The Table

BEING

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

EDITED BY
R. W. PERCEVAL AND R. S. LANKESTER

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USUAL PARLIAMENTARY SESSION MONTHS

Parliament.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
United Kingdom		●	●	●	●	●	●				●	●
Northern Ireland	●	●	●	●	●	●				●	●	●
Jersey	●	●	●	●					●	●	●	
Canada — Federal Parliament	●	●	●	●	●	●	●					
Canada — Ontario	●	●	●	●							●	●
Canada — Quebec	●	●	●	●	●	●						
Canada — Nova Scotia			●	●								
Canada — New Brunswick		●	●	●							●	
Canada — Manitoba		●	●	●								
Canada — British Columbia	●	●	●	●								
Canada — Prince Edward Island		●	●	●							●	●
Canada — Saskatchewan	●	●	●	●								
Canada — Alberta		●	●	●								
Canada — Newfoundland			●	●	●	●						
Australian Commonwealth — Commonwealth Parliament		●	●	●	●	●		●	●	●	●	
Australian Commonwealth — New South Wales		●	●					●	●	●	●	●
Australian Commonwealth — Queensland			●	●				●	●	●	●	●
Australian Commonwealth — South Australia				●	●			●	●	●	●	
Australian Commonwealth — Tasmania			●	●	●			●	●	●	●	●
Australian Commonwealth — Victoria			●	●	●	●		●	●	●	●	●
Australian Commonwealth — Western Australia							●	●	●	●	●	●
Australian Commonwealth — Northern Territory		●			●			●			●	
Papua and New Guinea		●			●				●			
New Zealand						●	●	●	●	●	●	
Western Samoa			●	●	●			●	●	●		
Ceylon	●	●	●	●	●	●	●	●	●	●	●	●
India — Central Legislature		●	●	●	●			●	●		●	●
India — Andhra Pradesh			●				●	●	●	●		●
India — Bihar		●	●	●	●				●	●	●	
India — Bombay		●	●	●				●	●	●		
India — Kerala		●	●	●						●		
India — Madhya Pradesh			●	●			●	●	●			●
India — Madras	●	●	●	●				●	●	●		●
India — Mysore		●	●	●				●	●		●	●
India — Orissa		●	●	●					●	●		
India — Punjab		●	●	●	●						●	●
India — Uttar Pradesh						No settled practice.						
India — West Bengal		●	●	●					●	●		●
Pakistan — National Assembly		●		●					●	●		●
Pakistan — East Pakistan						No settled practice.						
Pakistan — West Pakistan												
Rhodesia and Nyasaland Federation — Federal Assembly		●	●				●	●	●		●	
Rhodesia and Nyasaland Federation — Southern Rhodesia		●					●	●	●	●	●	
Rhodesia and Nyasaland Federation — Northern Rhodesia			●	●			●	●	●		●	●
Rhodesia and Nyasaland Federation — Nyasaland						No settled practice.						
Ghana												
Federation of Malaya						No settled practice.						
Nigeria — House of Representatives						No settled practice.						
Nigeria — Northern			●	●								
Nigeria — Eastern						No settled practice.						
Nigeria — Western	●	●	●	●	●	●						●
Sierra Leone			●								●	●
Tanganyika		●			●	●				●		●
Jamaica			●	●	●						●	
Trinidad and Tobago	●	●	●	●	●					●	●	●
Uganda	●	●	●	●	●	●			●		●	●
Aden						No settled practice.						
Bermuda						No settled practice.						
British Guiana	●	●	●	●	●	●	●	●	●	●	●	●
British Solomon Islands						●						●
East African Common Services Organization				●					●			●
Gibraltar	●	●	●	●	●	●	●			●	●	●
Kenya		●		●	●	●				●	●	
Malta, G.C.						No settled practice.						
Mauritius			●	●	●	●			●	●	●	●
Sarawak						No settled practice.						
Singapore	●	●	●	●	●	●	●	●	●	●	●	●
Zanzibar						No settled practice.						

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THE JOURNAL OF

THE SOCIETY OF CLERKS-AT-THE-TABLE

IN COMMONWEALTH PARLIAMENTS

I. EDITORIAL

Major George Thomson, C.B.E., D.S.O., M.A.—His many friends throughout the legislatures of the Commonwealth will learn with regret that Major Thomson retired from the office of Clerk of the Parliaments of Northern Ireland on 17th June, 1962.

Major Thomson, after distinguished service in the First World War, became Librarian of the newly created Parliament of Northern Ireland in 1921 and, after service as Second Clerk Assistant and Clerk Assistant, was appointed Clerk of the Parliaments in 1948.

In that capacity he had the pleasure of welcoming to Northern Ireland successive Parliamentary Courses organised by the Commonwealth Parliamentary Association and many Commonwealth Parliamentarians who attended those Courses will remember the tremendous ability and zest with which Major Thomson looked after them and the care he took to ensure that their stay in Northern Ireland was both pleasant and instructive.

(*Contributed by the Clerk of the Parliaments, Northern Ireland.*)

E. V. R. Samerawickrame, C.B.E.—The Constitution of Ceylon provides that the age of retirement of the Clerk of the Senate shall be sixty years. Mr. Samerawickrame, having reached the age of retirement on 8th February, 1963, the Leader of the Senate (Senator The Hon. A. P. Jayasuriya, Minister of Health) moved on 5th March, 1963, the following Motion that stood in the name of the Prime Minister, the Leader of the Opposition and himself:

That Mr. President be requested to convey to Mr. Edmund Vernon Raymond Samerawickrame on his retirement from the Office of Clerk of the Senate the sense of appreciation of this House of the high services uniformly rendered to the Senate by him over a period of fifteen years during which period he has by his ready advice and unfailing courtesy endeared himself to all sections of this House.

He went on to say:

We have sought to set out in the Motion the feelings all hon. Members entertain at the loss to this House of the services of Mr. Samerawickrame.

Mr. Samerawickrame was the first Clerk of this House. He has not only been the chief instrument in its creation but during the course of these many years he has helped to mould its traditions and played an invaluable part in its day-to-day work. Coming as he does from a family with great legal traditions, Mr. Samerawickrame himself has had a distinguished career both at the Bar and on the Bench before placing his services at the disposal of the Legislature on the grant of independence to Ceylon.

