dilatory motion if he " shall be of opinion " that it is an abuse of the Rules. In particular instances of this kind the function of the Court would be confined to review on the established grounds. But outside of such cases, the Court would be entitled and obliged, at the instance of an interested party, to adjudicate upon and if necessary correct rulings and decisions of the Chairman of the Provincial Council. Whether this is a desirable state of affairs, from a policy point of view, is a matter for consideration by the Legislature.

Extract IV

Its (sc., the Council's) Rules of Procedure are based on Parliamentary model, and it appears from the Rules themselves and from the Respondent's affidavit that Parliamentary practice is adhered to as far as it can be applied. It can certainly be presumed that for the purpose of the maintenance of order in the performance of its highly responsible functions, a body of the nature I have described would elect as its Chairman a person who is fitted to the task—a person of fairness and ability, who would, moreover, be assisted by experienced officials. I have already pointed out that in the application of the Rule in question in the present case, evaluation and judgment would be required as to which there could be considerable scope for honest difference of opinion. Moreover, in the application of a rule of this kind, a person in the position of the Chairman may well have a better grasp of implications, and be better informed as to considerations of custom and precedent, than a Court

of Law. In all these circumstances I consider that Court should not be astute to overrule a Chairman's ruling in a case like the present, and should uphold it unless satisfied that it is clearly wrong.

(*Contributed by the Clerk of the Provincial Council.*)

Madras (Legislative Council: Definition of "Precincts of the House").—The Committee of Privileges of the Madras Legislative Council defined the term "Precincts of the House or Council" as follows and the same was approved by the House on 8th September:

(1) In the case of Members of the Legislative Council, "Precincts of the House" shall mean—

(i) the entire Secretariat Buildings in the Fort St. George including the Council Chamber, the place where the Members of the Council are required to assemble either under Article 175 or under Article 176 of the Constitution, the Chambers of the Chairman and the Deputy Chairman, the rooms in which the associated offices are situated, the Ministers' rooms, the Library, the Canteen and the Lounge rooms;

(ii) the Committee room in the old Legislators' Hostel; and

(iii) the Library in the Government Estate, Mount Road, and such other places or buildings as may be named by the Chairman from time to time together with the verandas, steps and the pathways appurtenant thereto and shall be applicable only while the Council or any of its Committees or Sub-Committees sits and one hour before and after such a sitting.

(2) In the case of strangers, "Precincts of the House" shall mean the Council Chamber with galleries, its verandas and steps and shall be applicable only to those to whom tickets have been issued by the office for admission to the galleries.

(3) In the case of persons summoned by a Committee of the House for any purpose whatsoever, they shall be deemed to be within the "Precincts of the House" so long as they are within the Committee room, its verandahs and its steps.

(*Contributed by the Secretary of the Legislative Council.*)

4. ORDER

House of Lords (Motion "That the noble Lord be no longer heard").—On 12th May, Lord Stansgate persisted in asking supplementary questions, which were not in an interrogative form, to a private notice question of doubtful admissibility (see p. 148). After several interchanges, he said—

"If the Leader of the House objects, he has the remedy in his own hands and I will ask him to use it. If he thinks I am going too far, he has only to ask the House that I be no longer heard and I shall be stopped.

Viscount Hailsham: The noble Viscount asked a question which was out of order and I thought I was stretching a point in giving him an answer. He now, instead of asking a supplementary question, seeks to make a speech to the House and I shall ask the House not to hear him if he persists.

Viscount Stansgate: When the noble Viscount sees fit to move that motion, I will accept it. In the meantime—

Viscount Hailsham: I beg to move that the noble Viscount be no longer heard."

On Question, motion agreed to. (223 Lords' *Hans.*, 737-8.)

This motion has been moved, in the Lords, five times in the last 100 years. In addition, a motion has three times been carried in advance that certain questions ought not to be put. Details are as follows:

7th June, 1858. *Lord Kingston* gave notice of certain questions. Lord Lyndhurst moved that they had already been sufficiently answered and ought not to be renewed. On question, agreed to.

12th March, 1883. *Lord Stanley of Alderley* gave notice of certain questions. Lord Granville moved that questions be not put. After debate, agreed to.

6th May, 1884. *Lord Waveney* persisted in proceeding with a resolution which the Chairman of Committees objected to as being out of order. Lord Salisbury moved that he be not heard, which question was put and agreed to.

7th March, 1890. *Lord Teynham* persisted in bringing on a question without notice. Lord Camperdown moved that he be no longer heard. Lord Teynham acquiesced and the question was not put.

17th July, 1891. *Lord Denman* having proposed to make a Motion and the same being objected to as irregular; it was moved by the Marquess of Salisbury " That the Lord Denman be not further heard during the present sitting ". The Question was put thereon and resolved in the affirmative.

24th June, 1892. The *Earl of Mar* gave notice of certain questions. Duke of Richmond moved that such questions be not put. Agreed to.

17th March, 1932. *Lord Marley* would not give way to Lord Danesford who rose to reply to remarks by Lord Ponsonby. Viscount Elibank moved that Lord Marley be no longer heard. After intervention by the Marquess of Salisbury the Motion was, by leave, withdrawn.

21st July, 1942. The *Duke of Bedford* persisted, after warning by the Deputy Leader of the House, in straying away from the terms of the Motion (The Empire) by making an attack on the Prime Minister on the conduct of the war and on the behaviour of American Armament Firms. Lord Gainford moved that the Noble Duke be no longer heard. After debate, His Grace acquiesced and the Motion was, by leave, withdrawn.

House of Commons (Abuse of Private Notice Questions).—On 9th February, Lieut.-Colonel Bromley-Davenport (Knutsford), by private notice, asked the Minister of Transport whether he had any statement to make with regard to a railway accident at Bradwell, Cheshire, on the previous day.

The Minister replied with a statement setting out the facts of the accident, and the following exchange took place:

Lieut.-Col. Bromley-Davenport: Although both sides of the House will have

been glad to hear that there were no casualties on this occasion, would my right hon. Friend consider that there have been since 1948 over 1,000 railway accidents each year on an average——

Mr. Gordon Walker: On a point of order. Is it in order, Sir, to ask a supplementary question which is so far from the terms of the original Question?

Lieut.-Colonel Bromley-Davenport: Further to that point of order——

Mr. Speaker: Order. No doubt the hon. and gallant Member will ensure that he keeps within the rules of order by relating his supplementary to the Question and the Answer given.

Lieut.-Colonel Bromley-Davenport: The purpose of my supplementary question will appear like a beautiful flower opening in the sun.

The point of my question is that since 1948 there have been over 1,000 accidents each year, or an average of over three a day, and over 600 killed and over 9,000 injured——

Mr. Speaker: Order, order. If the hon. and gallant Member does not restrain his supplementary questions within the rule of order, he will not be allowed to ask them.

Mr. Short: On a point of order. Quite apart from the relevance of the supplementary question, which is surely an abuse of the rules of the House, may I ask your guidance, Mr. Speaker? Does the fact that you have allowed this Question, and the fact that you allowed a Private Notice Question yesterday from the hon. Lady the Member for Tynemouth (Dame Irene Ward), dealing with a newspaper report which proved to be completely " phoney ", indicate some relaxation of the rules?

Mr. Speaker: It is not intended to do so. I agree that questions about accidents in the constituencies of hon. Members are anomalous. They are accepted as anomalous by Erskine May, but it has long been the practice of the House to allow them.

Mr. S. Silverman: Further to the point of order raised by my hon. Friend the Member for Newcastle-upon-Tyne, Central (Mr. Short), and your answer to it, Sir, is not the fact that Private Notice Questions on accidents in the constituencies of hon. Members are an accepted exception to the general rule an additional reason for supplementary questions to be related strictly to the Question of which Private Notice was given?

Mr. Speaker: Yes, I think that the hon. Member is quite right.

Mr. D. Griffiths: Further to that, Sir, is it not a custom of the House that Private Notice Questions are asked when fatal accidents arise, and that although this accident might have been serious, the damage has been infinitesimal? Therefore, regardless of the point of view of the hon. and gallant Gentleman on a constituency matter, I suggest that advantage is being taken by him of the use of a Private Notice Question and of the custom of the House, and I suggest, with respect, that Private Notice Questions should not be asked unless there has been a fatal accident.

Mr. Speaker: This is one of the matters which the House entrusts to the absolute discretion of the Chair, namely, whether or not a Private Notice Question is allowed. It seems to be a matter of good fortune on this occasion that although nine coaches were derailed there was not a fatal accident. I hope that the hon. and gallant Member will try to ask his supplementary question in a way that is relevant to the Question.

Lieut.-Colonel Bromley-Davenport: Sir, with great respect——

Hon. Members: Apologise.

Mrs. White: On a point of order, Sir. With the greatest respect, the matter cannot be left at this point, because there must be some degree of seriousness in the accident before a Private Notice Question can be permitted. If we are to accept your Ruling as you have now given it the most trivial matter could be raised under the guise of an accident in a Member's constituency.

Mr. Speaker: I would not seek to allow the most trivial matter to be raised. The hon. Member and the House will follow that the Chair may be limited at the moment of the Private Notice Question being submitted by what appears in the newspapers about the accident in question. From what appeared in the newspapers about this one it did not appear to be in the least trivial. As an accident it was grave enough, but the consequences were not as grave as they might have been.

Mr. Griffiths: Hon. Members should read the Yorkshire newspapers.

Mr. Speaker: That was the appearance of it and although the Chair may sometimes be misled, like other mortals, by the appearance of things, I hope that the House will not impose upon me in the matter a rigid rule. I would never seek to allow Private Notice Questions to pass by the Chair unless I, to my best judgment, conceived them to come within the rule with regard to public importance.

Lieut.-Colonel Bromley-Davenport: In view of what I have asked my right hon. Friend, would he consider——

Mr. J. Hynd: May I with all respect put this point of order, Mr. Speaker? You have just said that absolute discretion must rest with the Chair in deciding whether or not a Private Notice Question is in order. Since it is now clear that the purpose of the Question was not genuine, since it was put down for the purpose not of the hon. and gallant Gentleman concerning himself with the consideration of his constituents, but of continuing an attack on the nationalised industries, and since it is now apparent from his attempted supplementary question that he has no intention of doing anything else but try to exploit the occasion for that purpose, is it not incumbent on the Chair, with its responsibility, to ensure that this is not permitted?

Mr. Speaker: First, the hon. Member puts his gloss on the original Question. I would not necessarily have to accept that, and it might not be fair to the hon. and gallant Member's Question to do so.

With regard to the supplementary question, I respectfully agree that its beginning was unfortunate. I still hope that it has some proper substance, and that the House will allow me to hear what it is.

Lieut.-Colonel Bromley-Davenport then asked the Minister if he would consider setting up a court of inquiry to inquire into the cause of this and other accidents, and his question was answered in the normal way. (617 *Com. Hans.*, cc. 241-4.)

House of Commons (Derogatory reference to Member of other House).—On 7th November, Mr. Driberg (Barking) drew Mr. Speaker's attention to the terms of a Question, down for answer the following day, asking the Attorney-General

if he will bring to the attention of the Director of Public Prosecutions the obscene libel published in the eighth paragraph of the article by Mr. Wayland Young in the issue of *The Guardian* newspaper of 4th November.

He pointed out that the gentleman referred to in the Question was in fact a Peer, Lord Kennet, and suggested that the question was therefore out of order in that it reflected adversely on a Member of Parliament.

Mr. Speaker replied:

It is, of course, quite true that Questions about, or reflections upon, Members of Parliament as such are not out of order in relation only to Members

of this House; they would be out of order in respect of Members of the other House, also. There is, however, this distinction. There must be hon. Members present who remember some slightly critical observations being made about newspaper owners at one time who happened to be peers of the realm. I find that on that occasion, which was 28th July, 1949, my then predecessor said—I am reading not all the passage, but the gist of it:

> "It depends upon the capacity in which the name is mentioned. For instance, I have ruled before in connection with some of these newspaper proprietors that as newspaper proprietors their names can be mentioned. They must not be attacked as Members of another place or in reference to their duties there. It is hard to lay down an exact ruling. I think the rule is that one must not attack Members in their capacity as Members of another place. If they have another capacity, then they can be mentioned in connection with that." (467 *Hans.*, c. 2668.)

In this instance, the noble Lord was so much in another capacity as to be making use of his professional pseudonym. I cannot rule the question out of order. (629 *Hans.*, cc. 651-3.)

India: Lok Sabha (Revocation of suspension of Member).—On 9th February, Shri Khadilkar rose to question a decision of Mr. Speaker to disallow an adjournment motion, but was informed by Mr. Speaker that arguments on such a matter might be adduced privately, but should not be repeated in the House once the decision had been taken. When Shri Khadilkar persisted in attempting to discuss the matter, Mr. Speaker in exercise of his power under Rule 373 directed him to withdraw for the rest of the day's sitting.

Four other Members endeavoured to pursue the matter, and were in turn directed to withdraw. After the last of the four Members had left, the Speaker adjured Members in the strongest terms to refrain, in the interests of the House from any further interruption. Immediately after, the following exchange took place:

Shri Jagdish Awashthi (*Bilhaur*) (speaking in Hindi): Mr. Speaker, I . . .

Mr. Speaker: I will have to ask the hon. Member to keep out of the House. If he does not go and persists in doing like this, I have no other method than to send him away. (Interruptions.) Order, order. The hon. Member may kindly keep out of the House. I have repeatedly seen that he is disturbing this House. He is the one hon. Member who does not care for the ruling of the Chair however much I may insist. It is not only for one day. I will have to request him to keep out of the House for seven days if the House concurs with me.

Some Hon. Members: Yes.

Mr. Speaker: I named the hon. Member. . . . (Interruptions.) He shall not be in the House for a period of seven days. . . . (Interruptions.)

Shri Braj Raj Singh: This is not the procedure. . . . (Interruptions.)

Mr. Speaker: Hon. Members may advise him to apologise and not to withdraw.

(*Shri Jagdish Awashthi then withdrew from the House.*) (*L.S. Deb.*, 9th Feb., 1960, cc. 100-7.)

On the following day, after previous consultation with Mr. Speaker, Shri Braj Raj Singh raised a point of order in connection with Shri Awashthi's suspension. He pointed out that the only words

which Shri Awashthi was recorded as having uttered were "Mr. Speaker, I .....". Rule 374 of the Rules of Procedure, which provides that the Speaker may name a Member "who disregards the authority of the Chair or abuses the rules of the House by persistently and wilfully obstructing the business thereof," was, he thought, clearly inapplicable, because Shri Awashthi's intervention had been neither persistent nor wilful.