After receiving his education at St. Joseph's College, Colombo, Mr. Samerawickrame took his oaths as an Advocate in March, 1927, at the same time as Mr. Hema Basnayake and Mr. E. H. T. Gunasekera, both of whom eventually reached the Supreme Court Bench. Mr. Samerawickrame practised as a member of the unofficial Bar for about one and a half years and then joined the Attorney-General's Department as Crown Counsel where he worked for about four or five years. He held judicial office from 1935 to 1944, when he was seconded for service as Principal Assistant to the Legal Secretary, which post he held until its abolition in 1947 when the new Constitution was inaugurated and saw the creation of Ceylon's second Legislative Chamber and the Minister of Justice replace the Legal Secretary. I have no doubt that Mr. Samerawickrame's legal training and traditions have in great measure contributed to his great success as Clerk of this House.

Mr. Samerawickrame's departure closes a chapter. His work in starting this institution on its course has been well and truly done. We hope that, in his retirement, Mr. Samerawickrame will continue to devote his ability and experience in the service of this country. I suggest, Mr. President, that you and the House Committee should consider the desirability of extending to Mr. Samerawickrame the facilities of this House that he enjoyed prior to his retirement.

The Leader of the Opposition (Senator A. T. A. de Souza) seconded the Motion. Tributes were paid by Senator Dr. M. V. P. Peiris (United National Party), Senator A. Reginald Perera (Mahajana Eksath Peramuna) and Senator Muttyah Manickam (Federal Party). The Prime Minister (Senator The Hon. Sirimavo Bandaranaike) expressed her gratitude to Mr. Samerawickrame on behalf of herself and the Government for the distinguished service he had rendered over a period of fifteen years with great acceptance and wished him many years of useful and happy retirement.

After the Motion was agreed to *nemine dissentiente*, the President (Senator The Hon. C. Wijesinghe) said:

Hon. Senators, as requested by the House, I shall communicate the terms of the resolution, just agreed to, to Mr. Samerawickrame. I need only say on my own behalf that in all sincerity I associate myself with all that has been said about him. The nature of our duties has thrown Mr. Samerawickrame and me very much together and nothing I can say can adequately reflect the sense of gratitude I feel to Mr. Samerawickrame for all his courtesy and kindness throughout our association when, whether on being elected to the Chair or while I have held the office of President, I was in need of his assistance. I join with you all in wishing Mr. Samerawickrame all happiness in the future.

The same day an evening party was held in honour of Mr. and Mrs. Samerawickrame which was attended by the Prime Minister,

President of the Senate and Senators and their wives. Mr. Samerawickrame was accorded the right of access to the Library and the facilities of the Refreshment Room during his retirement.

(*Contributed by the Clerk of the Senate.*)

Colonel Gerald Edward Wells, C.B.E., E.D.—The retirement of Col. G. E. Wells as Clerk of the Federal Assembly of Rhodesia and Nyasaland took effect on 14th July, 1962. He had served the Federal Assembly as Clerk of the House since its inception. Proceedings in the House concerning his retirement are given below.

On Wednesday, 27th June, 1962, Mr. Speaker made the following announcement to the House:

I have to announce that I have received the following communication from the Clerk of the House today:

SIR,

I have the honour to inform you that I shall reach my retiring age on the 13th July, 1962, and that, in accordance with the conditions governing my service, I am due to retire on the following day, the 14th July, 1962.

I joined the service of the British South Africa Company, the then Government of Southern Rhodesia, in 1918, and for the last twenty-six years have been in the service of the Parliaments of Southern Rhodesia and the Federation of Rhodesia and Nyasaland.

I feel greatly privileged to have been a servant of Parliament and proud and honoured that it fell to my lot to become the Clerk of the Federal Assembly on its inception in 1953.

To you, Mr. Speaker, my warmest thanks are due for your generous support and encouragement and for your kindly forbearance. I should like also to thank Members, both past and present, for their consideration and kindness at all times.

To my colleagues on the staff of the House, of all grades, I wish to say how very much I appreciate their loyal support and help. It has been our constant aim to assist in establishing for our young Parliament the foundations of a parliamentary tradition based upon that of Westminster, and I should like to acknowledge the friendly co-operation we have received from the Officers of the House of Commons in this endeavour.

I shall look back upon all this kindness and goodwill with the greatest pleasure in the days ahead.

I am, Sir,
Your obedient servant,
G. E. WELLS.

The Minister of Law and Leader of the House then said:

Mr. Speaker, hon. Members will like to know that an opportunity will be given next week to discuss the matters referred to in the letter that you have just read.

On Thursday, 5th July, 1962, when the First Report of the Sessional Committee on Standing Rules and Orders, which recommended the appointments to be made at the Table by the House consequent upon the retirement of Colonel Wells was being considered, the Leader of the House moved the following resolutions:

That the Report be adopted and that Mr. Speaker be requested to convey to Colonel Gerald Edward Wells, C.B.E., E.D., on his retirement from the Office of Clerk of the House, an expression of Members' deep appreciation of the service which he has rendered the House since its inception, their admiration for his profound knowledge of procedure and practice, and their gratitude for the help constantly and readily given to them.

He then went on to say:

Now, Mr. Speaker, I proceed to the second part of the motion, and the first point that occurs to me is that the Standing Rules and Orders Committee naturally has to be rather circumspect in the way it draws up a motion, but my feeling is that the motion does not go wide enough because it does not recognise sufficiently the services Colonel Wells has rendered to the country. That service extends since 1918—that is a period of forty-four years—and it extends therefore to eighteen years, apart from parliamentary service, and some twenty-six years of parliamentary service.

During that service Colonel Wells held judicial office as magistrate and he held certain other offices and he served two Parliaments for twenty-six years. The country is tremendously indebted to Colonel Wells for that forty-four years' service and both Parliaments that I have mentioned are tremendously indebted to his services to them.

Colonel Wells above all was anxious at all times to uphold the dignity and prestige of Parliament; I think probably more anxious than most hon. Members. He, I think, always felt very keenly when anything happened that might impair the dignity of Parliament or do anything to lower its prestige. Anything of that sort wounded him very deeply—a thing that perhaps some of us hon. Members have not felt in the same way although we should have. I think the prestige that our parliamentary institutions have in this country is in a very great measure due to Colonel Wells for the manner in which he has served Parliament and served the country. (*Hon. Members:* Hear, hear.)

Now, the terms of the motion do recognise, Mr. Speaker, the profound knowledge of procedure and practice that the Clerk of the House has always shown, and nobody will be in any doubt on that matter. What one might add to that is that in the administration of the rules the Clerk has at all times shown an impartiality that could never be questioned in any way. Nothing tricky or shady, if I may use that expression, could ever possibly get past him and he did well, both to the Government and to the Opposition and to the Independent hon. Members. Each of them got a measure of help from the Clerk of the House and never at any time did he lend himself to any manœuvre that might give an advantage to any party that was not warranted by the occasion, by the practice and the rules of procedure.

The motion also recognises the gratitude of hon. Members for the help constantly and readily given to them, and, Mr. Speaker, I think we can all say that we cannot imagine any person performing his duties in a more helpful and friendly manner than Colonel Wells has constantly done. (*Hon. Members:* Hear, hear.) The very least request for assistance and help was always met in a very full way and help was at all times volunteered and nothing could have been more generous than Colonel Wells in his helpfulness to hon. Members.

Mr. Speaker, on another occasion hon. Members have had the opportunity to express some appreciation of Colonel Wells' work, but on that occasion, of course, no record was kept of the proceedings, and it is for that reason that I have spoken at some length on this occasion, and I have no doubt that other hon. Members will wish to do so. We, Mr. Speaker, must have it on record how much we appreciate these services and how well we wish Colonel Wells and his lady in their retirement in the future. (*Hon. Members:* Hear, hear.)

Mr. Williamson on the Opposition benches supported the motion and said:

Mr. Speaker, I rise to support the motion from the Minister and I should like to add my little bit, Sir, in support of the motion which is before this House.

I should like to say, Sir, that I endorse all that the Minister has said in reference to our friend, Colonel Wells, and I do so, not only on my own behalf but on behalf of those who sit on the cross benches and also those who have sat in the Opposition in years gone by. When your procession entered this Chamber this afternoon, Sir, it was difficult to believe that it was the last time we would see Colonel Wells following Mr. Speaker with his solemn and dignified step in his capacity as Clerk.

Well, Sir, such is life and I am afraid with frequent elections taking place it is quite possible that many of us might enter this House some day, not knowing that it may be for the last occasion. (*Laughter.*) Now, Sir, to add a personal touch, I have known Colonel Wells for many years. He was amongst a group of promising young men who in years gone by were transferred to Gwelo Magistrate's Court in order to gain that quiet, serene and humble outlook on life which one acquires in the capital of the Midlands. He was one of others that I can remember, Mr. Guy Gisborne, Mr. Johnnie Franks, Mr. J. B. Ross and Mr. A. D. Evans, all gentlemen who have served their country well. (*Hon. Members:* Hear, hear.)

Sir, I have found with Colonel Wells that it was never too much trouble to him to assist any hon. Member of this House. (*Mr. Graylin:* Quite right.) In fact he went out of his way to assist hon. Members. He went as far as he possibly could, and he only stopped short when it came to writing their speeches, which I think is perhaps a pity. Like many men of Colonel Wells' generation, he is, of course, far too active a man to allow himself to go to seed and I feel sure that after a short holiday he will engage himself with vigour in some other direction even if perhaps it is just a hobby.

Mr. Speaker, I, with the Minister, wish Colonel Wells and his good lady the best of health and happiness. May they be able to say to each other in the words of Robert Browning: " Grow old along with me, the best is yet to be."

There followed tributes from other members of the House, after which the Question was put and agreed to *nemine contradicente.*

Mr. Speaker then said:

I have been asked by Colonel Wells as he is unable to take part in these proceedings in the House, to tell the House how much he appreciates the Motion which has already been agreed upon and to express on his behalf his deep sense of gratitude to the Ministers and hon. Members for their very kind remarks. On my own behalf may I say, remarks so thoroughly and richly deserved. (*Hon. Members:* Hear, hear.)

(*Contributed by the Clerk of the House, Federal Assembly.*)

Shri Raghunath Singh.—On the occasion of his retirement as Secretary of the Madhya Pradesh Vidhan Sabha, the Speaker, Mr. K. L. Dube, read to the House on 25th June, 1962, the letter received from Shri Raghunath Singh in which the latter had thanked members of the Vidhan Sabha for their co-operation and had expressed his gratitude towards the Speaker for the guidance given to him from time to time.

Mr. Speaker mentioned that during this period of his service Shri Singh held the post of Secretary to the Vidhan Sabha and its Committees with distinction, and admired his capability, sagacity and the devotion with which he discharged his duties. Mr. Speaker further pointed out that during his tenure the traditions of the House had been strengthened.

Shri Chandra Pratap Tiwari, Leader of the Praja Socialist Party in the Vidhan Sabha, while appreciating Shri Singh's services, suggested that the Legislature Secretariat should be vested with more powers to deal with matters relating to services of the Secretariat.

Shri Virendra Kumar Saklecha, Leader of the Opposition, Shri Shakir Ali Khan, Shri Ram Das Agarwal, Shri Brindaban Prasad Tiwari and Shri Laxmi Narain Gupta, members, also praised the services of Shri Singh.

Shri B. A. Mandloi, Leader of the House, endorsed the views expressed by the Speaker and other members of the House and wished Shri Singh a long and happy life.

(*Contributed by the Secretary of the Madhya Pradesh Vidhan Sabha.*)

William George Browne.—Mr. Browne, Clerk Assistant and Usher of the Black Rod in the Legislative Council of Western Australia, retired in January, 1963, after over thirty years on the Parliamentary staff.

Mr. Browne went to Australia from England after service in the Royal Navy during World War I and joined the Parliamentary staff in 1926. He occupied various clerical positions before being appointed Clerk Assistant and Usher of the Black Rod in 1956.

Following his retirement, Mr. Browne, accompanied by his wife, left Western Australia on an extensive overseas trip.

(*Contributed by the Clerk of the Parliaments.*)

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:

K.C.B.—Sir Barnett Cocks, Clerk of the House of Commons.

C.B.—D. W. S. Lidderdale, Clerk-Assistant of the House of Commons.

M.B.E.—Yao Ping Hua, Clerk of the Council Negri, Sarawak;
A. A. Ahmed, Clerk of the Legislative Council, Aden.

II. THE JOINT COMMITTEE ON HOUSE OF LORDS REFORM AND THE PEERAGE BILL

By J. Sainty
A Clerk in the House of Lords

The general considerations which led to the setting up of the Joint Committee on House of Lords Reform have been set out in detail in an article in Volume XXX of THE TABLE, pages. 23 to 56. The proposal for a Joint Committee was first mentioned on 13th April, 1961, in the debate in the House of Commons on the consideration of the Report of the Committee of Privileges on the Wedgwood Benn Petition (Commons Debates, Volume 638, columns 499-642). The Home Secretary and Leader of the House (Mr. Butler) and the Attorney-General (Sir Reginald Manningham-Buller) indicated that, while the Government did not favour the appointment of a committee to consider the single issue arising in the Stansgate case, they would consider the possibility of an inquiry which would include the broader questions of composition and remuneration (columns 565-75; 625-33).