He also drew attention to para (2) of Rule 374, which reads:

> If a Member is so named by the Speaker, he shall forthwith put the question that the Member (naming him) be suspended from the service of the House for a period not exceeding the remainder of the session.

He considered that Mr. Speaker's observation recorded above, to which some hon. Members had called "Yes", did not amount to the necessary formal naming of Shri Awashthi followed by the putting of a question and declaration of a majority. He therefore submitted that Shri Awashthi was not properly suspended.

After several further submissions had been raised, Mr. Speaker expressed himself thoroughly satisfied that Shri Awashthi had had no right to intervene as he had done, because such interventions had already been disallowed. He went on to say:

> So far as naming is concerned, it is a technical matter. I said, with the concurrence of the House; I did not want to exercise any authority which I did not have myself. If I have to suspend a Member, I have to name him, that is, if the House concurs. Then, there was nobody saying "No". Hon. Members said "Aye". . . . There is not a single case where all hon. Members have said "Aye". There was not a single Member in this case who said "No".

Nevertheless, in view of the strength of feeling which had been manifested, Mr. Speaker said that he would be prepared to reconsider the matter, and would have no objection to allowing Shri Awashthi to return "with retrospective effect". He remarked in conclusion:

> Now, I would only say that irrespective of any technical observance of the rule, let there be no opportunity or occasion for any hon. Member being asked to keep out of the House even for a day. Let all that has happened yesterday be washed out. Let us start afresh. (*Ibid.*, 10th Feb., cc. 310-32.)

5. PROCEDURE

House of Lords (Admissibility of Private Notice Question).—On 12th May, 1960, Lord Stansgate rose to ask, by private notice, whether the Government—

> accept the policies set out by President Eisenhower as to intelligence flights over foreign territory; whether this policy would affect our duties under treaties of mutual defence such as N.A.T.O.;

and further, whether Her Majesty's Government would approve the consideration of President Eisenhower's statement by the Security Council.

In reply, the Leader of the House (Viscount Hailsham) quoted from the First Report of the Select Committee on Procedure the recommendation that the decision whether a private notice question—

> is of sufficient urgency to justify an immediate reply should rest in the first place with the Leader of the House and ultimately with the general sense of the House (H.L. 79 of 1960).

The House had accepted this recommendation (28th April). He went on to say that in his opinion this question did not qualify, but in view of the fact that the stock answer to all questions relating to intelligence activities was that such matters were not discussed in Parliament, he would give that reply now to Lord Stansgate's question.

Lord Stansgate was not satisfied, and what happened next is shown on page 143 above. (223 Lords' *Hans.*, 735-6.)

House of Commons (Admissibility of Private Notice Question).—On 29th March, Mr. S. Silverman raised a point of order regarding a private notice question which he had unsuccessfully sought to put down regarding the instructions which the Foreign Secretary would give to the United Kingdom delegation at the United Nations concerning events in South Africa. He said:

> On the advice of the Table, I altered the Question a little so as to ask not what instructions he would give, but what consideration he would give tc the matter. It was even then held that the Question was not in order and or reference to you, Sir, you upheld that ruling.
>
> The reason for that ruling, as I understand it, was that on 7th December last the Minister of State for Foreign Affairs had answered a similar Question. In his Answer he made it clear that, in his opinion, these matters being well within the domestic sovereignty of the Union of South Africa, the United Nations had no jurisdiction and, therefore, it was impossible for him to give any instructions concerning it. The view had been and remained that this was not a matter with which the United Nations was concerned, and, therefore, no instructions could be given.
>
> It was held—I do not complain of it—that under our rules, unless there is sufficient change of circumstances, when a Question of that kind has been answered it cannot be repeated in the same Session. I therefore sought to ask a Question framed rather differently, which was ultimately approved and is now upon the Order Paper.
>
> In view of that, I was a little surprised to see in yesterday's Official Report that my hon. Friend the Member for Cardiff, South-East (Mr. Callaghan) had asked a Question, which again I need not read, although it is in the Official Report, which seems to raise substantially the same point as I had sought to raise. . . .
>
> I do not complain of that, because I agree that the matter had become urgent and that it was important to the House of Commons that the Foreign Secretary should have the opportunity of dealing with it. However, it would be most unfortunate, and I think that many hon. Members on both sides of the House would resent it, if our Standing Orders were to be more elastically

or benevolently interpreted with regard to some hon. Members than with regard to others. I hope that you, Sir, will think I am justified in raising this point.

Mr. Speaker, having stated clearly that there was no question of the rules being adjustable as between one Member and another, said:

I took the view that the Written Answer to which he has referred, of the Minister of State, on 7th December last, had the effect—I think that the hon. Member put it substantially correctly—of precluding any other Question during this Session requesting the intervention of the Government at the United Nations upon the topic covered by that Answer. That is the point.

In my view, there was a difference of substance between both the first and second versions of the hon. Member's Question and the Question proposed by the hon Member for Cardiff, South-East (Mr. Callaghan). The difference is this. The hon. Member and I, in discussion, were seeking some new factor to get out of the difficulty created by the Question of 7th December. Indeed, we parted company with myself suggesting ways by which the hon. Member might get round the difficulty. That was some time on Thursday.

After we had met, there came the news of this specially appointed debate before the Security Council. That seemed to me to be so pregnant with ability to raise Questions in the field the hon. Member was looking for that I took steps to see that some communication should be made to him. I regret to say that that was not possible . . . until we could do so by telephone on Monday morning.

The hon. Member will see that the essential distinction between the Question asked by the hon. Member for Cardiff, South-East, and his own Question, which now appears on the Order Paper for tomorrow, on the one hand and the two Questions which he sought to put down before, is this. Both the Private Notice Question and the hon. Member's Question down for tomorrow hang and depend upon what has arisen as a result of the appointment of the special debate for the United Nations to debate the matter. That may be right or it may be wrong, but it is my decision and it in no way depends upon distinctions between hon. Members. (620 *Com. Hans.*, cc. 1143-5.)

House of Commons (Transfer of Questions).—On 26th January, the day the House resumed after the Christmas recess, Mrs. Castle (Blackburn) drew attention after Questions to what she considered had been a serious abuse, occurring just before Christmas, of a Minister's power to transfer Questions from one Department to another. She said:

My hon. and learned Friend the Member for Ipswich (Mr. Foot) and myself raised the question of the protection of African witnesses from Nyasaland and Northern Rhodesia against Civil criminal proceedings in giving evidence before the Monckton Commission. Our Questions could not be reached on the day they otherwise would have been reached when we tabled them to the Colonial Secretary, because, to our astonishment, they were transferred to the Commonwealth Relations Office. Therefore, we had the situation that the House went away without having any information on this important matter.

Mr. Speaker replied:

I am obliged to the hon. Lady. I promised to look into the transfer of her Questions, and those of the hon. and learned Member for Ipswich and I

did so. The result of my inquiries is that there was nothing exceptional about the transfer. The rule which was followed, as far as the Chair and the Table is concerned, is the one which has always been followed, namely, that the Government of the day are responsible for saying which Minister is primarily responsible. There are obviously conveniences about that, and I imagine that is why the rule has always been so.

As to why, in this instance, responsibility was accepted by the Minister to whom the Questions were transferred, that is clearly a matter for which the Government must make answer, but as regards the Table nothing exceptional was done. As the House knows, when the Table receives the document which is the Department's notification to the Member that the Question has been transferred, the Table transfers it as a result of that notification.

On the other matter, I understand that there have been some discussions at official level about how to improve the mechanics of informing Members about transfer. I do not know whether the Leader of the House can help us as to the rest.

The Leader of the House (Mr. R. A. Butler), having made it clear that in his opinion the Government were doing no more than following the practice which had been followed by successive Governments in the past, went on to say:

The suggestion has sometimes been made that the Clerk at the Table should be the final arbiter of the discretion on Parliamentary Questions. We have considered whether it would be possible to recommend any such change of practice to the House, but have reached the conclusion that it would not be possible.

While the scope and responsibility of Ministers in some instances is laid down by Statute, decisions on the responsibility of Ministers are not such as can be made by the mere application of rules. In the last resort the division of responsibility between Departments is a matter for the Government and the Prime Minister. We have, therefore, reached the conclusion that there is no alternative to the present system whereby Ministers themselves are the judges of the proper discretion on Questions.

Having commented in detail on the division of Ministerial responsibilities in the instance under review, Mr. Butler said in conclusion:

I have consulted my right hon. and hon. Friends in the Administration on the mechanics of informing hon. Members and we will try to make the passage of information to hon. Members about the transfer, or possible transfer, of a question a little more elastic, and perhaps a little more humane, than it has been in the past. Steps have been taken to advise my hon. Friends of that possible move and we will try to improve things in that respect. (616 *Com. Hans.*, cc. 43-5.)

6. Standing Orders

Tasmania: House of Assembly (Amendments to Standing Orders).—On 7th December the following Amendments to Standing Orders were agreed to by the House of Assembly:

(a) *Report and Third Reading of Bills.*—S.O.s No. 254 and 255,

which provided respectively that Bills reported with Amendments should be printed as reported if Mr. Speaker so ordered, and ordered to be read a third time on a future day, were replaced by a new S.O. No. 254 which provided that such Bills should have a future day appointed for taking the report into consideration and moving its adoption, and that the Bill might in the meantime be printed as reported.

The existing S.O. No. 256, providing that a Bill reported without Amendment should be read a third time forthwith, was amended (by a new S.O. No. 255) to provide that the adoption of the report of such Bills should be moved immediately.

S.O. 259, which provided that when the Report of a Committee on a Bill was finally adopted, a future day should be appointed for third reading, was amended to provide for the third reading to take place forthwith.

(b) *Public Accounts Committee.*—Provision was made for a Public Accounts Committee by a new Standing Order in the following terms:

> 408A. (1) A Committee of Public Accounts, to consist of seven Members, of whom four shall be a quorum, shall be appointed when this Standing Order becomes effective and thereafter at the commencement of each Parliament, for the examination of the accounts showing the appropriation of the sum granted by Parliament to meet public expenditure, and of such other accounts laid before Parliament as the Committee may think fit.
>
> (2) The Committee shall have power to send for persons, papers and records, to report from time to time, and to sit during any adjournment exceeding fourteen days and any recess of Parliament.

Madhya Pradesh (Hours of Sitting).—An amendment to Rule 8 of the Vidhan Sabha promulgated by Mr. Speaker on 20th April (No. 8209/VS/60), substituted the hours of 11 a.m. and 5 p.m., as the opening and closing hours of each sitting, for the hours of 12 noon and 6 p.m. which had previously been in force.

Consequential amendments were made to Rule 53 (relating to the half-hour discussion on matters of public importance arising out of answers to questions, scheduled to take place during the last half hour of each working week) and Rule 137 (prescribing an hour for the voting of grants on the last allotted day).

Madras (Amendments to Rules of Procedure).—The following important changes were made by the Legislative Assembly in its Rules of Procedure in 1960, under Article 208(1) of the Constitution:

Governor's Address.—Rule 4 originally provided that a copy of the Governor's Address under Article 176 of the Constitution (*i.e.*, at the commencement of a Session) should be placed on the Table of the House, but did not provide for the placing on the Table of the House of a copy of the Address delivered by the Governor under Article 175 of the Constitution (*i.e.*, on other occasions). In the ab-

sence of such a provision the question of Hon. Speaker allotting time under Rule 5 for the discussion of matters referred to in the Address under Article 175 of the Constitution did not arise, although discussions on such Addresses had hitherto been allowed. To remove this anomaly, Rule 4 has been amended providing for the placing of a copy of such Address also on the Table of the House.

Prorogation of the Assembly.—Rule 9 has been amended enabling partly discussed resolutions to be carried over to the next session from the stage reached by them without lapsing consequent on prorogation.

Half-hour Debate.—Rule 40 originally provided that a notice should be given to raise a debate for half an hour on any matter of urgent importance which has been the subject of a question. For the sake of expediency, instead of a formal " notice " the word " request " has been substituted.

Closure.—Under Rule 78 as it stood, when a closure notice was accepted there was no further debate and even the mover of the motion or the Member who was speaking had no right of reply or could continue his speech. The rule has been amended allowing a Member the right of reply or continue his speech as the case may be, after a closure motion is accepted.

Recommendation or previous sanction for Introduction of Bills. —Sub-rule (2) of Rule 91 provided that if any doubt arose whether any motion in respect of a Bill or an amendment was not a motion which could not be made except on the recommendation of the Governor or with the previous sanction of the President, the question should be referred by the Speaker to the authority who could have the power to grant the recommendation or previous sanction, and that the latter's decision was to be final. As this provision was inconsistent with the provisions in Article 199 of the Constitution (under which Article the Speaker is the final authority in deciding whether a Bill is a money Bill or not) sub-rule (2) was deleted.

Conditions for the admissibility of Resolutions.—Rule 143 has been amended to provide that no matter of privilege can be raised by a resolution.

Constitution of the Committees on Estimates and Public Accounts. —Rules 163, 164 and 173 have been amended to re-define the terms of office of the Committees on Estimates and Public Accounts as "one" year instead of the "financial" year, to obviate certain practical difficulties experienced by these Committees.

Functions of the Committee on Public Accounts.—The old Rule 177 did not contain any specific provisions to the effect that excesses should be regularised by the Legislature only after they have been examined and recommended to be regularised by the Committee on Public Accounts. A new sub-rule has been added to the effect that if any money had been spent on any service during a financial year in excess of the amount granted by the House for that purpose, the

Committee on Public Accounts should examine with reference to the facts of each case the circumstances leading to such an excess and make such recommendations as it may deem fit.

Circulation of Reports when the House is not in session.—There was no provision in the old Rules for the Hon. Speaker on request being made to him and when the House was not in session to order the printing, publication or circulation of a report of a Committee although it had not been presented to the House and to have such reports formally presented during the next session. A new Rule (Rule 241-A) has been incorporated to this effect to obviate certain practical difficulties in the submission of reports by the various Legislature Committees.

Intimation to Speaker of arrest, detention, etc., and release of a Member, and procedure regarding service of a legal process and arrest within the precincts of the House.—The old Rules did not contain provisions in regard to intimation to Hon. Speaker of arrest, detention, etc., and release of any Member nor were there any provisions regarding the procedure to be followed in the service of legal process and arrest within the precincts of the House. New Rules 245 and 249 have been incorporated to this effect.

(*Contributed by the Secretary to the Legislature.*)

Maharashtra (Amendments to Rules of Bombay Legislature).—After the bifurcation of the former state of Bombay into Maharashtra and Gujarat (see p. 124), the Rules of the former Bombay Legislature were adopted, with certain modifications, by the respective Chambers of the Maharashtra Legislature.

Legislative Council.—In view of the reduced strength of the Council, it became necessary to revise the number of Members representing the Council on the Estimates Committee, Public Accounts Committee and Subordinate Legislation Committee and also the strength of membership of other Committees of the Council. The Council Rules Committee, to which the Chairman referred the matter, submitted its interim report to the House on 22nd July, suggesting the strength of membership of the various Committees.

The interim report was approved by the House and the necessary amendments were published in the Maharashtra *Government Gazette Extraordinary,* dated 5th August. Thereafter the Rules Committee considered whether further changes were necessary, and accordingly submitted its first and final reports on 11th and 23rd August. Both were approved by the House and the Rules, as amended, were adopted under Article 208(1) of the Constitution on 25th August, being notified in the *Gazette* on 22nd September.

Legislative Assembly.—The question of possible changes in the Rules was referred by the Speaker to the Assembly's Rules Committee in June. The Committee's first and final reports (submitted on 8th and 19th August) were approved by the House and the Rules,

as amended, adopted on 23rd August, being notified in the *Gazette* of 17th September.

Nature of changes.—The most important changes are that a non-official Member will be the Chairman of the Public Accounts Committee and the Estimates Committee instead of the Finance Minister who was heretofore the *ex-officio* Chairman of these Committees (vide Rule 153 of the Assembly Rules). Powers have also been given to these Committees to call for persons, papers and records to facilitate examination of the subjects committed to the care of these Committees (vide Rules 193 and 197 of Assembly Rules). The previous requirement that the reports of these Committees be debated has now been rescinded.

One more salient feature of the new Rules is that questions are now set down for a definite day (vide Rule 73(b) of Assembly Rules and 72(b) of Council Rules).

A new device for raising discussion on matters of public importance by way of "no-day-yet-named-motions" has also been introduced. In consultation with the Government, the Speaker and Chairman may fix days for such motions (vide Rule 266-7 of Assembly Rules and 241-2 of Council Rules).

(*Contributed by the Secretary of the Legislative Department.*)

Mysore: Legislative Assembly (Amendments to Rules).—The following amendments to the Rules of the Assembly were published in the *Gazette* dated 28th January (Notification No. 13398—L.A.).

Sessional provisions.—A new Rule 15A requires the Secretary, at the commencement of every Session, to table a list of Bills which have received the Governor's or President's Assent. An amendment to Rule 16 provides that at prorogation all pending notices shall lapse except those in respect of motions the consideration of which has been adjourned to the next Session, and Bills which have been introduced.

Governor's Address.—The Speaker is required to report to the Assembly any Address to the legislature by the Governor, and to lay a copy of it on the Table (Rule 18).

Resolutions of congratulation or condolence.—New Rules 31A and 31B provide that such resolutions may be moved at any time, with the Speaker's permission, and that reference may be made to such matters, and approved by the Assembly, without formal resolution.

Questions to Ministers, and Resolutions.—An amendment to Rule 45 provides that answers to questions may not be released for publication until they have either been given on the floor or laid upon the Table. Mr. Speaker is also given power to amend the terms of questions when their form or subject matter contravenes the rules (Rule 45A). He is given similar powers with regard to resolutions (Rule 136).

Vacation of Seats.—Amendments to Rules 187 and 189 require the Secretary to publish in the *Gazette* information of all resignations received by the Speaker, or of successful motions for vacation of seats, and to communicate such information to the Election Commission and the Governor.

Private Members' Bills and Resolution.—A Committee of ten Members, with the Deputy Speaker as Chairman, is set up under a new Rule 267A with the following functions:

(*a*) to recommend the time that should be allocated for the discussion of the stage or stages of each private Member's Bill;
(*b*) to examine every private Member's Bill which is opposed in the Assembly on the ground that the Bill initiates legislation outside the legislative competence of the Assembly, if the Speaker considers such objection *prima facie* tenable;
(*c*) to recommend time limits for the discussion of private Members' resolutions and other ancillary matters.

Provision is made for the discussion of the Committee's Reports in the Assembly (Rule 267B) and the implementation of Allocation of Time Orders arising therefrom (Rule 267C).

An amendment to Schedule I of the Rules (Ballot procedure for determining relative precedence of private Members' Bills and Resolutions) lays down that a private Member must give fifteen clear days' notice of intention of asking for leave to introduce a Bill or moving a Resolution.

Divisions.—An amendment to Rule 307 provides that if the Speaker's decision is challenged, the division bells shall be rung for two minutes, after which the question is put again. If his decision is still challenged, the two sides are requested to rise successively in their places, when they are counted, but their names are not recorded. The Speaker is, however, given power to order the division to be taken in any other manner he may determine.

Suspension of Members.—The question for suspending a named Member was formerly always in terms that he should be suspended for the remainder of the Session. By an amendment to Rule 309, the Speaker has now power to restrict the suspension to such part of the Session as he may specify in the question.

Uganda (Amendments to Standing Orders).—A small number of amendments was made to the Standing Orders during 1960, the most interesting of which perhaps is that which introduced for the first time the taking of divisions by the utilisation of lobbies.

Previously a count was taken by the Clerk calling out the names of Members in alphabetical order but with the move in September, 1960, into a new Parliamentary Building (see p. 178) equipped with "Ayes" and "Noes" lobbies, the new procedure could be introduced. Divisions are now timed with the use of a sand-glass.

Standing Order 36 was amended to include the Speaker amongst

the persons whose conduct should not be referred to except upon a specific motion made for that purpose.

The procedure for reading, printing and considering petitions was improved by an amendment to Standing Order 15.

(*Contributed by the Clerk of the Legislative Council.*)

Zanzibar (Amendments to Standing Orders).—In consequence of the appointment of a Speaker to take the Chair of the Legislative Council (see p. 131), the word "President" was replaced throughout the Standing Orders by the word "Speaker" (Sessional Paper No. 15 of 1960). In addition to these and other consequential amendments, two changes of substance were introduced.

(a) *Casting Vote.*—Whereas previously the British Resident (if in the Chair) had no original vote but a casting vote, and a Temporary President had both an original vote and a casting vote, a new S.O. No. 31 lays down that (i) the Speaker shall have neither an original nor a casting vote, (ii) the Deputy Speaker shall have an original but not a casting vote, and (iii) in the event of an equality, the motion shall be lost.

(b) *Chairmen of Select Committees.*—Whereas under S.O. No. 54(4) these were previously nominated by the President, they are now elected by the respective Committees.

7. BILLS, PETITIONS, ETC.

House of Commons (Anticipation of a Bill by an instruction to a Committee).—On 10th March, Mr. Reynolds (Islington, N.) raised a point of order in relation to the Public Bodies (Admission of the Press to Meetings) Bill, a private Member's Bill which at that time stood committed to a Standing Committee. The point of order concerned a motion which had appeared on the paper in the name of the Minister of Housing and Local Government:

That it be an instruction to the Committee on the Bill that they have power to make provision in the Bill for requiring members of the public other than representatives of the press to be admitted to meetings of bodies exercising public functions, and for matters arising out of their admission.

Mr. Reynolds said:

I have given notice, on page 2372 of today's Order Paper, of my intention to ask the Leader of the House, under what is commonly referred to as the Ten Minutes Rule, to seek leave to introduce a Public Bodies (Admission of the Public to Meetings) Bill

" to provide for the admission of the public to the meetings of certain bodies exercising public functions ".

I believe—and this can be easily ascertained—that my notice of Motion was in before the notice in the name of the Minister of Housing and Local Government.

I should like to ask, therefore, whether the Motion in the name of the Minister of Housing and Local Government is in order, in view of what is contained in pages 403 and 404 of the sixteenth edition of Erskine May which, after describing the position, goes on to say:

> " Thus a motion (other than a motion for leave to bring in a Bill) is out of order if it anticipates a notice of motion for leave to bring in a Bill that includes the subject proposed to be dealt with by the motion."

I would respectfully submit that as my notice of Motion to bring in a Bill covers the matters which are dealt with in the Instruction in the Motion which it is intended to move on Monday, the Instruction itself is out of order in view of the fact, as I believe, that my notice of Motion was handed in to the Clerks at the Table before that of the Minister. I am not certain of that, but I am sure that it can be easily ascertained.

Mr. Speaker replied:

On the last point of fact the hon. Member is quite right. His notice beat the other by 40 minutes. On the fact of this problem, I think it is necessary to bear in mind, with regard to the rule about anticipation, that a Motion must not be anticipated if it is contained in a more effective proceeding but, in the terms of one of the pages of Erskine May to which the hon. Member was referring,

> ". . . it may be anticipated if it is contained in an equally or less effective form ".

At first glance at this matter, it looks as though in this case a Motion for an Instruction to the Committee on the Bill would seem to be as effective as a Motion for leave to introduce the Bill, but I confess to the House and to the hon. Member that not the least interrupted time for study is Question Time. I will undertake to look further into this and rule on the matter on Monday before the first Motion comes up.

In response to a request by Mr. Charles Pannell (Leeds, W.), the Speaker undertook to look into the question of the scope of the Bill and also, at Mr. Reynold's further request, to consult a ruling made by Mr. Speaker Denison on 23rd June, 1871. (619 *Com. Hans.*, 641-2).

On 14th March, Mr. Speaker gave the following ruling:

The Minister's Motion anticipates the hon. Member's Motion for 17th May asking for leave to bring in a Bill, and the hon. Member submitted that the Minister's Motion was out of order as infringing the rule against anticipation. I have given the point careful consideration and I do not think that the hon. Member's contention is well founded.

Our rule against anticipation, as set out in the current edition of Erskine May, does not prohibit all anticipation, but only anticipation by a form of proceeding less effective than that which it anticipates. I do not think that an Instruction to a Standing Committee to which a Bill has been committed is a less effective proceeding than a Motion asking for leave to bring in a Bill.

The hon. Member asked me to read a Ruling by Mr. Speaker Denison, which refused to allow a Motion for leave to bring in a Bill to be anticipated, but I have done so. It is no exception to the rule. In that instance, the anticipating Motion was a Motion seeking only an expression of opinion by the House, that is to say, a form of proceeding clearly less effective than a Motion asking leave to bring in a Bill.

The hon. Member for Leeds, West, asked me to consider the Minister's

Motion in connection with the scope of the Bill. I have accordingly considered whether the proposed Instruction is in itself inadmissible, either as being superfluous, or, on the other hand, as attempting to embody in the Bill provisions outside its scope and declared intention. In my view, it is a matter of doubt whether, without an Instruction, the Committee would be able to entertain the relevant provisions, and I think that the object with which the Instruction is concerned is cognate to the general purposes of the Bill.

Accordingly, I hold that the Instruction is admissible. (*Ibid.*, 927-8.)

House of Commons (Notice of motion for leave to introduce Bills).—On 25th October, the day on which the House reassembled after the long Summer Adjournment, Mr. Eric Fletcher (Islington, E.) drew attention to the fact that he had not been allowed to give notice during the adjournment of a motion for leave to introduce a Bill under the " ten-minute rule ", and that in consequence, since seven days' notice of such motions was now required under Standing Order No. 12, it would not be possible for him to introduce his Bill during the few remaining days of the current session.

He pointed out that Erskine May stated (16th ed., pp. 375-6) that although notices of motions could be given orally, it had become customary in recent years for such notice to be given in writing, and for Members

to deliver its terms in writing at any time during the sitting of the House to the Clerks at the Table who see that it is duly printed.

There was nothing in that passage, he said, which said that a Member might not, during a recess, give notice of a motion to introduce a Bill under the ten-minute rule, and that such an interpretation of the rules, combined with the new requirement of seven days' notice, would seriously interfere with Members' rights.

Mr. Speaker ruled:

Thanks to the courtesy of the hon. Member, I have had a chance to consider this matter. It is a long-standing rule of this House that Notices of Motion must be given and can only be given when the House is sitting. I could not change that without some direction or authority from the House. I could not do it on my own.

As regards the proviso added to Standing Order No. 12, I do not find it possible to take the view that there is anything in the terms of that proviso which, even by implication, suggests that the rule has by authority of the House been altered. That is the only Ruling that I can make on the point which the hon. Gentleman has so courteously submitted to me. Of course, if the House likes to change its rule, that is a different matter.

On being asked to explain the basis of the present rule, Mr. Speaker further stated:

The point is that notice was given orally, and it is difficult to give oral notice to this House when it is not sitting. That is the basis of the rule that has grown up and that is why the rule exists. I may be wrong, but it is subject to research. Anyhow, I am satisfied that the rule exists and that it is

sufficiently established to make it improper for me to try to alter it without the order of the House. (627 *Hans.*, 2159-62.)

New South Wales: Legislative Council (Delegated Legislation).—On 27th September, the Legislative Council of New South Wales appointed a Committee of Subordinate Legislation. (*Session* 1960-61, *Minutes No.* 9, *p.* 58; *Parl. Debates, Vol.* 32, *p.* 726.)

The motion, which was moved by the Honourable C. E. Begg, Q.C., a Liberal Party Member (New South Wales has a Labour Government), provided that the Committee should consist of five Members, with the following powers:

(4) That it shall be the duty of the Committee to consider all Regulations, Rules, By-laws, Orders or Proclamations (hereinafter referred to as "the Regulations") which under any Act are required to be laid on the Table of this House, and which are subject to disallowance by resolution of either or both Houses of Parliament.

If the Regulations are made whilst the Council is sitting, the Committee shall consider the Regulations before the end of the period during which any motion for disallowance of those Regulations may be moved in the House.

If the Regulations are made whilst the Council is not sitting, the Committee shall consider the Regulations as soon as conveniently may be after the making thereof.

(5) The Committee shall, with respect to the Regulations, consider:
- (*a*) whether the Regulations are in accordance with the general objects of the Act pursuant to which they are made;
- (*b*) whether the Regulations trespass unduly on personal rights and liberties;
- (*c*) whether the Regulations unduly make the rights and liberties of citizens dependent upon administrative and not upon judicial decisions;
- (*d*) whether the Regulations contain matter which in the opinion of the Committee should properly be dealt with in an Act of Parliament;
- (*e*) whether the Regulations appear to make some unusual or unexpected use of the powers conferred by the Statute under which they are made;
- (*f*) whether there appears to have been unjustifiable delay in the publication or the laying of the Regulations before Parliament;
- (*g*) whether for any special reason the form or purport of the Regulations calls for elucidation.