On 20th April a Motion appeared on the Commons Order Paper amongst the "Early Day Motions" in the name of Mr. Leavey, a Conservative back-bencher, in these terms:

> Renunciation of Peerages: That this House having agreed with the Committee of Privileges in their Report concerning Mr. Anthony Neil Wedgwood Benn urges Her Majesty's Government to state the steps for the appointment of a Joint Committee of both Houses of Parliament with such terms of reference as would require the committee to make specific recommendations for legislation to permit in appropriate circumstances renunciation of Peerages on inheritance.

On 21st and 24th April respectively amendments to this Motion were tabled by two other Conservative back-benchers, Sir Peter Agnew and Mr. Hirst, both of which sought to include in the terms of reference of the proposed committee power to make recommendations for general reform of the House of Lords. On 3rd May an amendment was tabled by Mr. Ellis Smith, a Labour member, which recommended the rejection of "any solution of the problem which fails to provide for the complete abolition of the hereditary principle". Mr. Leavey's Motion remained on the Order Paper until 5th May.

Meanwhile, on 26th April, 1961, Government Statements were

made in both Houses (Commons Debates, Volume 639, columns 420-32; Lords Debates, Volume 230, columns 873-82) giving the proposed terms of reference of the Committee as follows:

> House of Lords Reform: That it is expedient that a Joint Committee of both Houses of Parliament be appointed to consider, having regard among other things to the need to maintain an efficient Second Chamber,
>
> (*a*) the composition of the House of Lords,
> (*b*) whether any, and if so what, changes should be made in the rights of Peers and Peeresses in their own right in regard to eligibility to sit in either House of Parliament and to vote at Parliamentary elections; and whether any, and if so what, changes should be made in the law relating to the surrender of peerages, and
> (*c*) whether it would be desirable to introduce the principle of remuneration for Members of the House of Lords, and if so subject to what conditions,
>
> and to make recommendations.

In the Commons Mr. Gaitskell asked whether, in view of the fact that there was no agreement on the wider issues raised, the inquiry could not be limited to the question of disabilities from which Peers suffered in respect of the House of Commons and the possibility of renouncing peerages, matters upon which he felt there was widespread agreement. In the Lords Lord Alexander of Hillsborough (Leader of the Labour Party in the House of Lords) made substantially the same point. Lord Rea (Leader of the Liberal Party) said that in principle he supported what he described as "this very open inquiry".

The Government Motion was placed upon the Commons Order Paper on 1st May. On 1st June Mr. Emrys Hughes, a Labour Member, tabled an amendment to it which sought to empower the committee to investigate the abolition of the House of Lords. On 9th June Mr. Ness Edwards, another Labour Member, tabled an amendment which invited the committee to consider "whether the House of Lords should be abolished and its legislative functions be transferred to a Standing Committee of the House of Commons, and to further consider whether the power to create both hereditary and life peerages should be ended". Although the Government Motion remained on the Order Paper until the conclusion of the Session on 24th October, as early as 20 July *The Times* reported that the Parliamentary Labour Party had decided emphatically against joining in the work of the committee since "the terms of reference would allow changes to be recommended in the composition of the Lords but would exclude consideration of the powers of the Upper House".

In the early part of Session 1961-62 the Government became convinced that no progress could be made with the project unless the objections of the Labour Party were met. On 1st February, 1962, *The Times* reported that, on Mr. Gaitskell's assurance that the Government would narrow the terms of reference of the committee

to meet the Opposition's objections, the Parliamentary Labour Party had decided to co-operate in its work. In consequence, when the new terms of reference appeared on the Commons Order Paper for 9th February, they excluded the broader questions of composition and remuneration and were confined to the narrower questions of the anomalies in the composition of the House of Lords and the surrender of peerages. The terms of reference were as follows:

House of Lords: That it is expedient that a Joint Committee of both Houses of Parliament be appointed to consider whether any, and if so what, changes should be made in the rights of Peers of England, Scotland, Ireland, Great Britain or of the United Kingdom, and of Peeresses in their own right, to sit in either House of Parliament, or to vote at Parliamentary elections, or* whether, and if so under what conditions, a Peer should be enabled to surrender a peerage permanently or for his lifetime or for any less period having regard to the effects and consequences thereof.

On 28th March, 1962, the Motion to set up a Joint Committee with these limited terms of reference was debated in the Commons (Commons Debates, Volume 656, columns 1363-1457). Mr. Macleod, the new Leader of the House, stated the Government's view (columns 1365-66) that if a discussion of the wide issues about the composition of the House of Lords as a whole had been envisaged "they felt that there might not even have been agreement to proceed to set up a Join Select Committee. Accordingly, we have decided not to put forwar this wide general point as part of the Motion." Mr. Gaitskell expressed agreement with this view (columns 1375-76). The Attorney-General (column 1452), in answer to a question by Mr. Mitchison concerning the interpretation of the revised terms of reference, said that he thought that "any committee would have regard to the history preceding its appointment".

A similar Motion was debated in the House of Lords on 10th April, 1962 (Lords Debates, Volume 239, columns 372-462). Lord Hailsham, Leader of the House, said (column 380) "The terms of reference have been agreed between the Parties. They do not include powers. The general issue of composition is not included." Lord Alexander of Hillsborough said (column 387) "There is some question as to whether the aim of the terms of reference has been drawn tightly enough to keep to the position to which we wish to adhere." He said that he and his colleagues would accept the Motion because the terms of reference were "capable of being discussed in general upon the basis that we want to be discussed".

On 18th April and 1st May respectively the Commons and Lords members of the committee were appointed. The Commons members were six Conservatives (Mr. Frederick Bennett, Mr. du Cann, Mrs. Emmet, Mr. Longden, Sir Charles Mott-Radclyffe and Sir Kenneth Pickthorn), four Labour Members (Mr. Gordon Walker, Mr. Hale,

* "Or" was changed to "and" on 21st March.

Mr. Mitchison and Mr. Charles Pannell) and one Liberal Member (Mr. Wade). The Lords members were six Conservatives (The Lord Chancellor (Viscount Kilmuir), the Marquess of Salisbury, the Earl St. Aldwyn (Government Chief Whip), the Earl of Swinton, the Viscount Colville of Culross and Lord Derwent), four Labour (Viscount Alexander of Hillsborough (Leader of the Party in the Lords), the Earl of Listowel, Lord Silkin, and Lord Morrison of Lambeth), one Liberal (Lord Rea (Leader of the Party in the Lords)) and one non-Party member (Lord Morton of Henryton, a former Lord of Appeal in Ordinary). There were thus eleven Commons members of the committee compared with twelve from the House of Lords, a situation without precedent in the history of Joint Committees since they were re-established in 1864.