(6) If the Committee is of the opinion that any of the Regulations ought to be disallowed:
- (*a*) it shall report that opinion and the grounds thereof to the House before the end of the period during which any motion for disallowance of those Regulations may be moved in the House;
- (*b*) if the Council is not sitting, it may report its opinion and the grounds thereof to the authority by which the Regulations were made.

(7) If the Committee is of the opinion that any other matter relating to any of the Regulations should be brought to the notice of the House, it may report that opinion and matter to the House.

(8) The Committee shall have power to act and to send for persons, papers and records, and to examine witnesses, whether the Council is sitting or not.

(9) The proceedings of the Committee shall, except wherein otherwise ordered, be regulated by the Standing Orders of the Legislative Council relating to Select Committees.

In moving the motion Mr. Begg referred to a declaration made in 1959 at the Delhi Conference of the International Commission of Jurists and quoted a recommendation contained in the report of that body in clause 2, which says:

To ensure that the extent, purpose and procedure appropriate to delegated legislation are observed, it is essential that it should be subject to ultimate review by a judicial body independent of the Executive.

In opposing the motion, the Attorney-General and Representative of the Government in the Legislative Council (The Honourable R. R. Downing) pointed out that the procedure was different from that of the United Kingdom. In New South Wales, all regulations, he said, must, before promulgation, bear a certificate from the Attorney-General to the effect that they can validly be made under the Act to which they refer. The work of certification involved full-time investigation by two qualified officers in the office of the Parliamentary Draftsman. He stated that such a Committee would not be qualified to declare a regulation *ultra vires*. In further support of his argument, Mr. Downing stated that there had been only six motions for disallowance of regulations between the years 1934 and 1944 and only a small percentage of the statutes passed by the N.S.W. Parliament had received adverse comment from the Courts. He drew attention to an extract from *Modern Law Review*, Vol. 12, 1949, p. 295, which states:

The most cogent of the reasons for the delegation of the power to legislate is the shortage of Parliamentary time, and the requirement that Parliament should consider the merits and policy of any large number of instruments defeats the purpose of delegation. The policy of the parent Act has been debated; so have the principles of its sections; interests affected by the Act have been consulted, their representations considered, amendments made and final decisions taken by the Government.

Turning to page 299 of the same publication, Mr. Downing further quoted:

But this does not seem to meet the criticism for, if the Committee is to be enabled to report that an instrument is not effective in carrying out the policy of the Act (a decision which would be very difficult to make before there had been experience of its practical working), Parliament is attempting to instruct the Executive how best to govern and to suggest, inevitably, alternative lines of detailed administration.

"That," said Mr. Downing, "is what the Hon. C. E. Begg seeks for the proposed Committee—to suggest alternative lines of administration. . . ."

Mr. Downing also referred to an article which appeared in *Canadian Bar Review*, Vol. 27, 1949, by Richard C. Fitzgerald, University College, University of London, entitled *Safeguards in Delegated Legislation*. Mr. Downing further contended that the power to require the attendance of a departmental officer before the Committee was an intrusion into an Executive power. It was not, he thought, a matter for either the Hon. C. E. Begg or himself, as Attorney-General, to decide the validity of a regulation that he, the Attorney-General, certified. It was a matter for the Courts which alone could determine whether a regulation was invalid.

Colonel Clayton, in supporting Mr. Begg's motion, drew attention to remarks which he had made on 29th May, 1956, when he mentioned in debate the subject of control of delegated power and referred to a Regulations and Ordinances Committee of the Senate of the Commonwealth of Australia.

Mr. Begg's motion was agreed to, on division. Since the establishment of the Committee two reports have been submitted to the House.

The first report stated that a communication had been received from the Attorney-General in which he observed that, as the word "ordinance" did not appear in the resolution, the Committee had no jurisdiction to consider ordinances made under the Local Government Act. However, the Committee, after consideration, determined that such ordinances were within the intent of the resolution, and resolved to consider ordinances made under the Local Government Act, and, if found necessary, to seek amendment of the powers of the Committee in order to include formally such ordinances.

In the second report the Committee draws attention to a number of regulations under the Public Trusts Act, 1897, which, since 1955, have not been tabled in accordance with the Act. To date, the Committee have not found any regulations which would appear to infringe the principles set out in paragraph (5) of the resolution establishing the Committee.

(*Contributed by the Clerk of the Parliaments.*)

Northern Rhodesia (Interval between First and Second Readings of Bills).—S.O. No. 94 of the Legislative Council reads as follows:

> Not more than one stage of a Bill shall be taken at the same sitting without the leave of the Council.
>
> Provided that the second reading of a Bill may be taken on the same day as the first reading of that Bill if a draft of the proposed Bill has been published in the *Gazette* not less than thirty days before the day on which the Bill is introduced.

On 1st November, the first day of the resumed Second Session of the Eleventh Legislative Council, objection being taken to the second reading that day of the Co-operative Societies (Amendment) Bill, Mr. Speaker said:

This is not one of the matters in which the leave of the House is required because thirty days' notice has been given of the Bill and it is therefore a decision of the House.

He accordingly put the question, which was agreed to, as was a similar question on several other Bills (101 *N. Rhod. Hans.*, cc. 3-4).

On 15th November Mr. Speaker made a statement in which he referred to his previous ruling, and said:

I am grateful to the hon. and learned the Minister of Legal Affairs and Attorney-General for calling my attention to the fact that this is in conflict with other Standing Orders. In our Standing Orders it is laid down that the next stage of a Bill shall be ordered for the day appointed by the Minister in charge of the Bill. Hon. Members have, therefore, no right to decide. In all stages of Bills, subject to certain minor exceptions, the Minister has the sole right to say when the next stage shall be taken. Our practice in the past has been wrong. (*Ibid.*, c. 257.)

8. Financial Procedure and Committees

Jersey (Order of consideration of Estimates).—On 29th March the States passed an Act (No. 4129) approving a new financial Standing Order in the following terms:

(1) The Finance Committee shall, in its report on the general estimate of the financial requirements and revenue of the Committees of the States presented to the States in pursuance of Article 20 of the Public Finances (Administration) (Jersey) Law, 1948, as amended, recommend to the States the order of priority in which the estimates of extraordinary financial requirements should be taken into consideration.

(2) Where the States decide upon an order of priority as aforesaid, the Finance Committee shall, before the estimates of extraordinary financial requirements are taken into consideration, recommend the maximum amount which should be allowed for meeting such requirements and, should the States decide upon such an amount, the estimates of the said requirements which by their lack of priority would cause that amount to be exceeded shall be treated as disallowed.

Australia: Commonwealth Parliament (Parliamentary Standing Committee on Public Works).—Statutory provision exists, under a series of Acts cited as the Public Works Committee Act, 1913-53, for the scrutiny by a Standing Committee consisting of Members of both Houses of such public works, the estimated cost of which exceeds £25,000, as are referred to it by the House of Representatives or, during long adjournments, by the Governor-General.

The Public Works Committee Act, 1960 (No. 13 of 1960), amends the previous legislation in three important respects. First, the minimum limit of £25,000 is removed (s. 6(*a*) and (*b*)). Second, provision is made that no public work of an estimated cost of more than £250,000 shall be commenced unless either (i) it has been referred to the Committee, (ii) the House of Representatives has resolved that

it need not be so referred, or (iii) the Governor-General by order declares that the work is for defence purposes (s. 6(*c*)).

Thirdly, the Committee is given power to review its own reports so long as the actual work to which the report refers has not been commenced (s. 7). The purpose of this amendment is to allow the Committee to make use of any additional information which it may receive, or to have regard to change of circumstances, in cases where there is a long delay between the authorisation and commencement of the work (1960 Sen. *Hans.*, Second Sess., 1st Period, c. 661).

9. Electoral

United Kingdom (Trial of Election Petitions).—The Election Petition Rules 1960 (S.I. 1960, No. 543) replace in modern form the old rules for Parliamentary Election Petitions, which dated back to about 1870, and for local government Election Petitions, dating from 1883. The rules prescribe that the general practice and procedure of the High Court is to be followed, in substitution for the old process, which was partly based on the practice of committees of the House of Commons before 1868 (when the trial of Election Petitions was handed over to the Courts). It will now, therefore, be possible, for the first time, for the Election Court to make orders for the discovery of documents and the delivery of interrogatories. The rules make various other minor changes in the procedure and came into force on the 1st April, 1960.

New South Wales (Elections by Houses of Members of Legislative Council: Provision for physical incapacity).—The Constitution (Legislative Council Elections) Amendment Act (No. 1 of 1961) was designed to "make provision with respect to the recording of votes, at elections of Members of the Legislative Council, of electors whose sight is so impaired or who are so physically incapacitated that they cannot vote without assistance", and it enabled such incapacitated Members, after satisfying the President or Speaker of their incapacity, to nominate either another Member or the Clerk of the Parliaments or the Clerk of the Assembly, as the case might be, to mark their ballot. (34 *Hans.*, pp. 2546, 2693.)

Advantage was taken of this Act by a Member of each House at the Ninth Triennial Election of Members of the Legislative Council, held on 16th March, 1961. In the Council Mr. Henley, after satisfying the President of his physical incapacity, had his paper marked by a Member (Minutes, Vol. 146, 1960-61, p. 178); in the Assembly Mr. Hunter, the Member for Ashfield-Croydon, who is blind, with the consent of the Deputy Speaker, had his paper marked by the Clerk (Votes and Proceedings, Vol. 146, 1960-61, p. 227).

(*Contributed by the Clerk of the Parliaments.*)

Victoria (Treating at Elections).—On 13th December, 1960, the Constitution Act Amendment (Treating) Act (No. 6690) was passed. Until then it was provided by ss. 244 and 245 of the Constitution Act Amendment Act (No. 6224) as follows:

244. (1) Every candidate at an election who corruptly by himself or by or with any person or by any other ways or means on his behalf at any time either before or during any election directly or indirectly gives or provides or causes to be given or provided or is accessory to the giving or providing or pays or allows any person to pay on his behalf wholly or in part any expenses incurred for any meat, drink, entertainment or provisions to or for any person, in order to forward his election or for being elected or for the purpose of corruptly influencing such person or any other person to give or refrain from giving his vote at such election, or on account of such person having voted or refrained from voting or being about to vote or refrain from voting at such election, shall be deemed guilty of the misdemeanour of treating.

(2) Every elector who corruptly accepts or takes any meat, drink, refreshment or provision so paid for, given or provided shall be incapable of voting at such election.

245. Every person who gives or causes to be given to any elector during any election on account of such elector having voted or being about to vote any meat, drink, or entertainment by way of refreshment or any money or ticket to enable such elector to obtain refreshment shall be guilty of a misdemeanour; and shall also be incapable of voting at such election.

Under the amending Act the provision by any political party branch or committee of light refreshments by way of afternoon tea or supper following a public political meeting to any persons who attended or were believed to have attended the meeting no longer constituted an offence by any candidate or person against ss. 244 and 245.

(*Contributed by the Clerk of the Legislative Council.*)

Western Samoa (Electoral System).—The Western Samoa Legislative Assembly Regulations, 1957 (No. 1957/223), provided *inter alia* that if any person qualified for election as a Samoan Member in any Samoan constituency is nominated by an absolute majority of the elections of that constituency he shall be deemed to be elected as the Samoan Member for that constituency. It was found, however, that apart from the work involved in checking and disallowing doubtful signatures and plural "votes", such an electoral procedure encouraged nomination by forgery, intimidation or bribery, as was found as a result of election petitions filed in the High Court.

The amendment to the foregoing regulations which was promulgated in 1960 (No. 1960/60) revoked the provision for election on nomination by an absolute majority of the electors.

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

Ceylon (Amendments to Electoral Law).—In 1956 a Select Committee was appointed by the House of Representatives to examine the law relating to Elections and to make such recommendations as

may appear to them to be necessary. The Report of this Select Committee was tabled in the House in 1957, and by Act No. 11 of 1959 the Ceylon (Parliamentary Elections) Order in Council, 1946, was amended to give effect to most of the recommendations contained in it. The following are the more interesting provisions of the Act:

(a) The qualifying age for voters was reduced from twenty-one to eighteen years.

(b) Persons whose names are removed from or added to an electoral register, on a revision of electoral registers, will in future be informed of the action taken, and the reason, by the revising officer.

(c) After a date to be appointed by the Minister responsible for elections, every qualified voter will be supplied by the Commissioner of Elections with an identity card, containing his photograph and other particulars, to be produced at the polling station when seeking to cast his vote.

(d) All political parties that have been five years in existence or had at least two Members in the previous Parliament will be entitled to have themselves registered with the Election Commissioner. Members of such registered parties when standing for election will be required to deposit only half the sum that other candidates are required to deposit.

(e) The Returning Officer for every electoral district in which there is to be a poll is required to furnish every registered voter at least seven days before the poll with a notice giving his registered number, the date and hour of the poll, and the polling station where he should cast his vote.

(f) Candidates at elections and members of the Armed Forces and of the Civil Services who cannot vote at the polling stations assigned to them, owing to circumstances connected with their employment, will be entitled to a postal vote.

(g) It will be an offence:

  (1) to display flags, posters, placards, etc., for the purpose of promoting an election, on any road, public vehicle or land belonging to Government or a local body.

  (2) to utter at a religious assembly any words for the purpose of influencing the result of any election, or to display or distribute at such a place and for that purpose any hand-bill, placard, poster or notice, or to hold a public meeting at a place of worship for the purpose.

  (3) to use any vehicle or animal for the purpose of conveying any person to the poll except the members of one's household.

(h) The Election Commissioner is declared to hold office "during

good behaviour ", to be capable of removal only upon an address by both Houses, and to have his salary charged to the Consolidated Fund.

Two General Elections have been held in Ceylon since this Act was passed and it is considered by all political parties that its provisions have proved of the utmost value.

(*Contributed by the Clerk of the House of Representatives.*)

India (Electoral).—Section (3) of the Representation of the People (Amendment) Act, 1960 (Act No. 20 of 1960) amended section 28 of the Representation of the People Act, 1950 (Act No. 43 of 1950). Clause (d) of sub-section (2) of the said section 28 conferred powers on the Central Government to make rules providing for the constitution and appointment of revising authorities to dispose of claims and objections in respect of entries in the draft electoral rolls, and rules had accordingly been made providing for the appointment of such revising authorities. The duty of preparation and revision of electoral rolls vested under the Act of 1950 in the electoral registration officers, whereas claims and objections in respect of entries on the draft rolls were to be disposed of by a separate category of officers, namely, revising authorities as mentioned above. This dual system, it was felt, besides being unduly cumbrous and dilatory, resulted in making the electoral registration officers only nominally responsible for the accuracy of the electoral rolls.