The Committee met for the first time on 9th May, when the Lord Chancellor, Viscount Kilmuir, was moved into the Chair. (He continued as Chairman after his resignation as Lord Chancellor on 6th July. He was created Earl of Kilmuir on 20th July.) The Committee held nine meetings during the Session 1961-62 and on 25th July made a Report (H.L. 125, H.C. 262 (1961-62)) in which they stated that they had not completed their work and recommended the reappointment of a committee with the same terms of reference in the next session. The Committee was duly reappointed in November, 1962, with the same membership, meeting for the first time on 14th November. The Committee held four meetings, again under the Chairmanship of Lord Kilmuir. Its Report was made on 5th December and published on 17th December.

At the opening of their Report (H.L. 23, H.C. 38 (1962-63)) the Committee made it clear that their deliberations were really an extension of the discussions that had taken place in the committee of the previous Session. They also made it clear that, in the light of the general tenor of the debates in both Houses on the Motions to set up the committee of the previous Session, they had interpreted their order of reference in a narrow sense or, to use their own words, "as excluding the curtailment of any existing rights save in so far as such curtailment may be the appropriate consequence of the surrender of a Peerage". In consequence of this decision they were debarred from considering any other proposal for imposing any restriction on the rights of Peers of England, Great Britain or of the United Kingdom to sit in the House of Lords. The narrow interpretation of the terms of reference was acceptable to the whole Committee except for a Liberal member, Mr. Wade, who moved an amendment (page 13 of the Report) which was critical of the terms of reference, since they did not allow the Committee to consider the whole subject of the composition of a reformed second Chamber.

Undoubtedly the most important recommendations of the Committee concern the surrender of Peerages and it has been thought helpful to set these out in full:

(*a*) a person who may succeed to a Peerage should be enabled to surrender his Peerage;

(*b*) a Peer who may have succeeded to a Peerage before the time that any change in the law becomes operative, whether or not he may have applied for and received a Writ of Summons to the House of Lords, should also be enabled to surrender his Peerage;

(*c*) Peerages may be surrendered for life only;

(*d*) the right to surrender should be exercised entirely at the discretion of the Peer concerned;

(*e*) Peerages surrendered should remain dormant until the death of the Peer who has surrendered, leaving to the next heir the decision whether to surrender the Peerage in his turn;

(*f*) a Peer who surrenders should do so by executing a formal instrument to be deposited with the Lord Chancellor and, in the case of a Peer who is a member of the House of Commons at the time of succession, notification of surrender should be given to the Speaker within a month of succession, if Parliament is not dissolved;

(*g*) there should be a time limit before the end of which a Peer should be able to surrender his Peerage, and this time limit should be, in the case of a Peer who is at the time of succession a member of the House of Commons one month from that time; in the case of a Peer who has succeeded to a Peerage, six months from the time that the change in the law becomes operative; in all other cases, one year from the time of succession;

(*h*) in the case of a Peer disabled from sitting at the moment of succession by reason of minority, bankruptcy or any other ground of disqualification, the time limit before the end of which such a Peer should be able to surrender should be one year from the cessation of the disability;

(*i*) in order to overcome possible difficulties in cases of disputed succession, any person who believes that he is, or might be, the successor to a Peerage should be given power to decide irrevocably in favour of the surrender of that Peerage by giving formal notice of his decision, thus enabling such a person to make his choice within the times already prescribed, whether his claim to the Peerage is subsequently substantiated or not;

(*j*) a Peer who surrenders his Peerage should be enabled to vote at parliamentary elections and be eligible for election to the House of Commons;

(*k*) no nomination of a Peer as a Parliamentary candidate for the House of Commons should be valid unless such a person exhibits to the Returning Officer a duly certified copy of the instrument of surrender;

(*l*) any person duly nominated as a candidate for election as a Member of the House of Commons should be deemed by that nomination to have agreed to and entered into an irrevocable undertaking to surrender any Peerage to which he may succeed or be found to have succeeded up to the declaration of the poll; and the declaration of the returning officer that he is the successful candidate should operate as a binding contractual acceptance of that undertaking and make effective the renunciation of such Peerage from the time of succession;

(*m*) a person who succeeds to a Peerage while a member of the House of Commons should immediately be disabled from taking part in any of the proceedings of that House, such disability to continue until he has executed the instrument of surrender and has duly notified the Speaker; upon surrender such a person should be entitled to resume his status as an active member of the House of Commons without further proceedings and without breach of privilege or loss of seniority;

(*n*) a Peer who surrenders his Peerage should not be entitled to any of the titles, privileges, immunities or precedence attached to peerage and should have in every respect the status of a commoner;

(*o*) in the event of the public interest requiring a person who has surrendered his Peerage to become a member of the House of Lords, such a person should be summoned to that House not by virtue of a restoration to the Peerage surrendered but by the conferment of a Peerage created under the Life Peerages Act 1958;

(*p*) a person who succeeds to another Peerage after having surrendered a Peerage or Peerages to which he succeeded on an earlier occasion, or occasions, should have the right to reconsider his position;

(*q*) the wife and descendants of a Peer who surrenders should not use the courtesy titles or enjoy the social precedence derived from such Peer, even in the cases where such wife and descendants had enjoyed these titles or precedence in the lifetime of a more remote ancestor before the surrender took place;

(*r*) the other relatives of a Peer who surrenders should retain the use of courtesy titles and enjoy the social precedence derived from an ancestor or collateral of such Peer. (*Report*, pages 8-10.)

It was clear that the more important of these recommendations represented a compromise. Labour members of the Committee favoured the view that surrender should entail the extinction of a Peerage for all time. They had already made this clear in a division that took place in the Committee of Session 1961-62 (Report, page x) and they divided again upon this issue when the Draft Report was under consideration (Report, page 14).

The Committee also considered, but did not favour, the suggestion that upon surrender a Peerage should devolve immediately on the next heir—an extension of the abdication principle.

Probably the most interesting and important division took place on the question whether a Peer who had succeeded to a Peerage before any change in the law became operative should be enabled to surrender, whether or not he had taken his seat in the House of Lords. Lord Hailsham had submitted a memorandum (Report, 1963, pages 64 to 66) in which he argued the case for allowing Peers who had taken their seats to surrender. The Committee decided by one vote to extend the category of Peers entitled to surrender in the direction suggested by Lord Hailsham. The Labour and Liberal members voted in favour of the proposal, the Conservatives and Lord Morton against it. However, Mrs. Emmet, a Conservative member, voted in favour of it and Mr. Hale, a Labour member, voted against it (page 15).

An important proposal, which found support from certain Conservative members of the Committee and also from Lord Morton, was that Peers should be enabled to divest themselves of the parliamentary status of Peerage by declining a Writ of Summons while retaining the use of their titles. An amendment with this object was defeated on a division by 15 votes to 4 (page 16).

Another point upon which opinions in the Committee were divided

was the length of time that a Peer should have in which to come to a decision whether to surrender his Peerage or not (sub-paragraph (*f*)). Broadly speaking it was the view of the Labour members of the Committee that the time should be reduced to six months, while the Conservative members favoured its extension to two years. There was, however, a certain amount of cross-voting on this issue.

Lord St. Aldwyn moved an amendment with the object of making it possible for persons succeeding to Peerages before the age of twenty-one to postpone their decision until the age of twenty-five. This was, however, defeated. Sir Charles Mott-Radclyffe unsuccessfully moved an amendment with the object of securing extension of the dates from which the time limits should run on compassionate grounds. An amendment by Lord Rea sought to make it possible for the Crown to confer hereditary as well as life Peerages upon persons who had previously surrendered their Peerages (paragraph (*o*)).

Three Labour members of the Committee were critical of the proposal in the Report which allowed a person who had succeeded to another Peerage, after having surrendered a Peerage, or Peerages, to which he succeeded on an earlier occasion or occasions, the right to reconsider his decision. Their attempt to have this removed from the Report was defeated on a division (page 20).

The Committee then turned their attention to the Peerage of Scotland. Their recommendations were that the elections of Representative Peers of Scotland should be abolished and that all Scottish Peers should be admitted to the House of Lords on the same terms as Peers of England, Great Britain and the United Kingdom. Peeresses of Scotland were to enjoy the same rights. There were no divisions of opinion in the Committee on this point.

Turning to the peerage of Ireland, the Committee felt unable to recommend any revival of the system of Representative Peers. Accordingly they confined their recommendations to removing certain anomalies which attached to Irish Peers in relation to parliamentary elections. In practical terms this meant the removal of the restriction which prevented them from seeking election for constituencies in Northern Ireland and also the restriction which prevented them from voting in parliamentary elections in the United Kingdom unless they were sitting members of the House of Commons of that Kingdom.

Lastly the Committee considered the position of Peeresses in their own right. Their decision was that all Peeresses in their own right of England, Scotland, Great Britain and the United Kingdom should be admitted to the House of Lords on the same terms as Peers. In view of this recommendation the Committee favoured the repeal of the statutory provision which conferred upon Peeresses in their own right the right to vote at parliamentary elections.

The Committee added to their Report a series of 18 Appendices

covering a total of 43 pages. Some of these had been provided by the Official Group which had been foreshadowed in Mr. Butler's speech of 13th April, 1961, and set up before the Committee were appointed, to prepare papers on various aspects of the question. Others were prepared by Lord Balfour of Burleigh, Chairman of the Committee of Representative Peers of Scotland, Viscount Vaughan, on behalf of the non-represented Peers of Ireland, the Lord Advocate, Garter King of Arms and Lyon King of Arms. Lord Hailsham, Leader of the House of Lords, submitted two memoranda, the second of which argued as has been noticed in favour of those Peers who on succession had taken their seats in the House of Lords being able to take advantage of any recommendations the Committee might make relating to the surrender of Peerages.

On 28th March, 1962, the Government initiated debates in both Houses (Lords Debates, Volume 248, columns 265 to 347; Commons Debates, Volume 674, columns 1548 to 1649) with the object of gathering views on the recommendations of the Committee. In the Lords the Lord Chancellor stated that, if Parliament favoured the recommendations, the Government would assist the passage of such legislation as was necessary in order that it should be in operation in time for the next general election. He undertook that a statement would be made on the subject between Easter and Whitsun. He made clear that it was the Government's view that legislation along the lines recommended by the Committee presented no difficulty except for the proposal requiring a Peer standing for Parliament to exhibit a copy of the instrument of surrender to the returning officer, and that making nomination act as an irrevocable undertaking to surrender a Peerage to which a candidate might succeed during an election. Mr. Macleod, in the Commons, made substantially the same points. In both Houses there was very general agreement that the proposals of the Committee should be implemented as soon as possible. Members of all Parties, while expressing certain reservations, recognised that the best chance of securing general support for the legislation was to accept the recommendations as a whole, which all recognised to be a compromise between divergent views.

The Labour Party (with the exception of Lord Silkin) considered that surrender should entail the extinction of the Peerage in question, but stated that they would not press this objection to a point at which legislation might be jeopardised. In the Commons Sir Charles Mott-Radclyffe defended the scheme for allowing a Peer to divest himself of the parliamentary status of Peerage while retaining the use of his title, but stated that he was prepared to be bound by the majority decision of the Committee. Lord Rea, Leader of the Liberal Party in the House of Lords, was critical of the title of the Committee which he felt disguised the very limited character of the Committee's terms of reference.

Regret was expressed in both Houses (the Earl of Gosford and Lord Rathcavan in the Lords, Colonel Grosvenor and Sir William Teeling in the Commons) that more could not have been done to secure some kind of representation for the Irish Peerage in the House of Lords. Lord Rea considered that Irish Peers should be obliged to surrender their Peerages in the same way as other Peers before becoming candidates for election to the House of Commons. Two Labour Peers (Viscount St. Davids and Lord Strabolgi) opposed the admission of hereditary Peeresses into the House of Lords. Somewhat strangely, two Scottish Representative Peers (the Earl of Perth and Lord Sempill) opposed the abolition of the system of Scottish Representative Peers and the consequential admission of all Scottish Peers into the House of Lords.

Criticism was directed, particularly by Lord Rea, at the proposal that only life peerages should be conferred on persons who had surrendered hereditary peerages.

Winding up for the Government in the House of Lords, Lord Hailsham said that it was clear that the House would endorse the proposals of the Committee as a broad whole if, after Easter, the Government decided that legislation was the right course.

On 2nd May, 1963, during a business statement in the House of Commons, the Leader of the Opposition, Mr. Wilson, asked the Leader of the House, Mr. Macleod, when he expected to be able to announce the decision of the Government on the question of House of Lords reform. Mr. Macleod said that a statement would be made sometime during the month and repeated the undertaking that legislation would be in operation before the general election (Commons Debates, Volume 676, column 1316). This undertaking was repeated by Mr. Macleod during the business statement on 9th May (Commons Debates, Volume 677, columns 674 to 675 and 677).