Section 3 of the amending Act of 1960 accordingly deleted clause (d) of sub-section (2) of section 28 of the Representation of the People Act, 1950, thereby placing responsibility for disposing of claims and objections in respect of entries in the draft rolls on the electoral registration officers themselves and doing away with the dual system referred to above.

Section 4 of the amending Act has substituted a new section for section 31 of the Representation of the People Act, 1950. Section 31 as it stood before the amendment was of a limited scope. Under clause (a) of this section a person could be said to have committed an offence only if he had made a false statement or declaration in writing in or in connection with a claim or application to include *his own name* in the electoral roll but not when he had done so *in respect of some other person*. Furthermore, the section appeared to be applicable only to statements made in claims and objections made before revising authorities or in applications made under section 23 of the Act for inclusion of names but not to statements made before any other persons, as, for example, enumerators at the stage of the initial preparation or annual revision of the rolls. Experience had shown that false statements were made at that stage also in quite a number of cases. The scope of the original section 31 was accordingly widened by substituting for it a new section which read as follows:

31. *Making false declarations.*—If any person makes in connection with:

(*a*) the preparation, revision or correction of an electoral roll, or

(*b*) the inclusion or exclusion of any entry in or from an electoral roll,

a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both.

(*Contributed by the Secretary to the Rajya Sabha.*)

Southern Rhodesia (Electoral).—The law relating to elections was amended in 1960 by two measures, the Constitution Amendment Act (No. 37, 1960) and the Electoral Amendment Act (No. 17, 1960).

The Constitution Amendment Bill was introduced on 16th August, 1960 (V. & P., p. 101). After providing for consequential amendments relating to the date of appointment of the Delimitation Commission, and the terminology of the legislation relating to census matters, the Bill went on to increase the number of electoral districts from 30 to 50, of which the number of rural electoral districts was increased from 11 to 18.

The Bill was read the third time on 24th August and the Governor's Assent was announced in the House on 18th October. (*Ibid.*, pp. 123, 158.)

The object of the amendment contained in the Electoral Amendment Bill was to appoint commissioners of oaths as registering officers, for the purpose of registering voters.

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

Uganda (Electoral changes).—As a prelude to the general elections which were due to be held throughout Uganda early in 1961, two changes were made in the Uganda legislation concerning the electoral system.

The Legislative Council (Elections) (Amendment) Ordinance (Ordinance No. 20 of 1960), was passed in the Legislative Council on 20th June, 1960; the amending Ordinance contained provisions, *inter alia,* relating to the qualifications of electors and of candidates, to offences by election officers, to the influencing of votes and to the time during which polling shall take place.

On 26th September the Legislative Council passed the Elections, 1961 (Prevention of Intimidation) Ordinance, 1960 (Ordinance No. 23 of 1960). This Ordinance is aimed at preventing intimidation and other acts likely to interfere with the liberty of action of persons with rights of duties under the Legislative Council (Elections) Ordinance, 1957. It provides for the arrest and detention of persons interfering with the freedom of elections, and also makes provision for the preservation of public security pending and during the 1961 elections.

(*Contributed by the Clerk of the Legislative Council.*)

10. EMOLUMENTS

Queensland (Parliamentary Salaries).—The Constitution Acts Amendment Act of 1961 (Act No. 20) implemented the recommendations respecting the salaries of Members of Parliament, Officials in Parliament and Ministers of the Crown, made by a Committee of Inquiry chaired by the Honourable Sir William F. Webb, K.B.E.

This Committee recommended, among other things, that all Members of Parliament, including Ministers of the Crown and Officials in Parliament, be paid a basic salary and that Ministers of the Crown and Officials be paid an additional salary. This principle is followed by the Commonwealth and most, if not all, of the other States.

To date, the law of Queensland respecting these salaries follows no uniform pattern, *e.g.*, under the Officials in Parliament Acts, Ministers of the Crown are paid an official salary. Members of Parliament are paid under the Constitution Act Amendment Act of 1896 (60 Vic., No. 5). This Act specifically excluded Ministers, but provided an official salary for the Speaker and the Chairman of Committees in contradistinction to the salaries it provided for private Members.

It lacked uniformity in that it provided for additional salaries for the Leader of the Opposition and the Government and Opposition Whips. Thus, these three officers in Parliament received a Member's salary plus an additional salary attaching to the particular office.

The new Act provides for a uniform salary at the rate of £2,501 10s. 0d. per annum for all Members including Ministers and Officials in Parliament.

It provides for an additional salary in the case of Ministers of £2,700 per annum to the Premier, £1,600 per annum in the case of the Deputy Premier, and £1,300 per annum for other Ministers. It provides the following additional salaries for Officials in Parliament:

The Speaker	£750 per annum
Chairman of Committees	£250 per annum
Leader of the Opposition	£1,000 per annum
Deputy Leader of the Opposition	£250 per annum
Government and Opposition Whips	£100 per annum

It also provides that in the event of there being a second Party numbering not less than ten in opposition, its leader is to be paid an additional salary at the rate of £200 per annum.

The basic salary for all Members and the additional salaries for Ministers and Officials in Parliament provided in the Act are those recommended by the Committee of Inquiry.

(*Contributed by the Clerk of the Parliament.*)

South Australia (Members' salaries and allowances).—By the Statutes Amendment (Public Salaries) Act (No. 8 of 1960), rates of

payment to Ministers of the Crown, Members of Parliament and the holders of certain Parliamentary offices were increased as from 1st May, 1960. The relevant amount paid prior to this increase is shown in brackets in the figures hereunder.

(1) *Ministers of the Crown*

Each of the eight Ministers is paid at the rate of £2,550 per annum, under the Payment of Members of Parliament Act, 1948-58. In addition thereto, each Minister receives a portion of a pool of £17,050 under Section 65(3) of the Constitution Act, 1934-59. The precise division of this latter amount is a matter for decision by the Government. The present allocation is as follows:

Premier	£2,700
Chief Secretary (who deputises in the absence of the Premier)	£2,350

and the remaining six Ministers £2,000 each. This gives total salaries for Ministers as follows:

Premier	£5,250	(£4,250)
Chief Secretary	£4,900	(£4,000)
Six Ministers each	£4,550	(£3,750)

(2) *Members of Parliament*

Every Member of Parliament is entitled to receive payment for his services in the discharge of his Parliamentary duties at the rate of £2,000 per annum, plus the following electorate allowances:

(*a*) If no part of the Member's electoral district is more than 50 miles from the G.P.O. at Adelaide	£550	
making the total emolument	£2,550	(£2,150)
(*b*) If the whole or a part of a Member's electoral district is more than 50 miles from the G.P.O., Adelaide, but no part is more than 200 miles from the G.P.O.	£700	
making a total of	£2,700	(£2,200)
(*c*) If the whole or a part of the Member's electoral district is more than 200 miles from the G.P.O., Adelaide	£800	
making the total	£2,800	(£2,225)

(3) *Other office-holders*

In addition to the payment as a Member of Parliament set out under (2) above, the holders of the following offices are entitled to receive payment at the under-mentioned annual rates:

President of the Legislative Council	£1,050	(£850)
Speaker of the House of Assembly	£1,050	(£850)
Chairman of Committees, House of Assembly	£525	(£350)

Leader of the Opposition, £850, *plus* allowance of £200 in respect of expenses, making a total of ...	£1,050	(£700)
Deputy Leader of the Opposition, House of Assembly	£300	(£250)
Government Whip, House of Assembly	£250	(new provision)
Opposition Whip, House of Assembly	£150	(new provision)
Chairman, Parliamentary Standing Committee on Public Works ...	£750	(£600)
Member of Parliamentary Standing Committee on Public Works ...	£500	(£400)
Chairman, Parliamentary Land Settlement Committee	£300	(£250)
Member of Parliamentary Land Settlement Committee	£250	(£200)
Chairman, Joint Committee on Subordinate Legislation	£250	(£200)
Member of Joint Committee on Subordinate Legislation	£125	(£100)

(*Contributed by the Clerk of the House of Assembly.*)

South Australia (Members' Superannuation).—The Parliamentary Superannuation Act Amendment Act (No. 59 of 1960) made the following alterations. It increased the maximum pension for which Members may contribute by 50 per cent.; secondly, it enabled Members then contributing at the lowest and medium rates to elect to contribute at £100 per annum and Members then contributing at the maximum to contribute at a new maximum of £150 per annum, with corresponding increases in benefit; thirdly, it reduced the minimum qualifying period from 12 to 10 years; fourthly, it provided certain benefits for Members less than 50 years old at retirement or resignation; and, lastly, it increased current pensions by 12½ per cent.

The following table shows rates of contribution and pensions now payable under the Parliamentary Superannuation Act, 1948-60:

Members' annual contribution	*Pension for the first 10 years' service*	*Additional amount for each year of service above 10*	*Maximum pension for 18 years or more service*
£58 10s.	£210	£20	£370
£72	£260	£20	£420
£100	£390	£30	£630
£150	£585	£45	£945

(*Contributed by the Clerk of the House of Assembly.*)

Victoria (Salaries of Clerks and Expenses of Executive and Legislative Councils).—On 8th November, 1960, the Constitution Act Amendment (Expenses) Act (No. 6667) was passed. The original Constitution Act provided for the special appropriation from the consolidated revenue every year of the sum of £1,500 for the Clerk and expenses of the Executive Council and £5,000 for the Clerk and expenses of the Legislative Council.

This ensured the independence of both the Executive Council and the Legislative Council since they did not have to rely upon the Legislative Assembly to vote the necessary amount each year to enable them to function.

To meet the steady increase in expenses these amounts were increased in 1957 to £2,000 and £22,500 respectively, and in 1960 were further increased by Act No. 6667 to £3,000 and £30,000 respectively.

(*Contributed by the Clerk of the Legislative Council.*)

Western Australia (Increases of Pensions).—The Parliamentary Superannuation Act Amendment Act, 1960 (Act No. 77 of 1960), provided increases in pensions to Members who vacate their seats in the Parliament of Western Australia after 1st January, 1961.

The Bill was brought before Parliament as a result of recommendations made by an all-party Committee of both Houses. This Committee carried out extensive investigations over a long period into superannuation provisions applicable to other Parliaments in Australia and the benefits now payable are a fair average of those payable in other States.

To offset the increased payments from the Superannuation Fund the contribution from Members was increased from £A2 10s. 0d. per week to £A4 per week. The contribution from the State remains on a pound for pound basis.

An important provision in the amendment is that present Members on retirement shall receive the pension benefit for life instead of for varying periods, allied to length of service, as contained in the original Act.

Widows also are better provided for in receiving 75 per cent. of a husband's entitlement and this provision embraces existing and future widows, the pension being payable for life or until remarriage.

Benefits for ex-Members will now range from a pension of £A11 10s. 0d. per week for life for a person who has contributed for not less than seven years to £A20 per week for life for a person who has been a contributor for sixteen years or over.

A contributor of less than seven years who vacates his seat receives from the fund the total of his contributions plus interest. (W. Aust. *Hans.*, p. 3248.)

(*Contributed by the Clerk of the Parliaments.*)

Cape of Good Hope (Members' Pensions).—The Provincial

Powers Extension Act (No. 42 of 1960), of the Union Parliament empowers Provincial Councils to make ordinances relating to pensions for Council Members, provided *inter alia* that a pension shall not exceed half of a Member's maximum allowance per annum.

The Cape Provincial Council passed such an Ordinance in 1960, viz., the Provincial Council Service Pensions Ordinance (No. 27 of 1960), in accordance with which the maximum amount by way of pension is payable out of Provincial Revenue. Briefly the Ordinance provides:

(1) All Members contribute at the rate of £3 per month to Revenue. No contribution is payable after 20 years;
(2) They may elect to contribute in respect of previous service;
(3) To qualify for pension, a Member must have at least 10 years' service;
(4) Basis of pension:
  (*a*) Ordinary Member: £180 per annum in respect of first 10 years' service; £18 per annum in respect of each completed year above 10 years. Maximum not to exceed £360 per annum.
  (*b*) The Chairman of the Council: (additional) £30 per annum for each service year, not exceeding £200.
  (*c*) The Deputy Chairman: (additional) £15 per annum for each service year, not exceeding £100.
  (*d*) Executive Committee Member: (additional) £75 per annum for each service year, not exceeding £490.
  (*e*) Widow: two-thirds of pension to which the Member would have been entitled.
(5) A Member whose service terminates before 10 years is refunded the aggregate of his contributions.

(*Contributed by the Clerk of the Provincial Council.*)

Uttar Pradesh (Ministers' and Officers' Salaries).—On 10th December, the Governor promulgated the Uttar Pradesh State Legislature Officers, Ministers, Deputy Ministers and Parliamentary Secretaries (Salaries and allowances and Miscellaneous provisions) Ordinance, 1960 (U.P. Ordinance No. IV of 1960), by which the existing enactments regarding emoluments and allowances of State Legislature Officers, Ministers, Deputy Ministers and Parliamentary Secretaries were amended. The principal amendment was the reduction of the monthly salaries of the Speaker, Chairman, Ministers and Ministers of State from 1,200 rupees a month exclusive of tax (see THE TABLE, Vol. XXI, p. 179) to 1,000 rupees a month. Provision was, however, made for free furnished residences for the individuals concerned. The salaries of the Deputy Speaker, Deputy Chairman and Deputy Ministers were reduced from 750 to 650 rupees a month. Parliamentary Secretaries, instead of being paid 600 rupees a month as hitherto, were to be paid a prescribed daily allowance over the

period actually spent in Lucknow, and the existing provision allowing them furnished accommodation, or a compensating allowance of 100 rupees per month, was deleted.

The Ordinance was ultimately replaced by an Act of the Legislature (Act No. VIII of 1961) which in view of the hardship which appeared to have occurred, restored the former provisions concerning the accommodation of Parliamentary Secretaries.

(*Contributed by the Secretary of the Legislature.*)

Federation of Rhodesia and Nyasaland (Salaries and Allowances of Ministers, the Speaker and Members).—In July, 1960, a Select Committee was set up to go into the allowances and travel facilities of Ministers, the Speaker and Members. This Committee reported on 10th August, 1960 (Fed. A. 41), recommending certain changes in allowances and in travel rules. The report was debated in the House on 11th August (13 *Hans.*, c. 2751), the Government being requested to consider the matter.

In November, the Government brought in a Bill which in effect gave to those affected roughly two-thirds of what the Select Committee had recommended. However, a clause in the Bill enumerated the full amounts recommended by the Committee and provided that they should be paid with effect from "such date as the Federal Assembly may by resolution appoint". In reply to a question during the passage of the Bill, the Leader of the House indicated that the Government would not support a motion of this sort (which, as it would lead to expenditure, would require a Governor-General's recommendation in terms of S.O. No. 106, before it could be considered by the House) except possibly just before the end of the life of the present Parliament. (For debate on Bill, see 13 *Hans.*, cc. 3772, 3882, 3982.) The Bill was passed and assented to. (Act 35, 1960.)

The new Act replaces the previous Act dealing with these matters. The salaries of Ministers, the elected Officers of the House and Members remain unchanged (*see* THE TABLE, Vol. XXVIII, p. 188), but certain annual allowances are changed as follows:

	Old Allowance	*New Allowance*	*Future Allowance if House so resolves in terms of Sections 2 and 19 of Act*
Speaker	£500	£625	£750
Prime Minister	£1,000	£1,500	£2,000
Minister	£500	£750	£1,000
Parly. Secretary	£500	£750	£1,000
Chairman, Standing Cttee. African Affairs Board ...	—	£200	—

Mr. Speaker has always had, rent-free, a furnished flat. Now Ministers and Parliamentary Secretaries are also entitled, free of rent,

to occupy an official residence or other quarters furnished in the manner prescribed (by the Prime Minister). If a Minister or Parliamentary Secretary does not occupy an official residence or other quarters he is entitled to a housing allowance of £300 per annum.

Other Members are entitled to the following allowances, which are not payable to Ministers or Parliamentary Secretaries:

(*a*) Member representing a constituency *less* than 12,500 square miles in extent: £150 per annum.
(*b*) *More* than 12,500 square miles in extent: £300 per annum.
(*c*) Any Member " whose permanent place of residence is situated at a distance from the place of sitting of the Federal Assembly which makes it inconvenient for him to return there at night during the periods that the Federal Assembly is sitting shall be paid a non-residence allowance " of £325 p.a. This allowance is only " payable to a Member so long as the Speaker is satisfied that it is the normal practice of that Member not to return to his permanent place of residence at night during the periods that the Federal Assembly is sitting ".
(*d*) A Member who does not receive a " non-residence " allowance is entitled to a " residence " allowance of £50 per annum.
(*e*) A Member who necessarily absents himself from his permanent place of residence for the purpose of attending a meeting of a committee of the Federal Assembly which is held when the Federal Assembly is not sitting shall be paid a committee allowance of £1 11s. 6d. a day and £2 12s. 6d. a night.

All allowances payable in terms of the Act are free of tax.

S. 21 empowers the Prime Minister to make regulations with regard to the housing to be supplied to the Speaker and to Ministers and to Ministerial travelling and subsistence allowances; and the Speaker to make rules prescribing the travelling and subsistence allowances to be paid to and the other benefits in respect of travelling facilities to be enjoyed by the Speaker, the person acting as the Speaker, the Deputy Speaker, the Leader of the Opposition, the Chairman of the African Affairs Board and other Members.

(*Contributed by the Clerk-Assistant of the Federal Assembly.*)

11. Accommodation and Amenities

House of Commons (Staff: Trade Union Representation).—On 3rd November, Mr. Speaker made the following communication to the House:

A ballot of the staff of the House was held on 13th July on the question of staff association or trade union representation and the results will be printed in the Official Report.

Hon. Members will see that seven of the nine groups of staff were either unanimously or by a large majority in favour of the present system of dealing with their pay and conditions of service being continued. In the remaining two groups, the attendants and the *Hansard* staff, the latter unanimously and

the other by a majority, were in favour of representation by a staff association or trade union on these matters.

If the organisations which have membership amongst the staff in these two groups apply to me for recognition I will consider their applications and, where recognition is conceded, will make arrangements whereby members of the staff in these two groups can have their claims put forward by a representative of the recognised organisation to which they belong when questions affecting their pay and conditions of work arise.

There is one exceptional case. Those shorthand typists who work with *Hansard* have asked to be allowed to fall in with any arrangements made for other members of the *Hansard* staff and I propose that that should be so.

The details as printed in the Official Report were as follows:

Result of ballot held in the Grand Committee Room, Westminster Hall, on Wednesday, 13th July

A ballot of the staff of the House was held on the question of staff association or trade union representation.

The alternatives on which votes were recorded were:

A. I wish the present system of dealing with questions of pay and conditions of service, etc., to continue.

B. I wish to be represented by a staff association or trade union on questions of pay and conditions of service, etc.

Number of votes recorded

Group 1. Officers of the House

A.	42
B.	8
Total	50
Number eligible to vote	52

Group 2. Office Clerk Grades

A.	28
B.	6
Total	34
Number eligible to vote	34

Group 3. Personal Assistants and Shorthand Typists

A.	13
B.	6
Total	19
Number eligible to vote	20

Group 4. Senior Attendants, Attendants and Junior Attendants

A.	17
B.	21
Total	38
Number eligible to vote	44

Group 5. *Cleaners*

A.	... ...	28
B.	... ...	2
	Total	30
Number eligible to vote		31

Group 6. Hansard *Staff*

A.	... ...	—
B.	... ...	22
	Total	22
Number eligible to vote		22

Group 7. *Office Keepers and Superintendents*

A.	... ...	10
B.	... ...	2
	Total	12
Number eligible to vote		12

Group 8. *Doorkeepers*

A.	... ...	34
B.	... ...	—
	Total	34
Number eligible to vote		34

Group 9. *Miscellaneous Grades*

A.	... ...	9
B.	... ...	—
	Total	9
Number eligible to vote		16

(629 *Com. Hans.*, 366-7.)

Australia: Commonwealth Parliament (Sound recording of Parliamentary Proceedings).—Provision is made in the Parliamentary Proceedings Broadcasting Act (No. 35 of 1960) for the preservation of a sound record of parliamentary matters of historic interest that have been broadcast and televised. The operation is entrusted to the Australian Broadcasting Commission, under the supervision of the Joint Committee on the Broadcasting of Parliamentary proceedings, under a procedure laid down in s. 3 of the Act, as follows:

(2) The Commission may make a sound recording of any proceedings of the Senate or of the House of Representatives and shall make a sound recording of any such proceedings when directed so to do by the Chairman or Vice-Chairman of the Committee.

(3) The Commission shall, within such period as the Committee from time to time directs, deliver to the Chairman or Vice-Chairman of the Committee any recording made by the Commission in pursuance of this section.

(4) Where the Committee considers that a recording made by the Commission in pursuance of this section is of sufficient historic interest to justify its being permanently preserved, the Committee may make such arrangements as it thinks fit for the permanent safe keeping of the recording.

(5) Where the Committee does not make arrangements for the permanent safe keeping of a recording, the Committee shall cause the recording to be destroyed.

Cape of Good Hope (Hansard Service).—The following statement was made by the Chairman of the Council at the inauguration of the service on the 7th sitting day, on 7th June, 1960, being the first sitting after a long recess:

I have to lay upon the Table the memorandum of agreement entered into with the Hansard-Verslaggewersburo for the services of recording the debates of the Council for the year ending 31st March, 1961.

Honourable Members will recollect that the Council on 10th June, 1959, adopted a recommendation of the Select Committee on Internal Arrangements to the effect that a service for the recording of debates in the Council should be inaugurated and that the Chamber should be equipped with a sound amplification system. The Executive Committee agreed to the inauguration of the service but although it allowed the Contractor to install a microphone system for the use of recording apparatus, it withheld approval of an amplifier system.

Under the contract, a transcript of a speech will be supplied to the Member concerned for revision but, I must emphasise, he will be allowed only to correct *actual errors* before the record is compiled. Revised transcripts will have to be returned to the Clerk within a specified time. The final record in bound volumes will eventually be obtainable from the Clerk.

On the occasion of the inauguration of the Hansard service in this Council, I wish to record my appreciation of the willingness on the part of the Hansard-Verslaggewersburo to undertake the service. I am sure that their reports will be of valuable assistance to everybody who wishes to follow the proceedings of the Council in greater detail. In order, therefore, to enable the Contractor to make a proper and satisfactory record, Members should always endeavour to speak audibly and distinctly. Simultaneous speech, of course, cannot be allowed.

In conclusion, I wish to make an earnest appeal to Honourable Members at all times so to conduct the debate that a record, worthy of the Council and of the service which has been inaugurated, is made possible.

(*Contributed by the Clerk of the Provincial Council.*)

Uganda (New Parliamentary Building).—There was one outstanding Parliamentary event in Uganda in 1960, when the Legislative Council took possession of its imposing new Parliamentary Building in the centre of Kampala. Previously, the Council had met, by courtesy of the Mayor, in the Town Hall of Kampala. The offices of the Speaker and the Clerks were situated in a separate building some distance away and the facilities for Members' rooms and committee rooms were almost non-existent.

The new Parliamentary Building, which is a land-mark in Kam-

pala and one of the most impressive and modern in East and West Africa, took about 2½ years to build, and the inauguration ceremony on 19th September was attended by the Colonial Secretary, Rt. Honourable Iain MacLeod, and by the Speakers and representatives of the East African Legislatures. The happy coincidence of a meeting of the General Council of the Commonwealth Parliamentary Association in Kampala enabled representatives of nearly every Parliament in the Commonwealth to be represented at the ceremony. The Chairman of the General Council of the C.P.A., Sir Roland Robinson, presented a handsomely bound copy of Erskine May's *Parliamentary Practice* on behalf of the General Council and two despatch boxes constructed of English oak on behalf of the United Kingdom Branch of the C.P.A. A pair of beautifully matched elephant tusks presented by the Kenya Branch of the C.P.A. are mounted as bookends on the Table of the House.

The Council Chamber itself is modelled closely on the Chamber of the House of Commons, though on a smaller scale since it is designed to seat a maximum of 120 Members. It is air conditioned, as are all committee rooms and important offices. The Speaker's chambers and the Clerk's office are particularly well finished, the latter being panelled, as a gift from the Government of Kenya, in attractive red cedar.

Amenities for Members are provided on the top floor and these include Dining Room, Tea Room, Bars, Lounges, Writing Room and Library. The open-air verandahs provide an outstanding view of Kampala and the hills around it. The precincts of the Building include a large parade ground, Members' car park and an attractive Members' garden containing many of the rarest trees and flowering shrubs of East Africa.

(*Contributed by the Clerk of the Legislative Council.*)

12. CEREMONIAL

Northern Territory Legislative Council (Presentation of Sandglass).—The Northern Territory (Administration) Act of 1959 reconstituted the Legislative Council for the Northern Territory bringing to an end the official majority in the Council and making it more widely representative. The Act reduced the number of official Members from seven to six, increased the number of elected Members from six to eight and added a new category of three non-official nominated Members.

In recognition of the importance of the change, a delegation representing both Houses and the three major parties of the Commonwealth Parliament, accompanied by Mr. A. G. Turner, Clerk of the House of Representatives, was flown to Darwin for the meeting of the newly constituted Council on the 12th April, 1960.

After Members of the Council had been sworn in, the President (His Honour the Administrator, Mr. J. C. Archer, O.B.E.) invited the delegation to enter the Chamber and be seated at the foot of the Table.

Mr. President welcomed the delegation and invited its leader, the Hon. J. McLeay, M.M., M.P., Speaker of the House of Representatives, to address the Council.

Mr. Speaker McLeay conveyed the Commonwealth Parliament's greetings to the Council and stated that the delegation had come to be present for the first meeting of the re-constituted Council and to mark the event by offering a two-minute sand-glass, modelled on that used in the House of Representatives, for use in the Chamber. Mr. Speaker said that the Commonwealth Parliament had been the recipient of some splendid gifts from the British Parliament, the Speaker's Chair and the gilded mace being two magnificent examples. These gifts were greatly valued as visible reminders of links with the Mother of Parliaments and the great parliamentary heritage passed therefrom to the Commonwealth. Mr. Speaker added he liked to think that there existed a similar relationship between the Commonwealth Parliament and the Council.

Mr. Speaker recalled that just over five years ago the Commonwealth Parliament had presented the Presidential Chair. He hoped that the further gift would be another tangible reminder of the goodwill which existed between the Commonwealth Parliament and the Council, and the confidence held by the Parliament in the Council's future as a parliamentary body.

The sand-glass was then unveiled and presented. Mr. President accepted the gift and called upon the Assistant Administrator, as senior government Member, to move a Resolution of Thanks. The Resolution was supported by an elected Member and carried unanimously. (7 L.C. Deb., 1960, No. 1, pp. 3-5.)

(*Contributed by the Second Clerk-Assistant of the Australian Commonwealth House of Representatives.*)

XVI. SOME RULINGS BY THE CHAIR IN THE HOUSE OF COMMONS, 1959-60

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-second Parliament of the United Kingdom (8 & 9 Eliz. II) is taken from Volumes 612 to 627 of the Commons *Hansard,* 5th Series, covering the period from 20th October, 1959, to 27th October, 1960.

NORTHERN TERRITORY LEGISLATIVE COUNCIL: PRESENTATION OF A SAND-GLASS FROM THE SENATE AND HOUSE OF REPRESENTATIVES OF THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH (THE HON. J. MCLEARY, M.M., M.P.) IS SHOWN ADDRESSING THE COUNCIL.

To face p. 180

The respective volume and column 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.