Government statements were made in both Houses on 15th May. In the Lords Lord Hailsham said that the Government had given the most careful consideration to the opinions expressed in the course of the debates on 28th March. He said that, in their view, the recommendations of the Committee were likely to be generally acceptable to both Houses and he was, therefore, in a position to state that it was the intention to introduce legislation to give effect to them in time to take effect at the next general election. A Bill would be introduced shortly, but if it was not practicable to secure its passage this session, the Government would reintroduce it at the beginning of next session. The same statement was made in the Commons by Mr. Macleod (Lords Debates, Volume 249, columns 1316 to 1321; Commons Debates, Volume 677, columns 1324 to 1328).

Just before the Whitsun Recess on 30th May the Government introduced a bill entitled the Peerage Bill. It was introduced in the House of Commons—somewhat anomalously in view of its character.

The bill was designed to give effect so far as possible to the recommendations of the Joint Committee. Clauses 1 to 3 were designed to enable any person who had succeeded to a peerage, or might in the future succeed, to "disclaim"—this term was preferred to the Committee's "surrender" for technical reasons—his peerage for life. The time limits for disclaiming recommended by the Committee were preserved in the bill: one month from succession for persons who were members of the House of Commons at the time of succession, twelve months from succession for all other persons and six months for those persons who had succeeded before the time of the commencement of the Act. The bill contained, however, in Clause 1 (4) and Clause 2 (4) provisions for the extension of these time limits—a proposal that had been rejected by the Committee. In addition the Government felt that they were unable to accept two other proposals made by the Committee. One of these was that a person standing for election to the House of Commons should automatically be deemed to have undertaken to disclaim any peerage to which he might succeed during the election. The Government felt that this was capable of working an injustice and provided instead that the election, in these cases, should be allowed to proceed and that the candidate, if successful, should be given the normal one month in which to make up his mind. The other departure from the Committee's recommendations was that the Government did not feel able to include the provision requiring a Parliamentary candidate who had disclaimed his peerage to produce to the Returning Officer a copy of the instrument of disclaimer as a condition of nomination.

The remaining clauses carried out the recommendations of the Committee without alteration. Clause 4 provided for the discontinuance of the elections for Scottish Representative Peers and the admission of Scottish peers to the House of Lords on the same terms as peers of the United Kingdom. Clause 5 removed the restrictions on the eligibility of Irish peers in relation to membership of the House of Commons and voting at Parliamentary elections. Clause 6 provided for the admission of Peeresses in their own right on the same terms as peers of the United Kingdom. In Clause 7 (2) it was provided that the legislation should come into effect at the dissolution of the existing Parliament. This was to cause a good deal of controversy in both Houses.

The bill had its Second Reading in the House of Commons on 19th June (Commons Debates, Volume 679, columns 461-556). The Second Reading was moved by Mr. Macleod, the Leader of the House of Commons, who confined himself largely to indicating the points at which the bill departed from the recommendations of the Joint Committee. The bill found general acceptance in the House. Most of the detailed criticisms had already been rehearsed when the Report of the Committee had been considered. The bill was considered in Committee of the Whole House on 27th June (Commons Debates,

Volume 679, columns 1663-1731). An amendment was moved by a Liberal member, Mr. Wade, who had served on the Committee, to make the execution of a disclaimer binding on the person disclaiming and all his successors. As could have been anticipated from earlier discussions, this amendment found considerable support from Labour members. On a division the amendment was defeated by 185 votes to 134. The next amendment was moved by a Labour member, Mr. Dingle Foot. Its object was to allow a person upon whom a peerage had been conferred and who subsequently succeeded to a further peerage to disclaim the peerage that had been conferred upon him as well as the one to which he had succeeded. It was particularly designed to allow the Earl of Longford to take advantage of the provisions of the bill. The Attorney-General (Sir John Hobson) advised the House to reject the amendment as it was contrary to the principle of the bill. It was negatived without a division. The only other amendment was moved by a Labour member, Mr. Gordon Walker, and was designed to bring the provisions of the bill into operation at Royal Assent rather than on the dissolution of Parliament. After some argument during which both Labour members and the Leader of the House attempted to justify their points of view by appeals to precedent, the amendment was rejected by 174 votes to 113.

On 4th July the Lord Chancellor moved the Second Reading of the bill in the House of Lords (Lords Debates, Volume 251, columns 1004-1085). He made substantially the same points as Mr. Macleod in the House of Commons. The bill was generally welcomed by the Labour and Liberal leaders, Earl Alexander of Hillsborough and Lord Rea, although the latter stated that he regarded it as " only an interim measure . . . from the angle of reform of the House of Lords in its wide and generally accepted sense ". As far as the rest of the House was concerned, opinion was also generally favourable. Two Conservative peers, however, the Earls of Sandwich and Perth, were strongly critical of the bill. A Labour peer presented the abolitionist point of view and the House was regaled with a maiden speech from its first Communist member, Lord Milford.

The bill was considered in Committee of the Whole House on two days, the 11th and 16th July (Lords Debates, Volume 251, columns 1459-1526 and Volume 252, columns 117-151). The first amendment was moved by a peer from the Cross Benches, Lord Boothby. Its object was substantially the same as that moved by Mr. Wade and sought to make the effect of the execution of an instrument of disclaimer the permanent extinction of the peerage concerned. The amendment found general support amongst the Labour peers but was opposed by the Conservatives. It was defeated on a division by 106 votes to 25. Next a Conservative peer, the Earl of Swinton, who had been a member of the Committee, moved an amendment the object of which was to give a person who had already succeeded