Member(s) (*continued*)

—not stopped from raising another topic by expression of hopes of Leader of the House [627] 730
—not to conduct debate from a seated position [625] 988
—should be careful not to raise points of order which are not points of order [627] 1242

Minister(s)

—cannot be asked about activities for which he is not responsible [619] 395
—cannot be asked to comment on activities of unofficial Members [619] 907-8, [621] 7-8
—cannot be made to answer questions if they do not want [620] 498
—error of, not a point of order for the Chair [621] 1507
—Prime Minister cannot be asked to comment on speech of some unofficial person [619] 1481
—statement by, puts no question before House [620] 1149

Order

—another place
—debates in, in present session, cannot be quoted [614] 658, [619] 1394, [627] 481
—due decorum to be used in referring to Members of [614] 24
—criticism of judge's pronouncement in course of his judicial duty not in order [612] 1335
—imputation of wrong motive should not be made [622] 503-4
—*point of, cannot be a, if only person who can answer it is a Minister [625] 1169
—*reading private letter received from Mr. Speaker, at no time in order in Committee [920] 275, 283-4

Questions to Ministers

—giving information, out of order [625] 1368, [626] 691, 1389
—if on Order Paper, *prima facie* in order [615] 1044
—impugning reputation, out of order if reflecting on an individual, but not if applying to a Board [624] 23
—in order on the basis that the assertion there made is one of fact and not of opinion [615] 1246
—Minister not obliged to answer if he does not wish to do so [613] 383
—quotations from newspapers, or any other sources, not in order in [624] 16, 435
—quotations from speeches out of order in [617] 1131-2
—should not be of inordinate length, whether supplementary or not [613] 1155-6
—supplementary
—extensive quotations out of order [623] 1474
—long, are inconsiderate to Members who have Questions following [613] 682
—multiplicity from one individual Member, makes it difficult for the Chair [613] 391
—should be short [623] 606
—whether in order, Member will be able to ascertain if he tries to put them on paper, since if not in order they will not be allowed [620] 653

Supply

—*Air Estimates, matters of detail cannot be raised on Vote A [618] 1479

XVII. EXPRESSIONS IN PARLIAMENT, 1960

The following is a list of examples occurring in 1960 of expressions which have been allowed and disallowed in debate. Expressions in languages other than English are translated where this may succinctly be done, in other instances the vernacular expression is used, with a translation appended. The Editors have excluded a number of instances submitted to them where an expression has been used of which the offensive implications appear to depend entirely on the context. Unless any other explanation is offered, the expressions used normally refer to Members or their speeches.

Allowed

"allegations and insinuations are not in any way true". (1960 *S. Rhod. Assem. Hans.*, 2868.)
"amateur politicians" (of those in charge of administration of the Madras Corporation). (28 *Madras Assem. Deb.* 212.)
"be honest". (1960 *N.Z. Hans.*, 2325.)
"courage of fools". (1960 *N.Z. Hans.*, 66.)
"debeikkiratham" (Tamil for "dodging"). (32 *Madras Assem. Deb.*, 412.)
"eye catches Members of only one side". (211 *U.P. Assem. Deb.*, 138.)
"fanatics". (38 *Madras L.C. Proc.*, 465.)
"for his own personal gain". (1960 *N.Z. Hans.*, 359.)
"Goebbelesque technique". (1960 *N.Z. Hans.*, 364, 467.)
"hypocritical humbug". (1960 *N.Z. Hans.*, 228.)
"irresponsible". (1960 N.Z. *Hans.*, 2611-2.)
"miserliness". (212 *U.P. Assem. Deb.*, 309.)
"nefarious methods". (1960 *N.Z. Hans.*, 1883.)
"not quite the full quid". (1960 *N.Z. Hans.*, 147.)
"phoney election". (105 *S.A. Assem. Hans.*, 6024.)
"pockets are well-lined". (623 *Com. Hans.*, 1391.)
"political jobbery". (1960 *N.Z. Hans.*, 749.)
"remarks were in bad taste". (1960 *N.Z. Hans.*, 2197.)
"scoundrel" (of an ex-Member). (18 *Aust. Sen. Hans.*, 1974.)
"sermons". (217 *U.P. Assem. Deb.*, 120.)
"twisting a statement". (1960 *N.Z. Hans.*, 755-6.)

Disallowed

"afraid to implement legislation". (1960 *N.Z. Hans.*, 1149.)

"always takes orders from its bosses" (of a political party). (1960 *N.Z. Hans.*, 263.)
"arrant humbug". (17 *Aust. Sen. Hans.*, 428.)
"assassination of character". (1960 *N.Z. Hans.*, 389-92.)
"be honest". (1960 *N.Z. Hans.*, 2627.)
"blockhead". (104 *S.A. Assem. Hans.*, 3145.)
"blue" (in the sense of "spend frivolously"). (1960 *S. Rhod. Assem. Hans.*, 4525.)
"bogus". (*Maharashtra L.C. Deb.*, Vol. I, Pt. II, p. 431, 20th July, 1960.)
"bribe", "bribery". (1960 *N.Z. Hans.*, 79, 850, 1399.)
"bribed its way into power" (of a political party). (1960 *N.Z. Hans.*, 3027.)
"broken reed". (1960 *S. Rhod. Assem. Hans.*, 5801.)
"buying their way in". (1960 *N.Z. Hans.*, 361.)
"cheat". (1960 *N.Z. Hans.*, 819-20.)
"closely allied with Communism". (18 *Aust. Sen. Hans.*, 308.)
"communist". (1960 *N.Z. Hans.*, 1818.)
"concocted" (of a Minister's statement). (*India L.S. Deb.*, 25th November, 1960.)
"condoned thuggery". (1960 *N.Z. Hans.*, 446, 449.)
"crass stupidity". (1960 *S. Rhod. Assem. Hans.*, 5526.)
"crazy crank". (104 *S.A. Assem. Hans.*, 4417.)
"damn thing". (1960 *S. Rhod. Assem. Hans.*, 3597.)
"damned disgraceful". (1960 *Cape. Hans.*, Vol. I, pp. 61, 92.
"danced to the tune of the Zamindars". (214 *U.P. Assem. Deb.*, 441.)
"darn fool". (1960 *N.Z. Hans.*, 3005.)
"deception". (209 *U.P. Assem. Deb.*, 584.)
"degrading and disgusting speeches". (1960 *N.Z. Hans.*, 474.)
"deliberately dishonest". (1960 *S. Rhod. Assem. Hans.*, 3680.)
"did not have a proper understanding of the oath he had taken". (1960 *Queensland Hans.*, 472.)
"did not think the hon. gentleman would stoop so low". (1960 *N.Z. Hans.*, 1782.)
"dills". (1960 *Queensland Hans.*, 57.)
"discreditable speech". (1960 *N.Z. Hans.*, 227.)
"disgraced truth and justice" (of the Governor). (214 *U.P. Assem. Deb.*, 347.)
"dishonesty". (211 *U.P. Assem. Deb.*, 90.)
"drunken bottle-o". (17 *Aust. Sen. Hans.*, 766.)
"endeavoured to delude people". (210 *U.P. Assem. Deb.*, 880.)
"endeavouring to deceive his own Cabinet colleagues". (1960 *Queensland Hans.*, 1486.)
"faking the document". (1960 *Queensland Hans.*, c. 2075.)
"fascist". (1960 *N.Z. Hans.*, 1818.)
"fed up to the back teeth". (1960 *S. Rhod. Assem. Hans.*, 116.)

"filthy mongrel". (1960 *N.Z. Hans.*, 1785.)
"fool". (1960 *Queensland Hans.*, 982.)
"foolishness". (*Punjab L.C. Deb.*, 24th October, 1960.)
"gagged". (1960 *Queensland Hans.*, 1854.)
"gall and venom". (1960 *N.Z. Hans.*, 463.)
"greatest toady in the Cabinet". (1960 *Queensland Hans.*, 801.)
"guts". (1960 *S. Rhod. Assem. Hans.*, 2303.)
"guttersnipe". (1960 *N.Z. Hans.*, 1785.)
"half-dead Ministers". (1960 *W. Indies H. Reps. Hans.*, 1924.)
"half-truths". (1960 *N.Z. Hans.*, 316, 359.)
"half-wit", "half-witted". (1960 *N.Z. Hans.*, 1391, 2177.)
"handling the truth loosely". (632 *Com. Hans.*, 69.)
"hanker after ten rupees" (*i.e.*, the Member's daily allowance). (213 *U.P. Assem. Deb.*, 49.)
"hell of a lot". (1960 *S. Rhod. Assem. Hans.*, 6004.)
"hog-wash". (1960 *W. Indies H. Reps. Hans.*, c. 3059.)
"hooligans". (1960 *Nigeria H. Reps. Hans.*, Vol. I, c. 829.)
"I am staging a walk-out in protest against the ruling of the Chair". (212 *U.P. Assem. Deb.*, 658-67.)
"idiot". (1960 *W. Indies H. Reps. Hans.*, 1283.)
"if the hon. Member went into a public convenience he would stand side-on and lift up his leg". (1960 *Queensland Hans.*, 666.)
"ignorance", "ignorant". (1960 *N.Z. Hans.*, 1651, 1646.)
"impudent and insulting". (1960 *N.Z. Hans.*, 1400.)
"incitement". (103 *S.A. Assem. Hans.*, 885.)
"injustice has been done" (with reference to a ruling by Speaker). (211 *U.P. Assem. Deb.*, 972.)
"intention to deceive". (213 *U.P. Assem. Deb.*, 412.)
"irresponsible". (1960 *N.Z. Hans.*, 1714, 1720.)
"jack rabbits" (referring to the movements of law courts from place to place). (1960 *S. Rhod. Assem. Hans.*, 2483.)
"jackals and their leader". (215 *U.P. Assem. Deb.*, 587.)
"Judases". (31 *N.S.W. L.C. Hans.*, 3640.)
"knaves". (211 *U.P. Assem. Deb.*, 70.)
"komalithanam" (Tamil for "buffoonery"). (31 *Madras Assem. Deb.*, 313.)
"laager mentality". (1960 *S. Rhod. Assem. Hans.*, 5477.)
"lack of courage". (1960 *N.Z. Hans.*, 24.)
"lacks decency". (1960 *N.Z. Hans.*, 1777.)
"levity". (*India L.S. Deb.*, 2nd September, 1960.)
"lie", "liar", "lying" (with or without intensifying epithet). (625 *Com. Hans.*, 998-9; 1960 *Queensland Hans.*, 180, 213, 443, 727; 1960 *N.Z. Hans.*, 1123, 1635, 1735, 2062, 2340; *India L.S. Deb.*, 4th April, 1960; *Punjab L.S. Deb.*, 24th November, 1960.)

"like a crowd of dogs" (referring to the Opposition). (1960 *S. Rhod. Assem. Hans.*, 3028.)
"little lead-head". (1960 *N.Z. Hans.*, 607.)
"maniacal ignorance". (1960 *W. Indies H. Reps. Hans.*, 3082.)
"Member represents the imbecile's view". (1960 *S. Rhod. Assem. Hans.*, 508.)
"mendaciously". (621 *Com. Hans.*, 308.)
"messed about". (*Nyas. L.C. Hans.*, 6th July, 1960, p. 63.)
"mislead the people". (1960 *N.Z. Hans.*, 2183.)
"mongrel". (1960 *Queensland Hans.*, 329.)
"multi-racial knocking shop". (85 *Kenya Hans.*, c. 98.)
"murderer". (1960 *N.Z. Hans.*, 1813.)
"must not refer to outside audience". (1960 *N.Z. Hans.*, 735.)
"newly-found Member of the Liberal Party" (of an Independent, formerly Labour, Member). (31 *N.S.W. L.C. Hans.*, 3635.)
"nonsense". (*India L.S. Deb.*, 2nd September, 1960.)
"not correct and he knew it". (1960 *N.Z. Hans.*, 7, 169, 736, 2143, 2770, 3010.)
"not game". (1960 *N.Z. Hans.*, 1861.)
"not getting fair play". (1960 *Queensland Hans.*, 1610.)
"not honest". (1960 *N.Z. Hans.*, 3345.)
"not quite genuine". (1960 *N.Z. Hans.*, 147-8.)
"not true". (1960 *N.Z. Hans.*, 42, 854, 1307, 2136, 2114, 2144; 1960 *S. Rhod. Assem. Hans.*, 1078.)
"notorious" (of an Act). (103 *S.A. Assem. Hans.*, 2232-3).
"oafish stupidity". (620 *Com. Hans.*, 645-7.)
"old hypocrite". (1960 *N.Z. Hans.*, 2062-3.)
"perpetrated a fraud". (1960 *N.Z. Hans.*, 1023.)
"pipsqueak". (1960 *N.Z. Hans.*, 819.)
"quacking". (1960 *S. Rhod. Assem. Hans.*, 1804.)
"rabble". (1960 *Queensland Hans.*, c. 398, 2229.)
"rat bag". (1960 *N.Z. Hans.*, 422, 1401.)
"repressive" (of legislation). (103 *S.A. Assem. Hans.*, 2777; 104 *ibid.*, 2901.)
"scabs and rats". (31 *N.S.W. L.C. Hans.*, 3814.)
"scurrilous". (105 *S.A. Assem. Hans.*, 6426-7.)
"shameless manner". (*India L.S. Deb.*, 25th November, 1960.)
"shirt-tail agreement". (1960 *Queensland Hans.*, 2719.)
"should be ashamed of himself". (1960 *N.Z. Hans.*, 319, 369, 700.)
"skids were put under him". (1960 *Queensland Hans.*, 988.)
"slurs". (1960 *N.Z. Hans.*, 2878.)
"smear", "smearing". (1960 *N.Z. Hans.*, 393, 445.)
"sneer". (1960 *N.Z. Hans.*, 1444, 2878, 3026.)
"so-called Cabinet". (1960 *W. Indies H. Reps. Hons.*, 1583.)
"sordid". (104 *S.A. Assem. Hans.*, 4586-7.)
"sounds like a barking dog". (1960 *N.Z. Hans.*, 853-4.)

"speak the truth". (1960 *N.Z. Hans.*, 232.)
"stooge". (629 *Com. Hans.*, 358.)
"swindle". (1960 *N.Z. Hans.*, 3338.)
"talk inconsiderately". (211 *U.P. Assem. Deb.*, 263.)
"tell the truth". (1960 *N.Z. Hans.*, 40.)
"thieves fall out". (1960 *Queensland Hans.*, 1590.)
"tied to the vested interests". (1960 *Queensland Hans.*, 961.)
"tripe". (1960 *S. Rhod. Assem. Hans.*, 5485.)
"twisted". (1960 *N.Z. Hans.*, 1506, 1511, 1677.)
"two-headed Chinaman with an impediment in his speech". (1960 *Queensland Hans.*, c. 2665.)
"uncouth". (105 *S.A. Assem. Hans.*, c. 6426-7.)
"untruth". (1960 *N.Z. Hans.*, 2769.)
"utterly false". (1960 *N.Z. Hans.*, 770, 2649.)
"vicious". (1960 *N.Z. Hans.*, 1405.)
"whip-cracking . . . on the Chairman". (1960 *Queensland Hans.*, 1855.)
"words couched in the language of the gutter". (1960 *N.Z. Hans.*, 460.)
"worthless good-for-nothings". (1960 *W. Indies H. Reps. Hans.*, 1921.)
"yes-men" (referring to Nominated Members). (85 *Kenya Hans.*, c. 1594.)
"you are endeavouring to stifle debate" (addressed to Chair). (1960 *Queensland Hans.*, 1843.)
"your eyesight cannot be too good, Mr. Speaker". (1960 *N.Z. Hans.*, 1282.)

Borderline

"criminal waste of money". (36 *Madras Assem. Deb.*, 621.)
"lancham vangi" (Tamil for "having received bribes": deprecated with reference to Judges). (29 *Madras Assem. Deb.*, 446.)
"Membergal sombi thirikirargal" (Tamil for "Members are idling". (32 *Madras Assem. Deb.*, 570.)
"money spent on dying generations". (36 *Madras Assem. Deb.*, 621.)
"notorious". (28 *Madras Assem. Deb.*, 506.)
"pedithanam" (Tamil for "cowardice"). (36 *Madras Assem. Deb.*, 54.)
"pekinese". (621 *Com. Hans.*, 555.)
"terrorising" (not a desirable word to use in the Assembly). (31 *Madras Assem. Deb.*, 252.)
"told a white lie". (*Punjab L.C. Deb.*, 18th February, 1960.)
"useless endeavour". (36 *Madras Assem. Deb.*, 621.)

XVIII. REVIEW

The Parliament of South Australia (An outline of its history, its proceedings and its buildings). Prepared by G. D. Combe, M.C. (Clerk of the House of Assembly). Government Printer, Adelaide, 1960.

The Parliamentary Building of Uganda. Text by C. Bodgener and Laurence Tester. Government Printer, Entebbe, Uganda, 1960. Price 2s.

It is always a pleasure to your Editors to receive publications which deal not only with the dry bones of procedure in the Parliament concerned, but also with the Legislature itself, its personalities, buildings and history. Many such publications, for example the parliamentary year-books produced by numerous assemblies, it would not be appropriate to review, interesting in detail though their content may be; no such inhibition, however, attaches to the two booklets which are the subject of the present notice, which are among the most excellent of their kind that it has been your reviewer's fortune to see.

As their titles imply, their scope is not entirely similar. The purpose of the Uganda booklet is to commemorate the opening of the new Parliament building at Kampala, which forms the subject of a notice on p. 178. On the centre page the building is displayed, by means of an aerial photograph, in relation to other surrounding Kampala landmarks, giving evidence of the care and taste which have gone to the laying-out of a well-ordered, spaciously-planned city. The building itself consists, not only of the Council Chamber and its related offices, but also of several blocks of Government offices, which are linked together by bridges (in a manner intended, as the authors remark, to be both symbolical and practical). The decoration of the Council Chamber is simple and dignified, the main elaboration of design being reserved for the central lobby of the building, the whole of one wall of which is occupied by a carved wooden screen, which took eighteen months to manufacture and represents innumerable aspects of the landscapes and life of the territory, distributed over the area of the screen in a manner which has some relation to their geographical location. The authors, illustrators and photographer have amply discharged their task in describing these and many other matters of design and detail, and the whole is prefaced by a short and informative history of the Legislative Council.

The South Australian pamphlet does not purport to commemorate

any new building, the present Parliament House, which was opened in 1939, being the latest of a series of four buildings (of which the third, completed in 1889, survives as the western wing). By far the greater part of the work deals with such matters as the constitutional structure of South Australia, the Officers of Parliament, and parliamentary procedure in general, on all of which Mr. Combe writes with the greatest clarity and authority. Indeed, a fairly lengthy passage on financial procedure speaks well for the intellectual curiosity which the author feels entitled to demand from his readership. It is clear that the Parliament of South Australia, to a greater extent perhaps than most State legislatures, has preserved the forms which were in existence in the United Kingdom at the time of the inauguration of responsible government in 1856. This should not, however, be taken as evidence of over-formality or ossification; as Mr. Combe points out, the Legislature of South Australia was the first in Australia to extend parliamentary franchise to women, anticipating the United Kingdom in this respect by over twenty years. In another matter, of smaller importance but nevertheless not without its symbolic significance, it is noteworthy that the President and Clerks of the Upper House have dispensed, except on ceremonial occasions, with the wearing of wigs; Mr. Combe's own House, however, still resolutely refuses to bend, in this respect, before the winds of change. On these, and many other such topics, the author comments with wit and distinction.

In sum, the Parliaments of both the countries concerned have been well served by the publication of these two booklets, which it is hoped will have the widest possible circulation.

XIX. THE LIBRARY OF THE CLERK OF THE HOUSE

The following volumes, recently published, may be of use to Members:

The Unification of South Africa, 1902-10. By *L. M. Thompson*. Oxford. 50s.

Our Responsibility. By *H. A. Fagan*. Stellenbosch. 10s. 6d.

Introduction to British Constitutional Law. By *D. C. M. Yardley*. Butterworths. 22s. 6d.

Election in Developing Countries. By *T. E. Smith*. Macmillan. 30s.

Great Parliamentary Occasions. By *J. Enoch Powell*. H. Jenkins. 13s. 6d.

The British General Election of 1959. By *D. E. Butler* and *Richard Rose*. Macmillan. 30s.

An Introduction to Democratic Theory. By *H. B. Mayo*. Oxford. 22s.

Parties and Politics in America. By *Clinton Rossiter*. Cornell. $1.65.

Marxism in South-East Asia. Edited by *F. N. Trager*. Oxford. 42s.

Nationalised Industry and Public Ownership. By *W. A. Robson*. Allen and Unwin. 50s.

Constitutional Developments in Nigeria. By *Kalu Ezeru*. Cambridge. 30s.

Must Labour Lose? By *M. Abrams, R. Rose* and *R. Hinden*. Penguin. 2s. 6d.

New Patterns of Democracy in India. By *Vera M. Dean*. Harvard. $4.75.

Constitutional Government in India. By *M. V. Pylee*. Asia Publishing House. 80s.

Canada and the Privy Council. By *C. G. Pierson*. Stevens. 21s.

Organised Groups in British National Politics. By *Allen Potter*. Faber. 42s.

Essays in Constitutional Law. By *R. F. V. Heuston*. Stevens. 42s.

The Presidency: Crisis and Regeneration. By *H. Finer*. Chicago. 40s.

The Council of Europe. By *A. H. Robertson*. Stevens. 45s.

Party Politics, II: The Growth of Parties. By *Sir Ivor Jennings*. Cambridge. 45s.

XX. RULES AND LIST OF MEMBERS

The Society of Clerks-at-the-Table in Commonwealth Parliaments

Name.

1. The name of the Society is "The Society of Clerks-at-the-Table in Commonwealth Parliaments".

Membership.

2. Any Parliamentary Official having such duties in any Legislature of the Commonwealth as those of Clerk, Clerk-Assistant, Secretary, Assistant-Secretary, Serjeant-at-Arms, Assistant Serjeant, Gentleman Usher of the Black Rod or Yeoman Usher, or any such

Official retired, is eligible for Membership of the Society upon payment of the annual subscription.

Objects.

3. (*a*) The objects of the Society are:

(i) To provide a means by which the Parliamentary practice of the various Legislative Chambers of the Commonwealth may be made more accessible to Clerks-at-the-Table, or those having similar duties, in any such Legislature, in the exercise of their professional duties;

(ii) to foster among Officers of Parliament a mutual interest in their duties, rights and privileges;

(iii) to publish annually a JOURNAL containing articles (supplied by or through the Clerk or Secretary of any such Legislature to the Joint-Editors) upon Parliamentary procedure, privilege and constitutional law in its relation to Parliament.

(*b*) It shall not, however, be an object of the Society, either through its JOURNAL or otherwise, to lay down any particular principle of Parliamentary procedure or constitutional law for general application; but rather to give, in the JOURNAL, information upon those subjects which any Member may make use of, or not, as he may think fit.

Subscription.

4. The annual subscription of each Member shall be 25s. (payable in advance).

List of Members.

5. A list of Members (with official designation and address) shall be published in each issue of the JOURNAL.

Records of Service.

6. In order better to acquaint the Members with one another and in view of the difficulty in calling a meeting of the Society on account of the great distances which separate Members, there shall be published in the JOURNAL from time to time, as space permits, a short biographical record of every Member. Details of changes or additions should be sent as soon as possible to the Joint-Editors.

Journal.

7. One copy of every publication of the JOURNAL shall be issued free to each Member. The cost of any additional copies supplied to him or any other person shall be 35s. a copy, post free.

Joint-Editors, Secretary and Treasurer.

8. The Officials of the Society, as from January, 1953, shall be

the two Joint-Editors (appointed, one by the Clerk of the Parliaments, House of Lords, and one by the Clerk of the House of Commons, in London). One of the Joint-Editors shall also be Secretary of the Society, and the other Joint-Editor shall be Treasurer of the Society. An annual salary of £150 shall be paid to each Official of the Society acting as Secretary or Treasurer.

Accounts.

9. Authority is hereby given the Treasurer of the Society to open a banking account in the name of the Society as from the date aforesaid, and to operate upon it, under his signature; and a statement of account, duly audited, and countersigned by the Clerks of the two Houses of Parliament in that part of the Commonwealth in which the JOURNAL is printed, shall be circulated annually to the Members.

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XXI. 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 on promotion.

Bridges, Peter, M.B.E.—Clerk of the East Africa Central Legislative Assembly; *b.* 1923; *ed.* Marlborough; *m.*; 2 *s.*, 1 *d.*; served in 4th Bn. Dorset Regt. (France) and 3rd Bn. Nigeria Regt. (Burma), 1942-46; Colonial Administrative Service Course, Clare College, Cambridge University, 1947-48; District Officer, Basutoland, 1948-54; Private Secretary to U.K. High Commissioner in Union of South Africa, 1954-59; appointed to present post, March, 1959.

Brimage, Gladstone William.—Clerk-Assistant of the Legislative Council of Tasmania; *b.* 1905; *ed.* Guildford Grammar School, W.A.; joined Tasmanian Civil Service, 30th June, 1936; served in 2/40 and 2/8 Australian Infantry Battalions 1941-44; appointed to present position, 17th March, 1953.

Fahey, Peter Coleman.—Third Clerk at the Table, House of Assembly of Tasmania; *b.* 1932; *ed.* St. Virgil's College, Hobart; joined House of Assembly staff, 1951, as Assistant Clerk of Papers; appointed to present position, 23rd July, 1957.

Hitchcock, Ronald George, B.Sc.—Clerk of the Nyasaland Legislative Council, Zomba; *b.* 1923; *ed.* St. Andrew's (B.Sc.) and Oxford Universities: served R.A.F. 1941-46; joined Colonial Adminstrative Service (now Her Majesty's Oversea Civil Service) in Nyasaland, 1950, serving in various districts in the Southern Province until 1955 when posted as an Assistant Secretary in the Secretariat, Zomba: appointed Clerk, August, 1960.

Hucks, Geoffrey William Young, O.B.E.—Clerk of the Legislative Council of Tanganyika; *b.* 1906; *ed.* Highgate School and Christ's College, Cambridge; M.A.; Admin. Officer (Cadet), Tanganyika, 1929; District Officer, 1941; Asst. Chief Secretary, 1948; Senior District Officer, 1951; Acting Provincial Commissioner, 1955; Supervisor of Elections, 1957; O.B.E., 1959; retired 31st August, 1960; appointed to present position, 1st September, 1960.

Latour, George Eustace Rex.—Clerk of the Legislature, Trinidad, the West Indies; *b.* 3rd June, 1915, at St. James, Trinidad; *m*; no *c*; *ed.* Cambridge, School Certificate; joined Government 8th February, 1937; served for varying periods in following Departments: Health (Hospital and Preventive Branches), Petroleum, Ministry of Industry, Central Secretariat; appointed to Legislature as Clerk-Assistant in June, 1957; promoted to present position 26th January, 1960.

Pullicino, Philip.—Clerk of Legislative Council, Uganda; *b.* 27th August, 1915; *ed.* St. Aloysius College, Malta; *m.* 4 *s.*; Higher Division Clerk, Malta Civil Service, 1934-40; Adjutant, Malta Special Constabulary, 1940, Superintendent in Charge, 1941-43; Private Secretary to Governor of British Honduras, 1943-45; Malta Civil Service, 1945-47; Administrative Officer, Zanzibar, 1947-54; awarded Brilliant Star of Zanzibar, 4th Class, 1951; District Officer, Uganda, 1954-61; appointed present position, 1st July, 1960.

Saxon, Alicen Walter Boxall.—Usher of the Black Rod and First Clerk, Legislative Council of New South Wales; *b.* 22nd June, 1912, Marrickville, N.S.W.; *ed.* Petersham High School, N.S.W.; *m.* 1941; 1 *s.*, 1 *d.*; entered N.S.W. Public Service as Clerk, State Monier Pipe Works, 1929; transferred Department of Labour and Industry, 1933; Private Secretary to the Assistant Ministers in the Mair-Bruxner, McKell and McGirr Ministries, 1941-48; the Minister for Building Materials, McGirr Ministry, 1948-49; the Secretary for Mines and Minister for Building Materials, McGirr Ministry, 1949-50; and the Minister for Secondary Industries and Minister for Building Materials, McGirr and Cahill Ministries, 1950-52; appointed Third Clerk, Legislative Council, 20th March, 1953; Second Clerk, 11th March, 1954; to present office, 1st July, 1960; successfully completed examination requirements of Association of Australian Accountants, 1941.

Thompson, Leonard Albert.—Clerk-Assistant and Serjeant-at-Arms, House of Assembly, Parliament of Tasmania; *b.* Castlemaine, Vic-

toria, 20th June, 1908; *ed.* St. Patrick's College, Launceston; *m.* 1932; 2 *s.*, 2 *d.*; 16 years in journalism, Launceston and Hobart; publication—*The Parliament of Tasmania,* 1856-1943 (first ed.) "1856-1960" (second ed.); Justice of the Peace; appointed to present position, May, 1941.

Walker, Frederick Herbert.—Clerk of the Legislative Council for the Northern Territory of Australia; *b.* 29th September, 1922, at Richmond, Victoria; active service with A.I.F., 1941-46; joined Commonwealth Public Service, 1938, and served in a number of departments in Victoria and Papua, New Guinea; appointed Clerk-Assistant, 1959; appointed to present position, September, 1960.

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NOTE.—*The detailed entries under the names of Countries relate only to such constitutional matters as need entries separate from those appearing under Subject headings; cross-references to the latter are given, but without details of sub-headings or page numbers.*

ABBREVIATIONS

(*Art.*)=Article in which information relating to several Territories is collated.
(Com.)=House of Commons. S/C=Select Committee.
1R=First Reading. 2R=Second Reading. 3R=Third Reading.

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