at the time of the commencement of the Act twelve rather than six months in which to disclaim, thus placing him in the same position as a person who would succeed after the commencement of the Act. In support of his amendment Lord Swinton said that it was connected with a later amendment in the name of Lord Silkin which sought to bring the Act into operation on Royal Assent. The Lord Chancellor stated his view that the amendment as it stood would have a very different effect from that intended by Lord Swinton. On the assurance that the matter would be looked at again, Lord Swinton withdrew his amendment. Lord Saltoun moved an amendment which was designed to make provision for cases of uncertain succession in which a person might lose his option to disclaim through having been ignorant of the fact of succession. The Lord Chancellor stated that there were great difficulties involved in the question and said that, in his view, the number of occasions when hardship would be inflicted would be very rare. Further examination was promised, however, and the amendment was withdrawn. Lord Saltoun next moved an amendment which was designed to allow a person who disclaimed a peerage to retain the use of his title. It received vigorous support from Lord Salisbury (who had moved an amendment to this effect in the Joint Committee) and Lord Sandwich. It was, however, withdrawn. The next substantial amendment was moved by Lord Sandwich which sought to give to Irish peers the same right to sit in the House of Lords as was being accorded to Scottish peers under the bill. The amendment was defeated by 90 votes to 5. The Earl of Perth, a Scottish Representative peer, next moved an amendment which was designed to retain the system of election for Scottish peers while increasing the number of representatives to 20. He argued that the fact that the elections took place gave to those elected a special sense of responsibility in fulfilling their duties. His reason for increasing the number of representatives to 20 was to take into account the Peeresses of Scotland in their own right. He was supported by two other peers holding Scottish peerages, Lord Mansfield and the Duke of Atholl. The Lord Chancellor stated that the conditions which gave rise to the limitation on the number of Scottish peers in the House of Lords no longer applied and that this provision in the bill was designed to remove a long-standing anomaly. The amendment was withdrawn. On the next day in Committee two amendments were moved by Lords Saltoun and Clitheroe on the subjects of disputed succession and the creation of Life Peerages in any degree respectively. They were both withdrawn. A great deal of controversy, however, was centred round an amendment moved by a Labour Peer, Lord Silkin, who had been a member of the Joint Committee. This amendment, in the same terms as that moved by Mr. Gordon Walker in the House of Commons, was designed to bring the provisions of the bill into effect at Royal Assent rather than on the dissolution of Parliament. In the

course of a long discussion it became clear that this amendment had massive support in all quarters of the House. From the Conservative benches both Lord Salisbury and Lord Swinton spoke in support of it. The Lord Chancellor argued that the Government's undertaking to implement the recommendations of the Committee had been fully honoured by the proposal in the bill to make its provisions operative at dissolution. On this amendment the Government was decisively defeated by 105 votes to 25.

The Report stage of the bill was taken in the House of Lords on 18th July (Lords Debates, Volume 252, columns 302-312). Two amendments were moved. The first, moved by the Duke of Atholl, was designed to relieve the alleged hardship suffered by peers who had succeeded while young in having to exercise the option to disclaim at a very early age. His proposal was that for any person who succeeded to a peerage before he was twenty-five the time-limit of twelve months should run from his twenty-fifth birthday. From the Labour benches the amendment was opposed by Lord Morrison of Lambeth. The Duke withdrew his amendment. The other amendment was moved by Lord Swinton and was really a redraft of the amendment he had moved on the Committee stage, being designed to give persons who succeeded to peerages before the commencement of the Act the same time—one year—in which to disclaim as that which would be enjoyed by those who succeeded after its commencement. He admitted that the adoption of this amendment would involve a departure from the recommendations of the Committee. Although a member of the Committee himself he said he had come to the conclusion that there was no real reason in logic or equity for discrimination between the two classes of persons concerned. Furthermore he considered that the adoption of the amendment to bring the bill into force on Royal Assent gave added force to his argument. The amendment was agreed to without a division.

The bill was read a third time on 22nd July (Lords Debates, Volume 252, columns 450-456) and returned to the Commons. The Commons considered and agreed to the two amendments made by the Lords—relating to commencement and the extension of the time limit for persons who had already succeeded to peerages—on 30th July (Commons Debates, Volume 682, columns 361-374). Mr. St. Clair, the member for Bristol, South-East, took this opportunity of stating that he would honour an undertaking which he had given to Mr. Wedgewood Benn (Viscount Stansgate) that he would resign his seat as soon as the law was changed in order to allow him (Mr. Wedgwood Benn) to stand again. The bill received the Royal Assent on 31st July, 1963, and that same evening two peers handed their instruments of disclaimer to the Clerk of the Crown in Chancery—Lord Stansgate (Mr. Anthony Wedgwood Benn) and Lord Altrincham (Mr. John Grigg).

III. NORTHERN IRELAND: ELECTION OF A SPEAKER CONTESTED

By J. Sholto F. Cooke
Clerk of the Parliaments

The House of Commons was summoned to attend at Stormont on Tuesday, 19th June, at 11 o'clock pursuant to Proclamation, it being the first day of the meeting of the above Parliament.

The Clerk of the Parliaments attending in the House was handed a Book containing a list of the Members returned to serve in the Parliament by the Clerk of the Crown. Several of the Members repaired to their seats.

The House received a Message by the Gentleman Usher of the Black Rod to attend His Excellency the Governor of Northern Ireland (The Lord Wakehurst, K.G., K.C.M.G.) in the Senate Chamber.

The House went and a Proclamation having been read for opening and holding the Parliament, His Excellency declared Her Majesty's pleasure that the House of Commons should proceed with the choice of a Speaker and present such person for Her Majesty's Royal approbation.

The House having returned, Mr. J. W. Morgan (Belfast, Cromac, Unionist) (addressing himself to the Clerk of the Parliaments who, standing up, pointed at him and then sat down): I have very great pleasure in moving, That Captain the Right Honourable Sir Charles Norman Lockhart Stronge, Baronet, M.C., H.M.L., do take the Chair of this House as Speaker.

And after he had spoken, Mr. T. W. Boyd (Belfast, Pottinger, Northern Ireland Labour) seconded the Motion proposed by the Honourable Member for Cromac (Mr. J. W. Morgan).

Mr. McAteer (Londonderry, Foyle, Nationalist) then rose and, addressing himself to the Clerk, moved:

That Mr. Roderick Hugh O'Connor (West Tyrone, Nationalist) do take the Chair of this House as Speaker.

At the conclusion of this speech, Mr. P. Gormley (Mid-Londonderry, Nationalist), seconded the proposal of the Honourable Member for Foyle.

Sir Norman Stronge (Mid-Armagh, Unionist) then spoke on behalf of his own candidature and was followed by Mr. Connellan (South Down, Nationalist) on behalf of the candidature of the Honourable Member for West Tyrone (Mr. O'Connor).

No other Member having risen, the Prime Minister (Viscount Brookeborough) rose and invited the Clerk to put the Question.

The Clerk then put the following Question:

That Captain the Right Honourable Sir Norman Lockhart Stronge, Baronet, M.C., H.M.L., do take the Chair of this House as Speaker.

The House divided. Ayes 31. Noes 10.

Whereupon Sir Norman Stronge was conducted to the Chair by the Proposer and Seconder of the Motion.

Mr. Speaker-Elect (Standing on the upper step): Before taking the Chair of this House I should once again like to thank right hon. and hon. Members for the great honour they have done me in electing me to the Chair. I hope I shall not fail them.

Mr. Speaker-Elect sat down in the Chair. Then the Mace (which before lay under the Table) was placed upon the Table.

After the Prime Minister (Viscount Brookeborough) had congratulated Mr. Speaker, he retired and re-entered the House in wig and gown.

The House, having been summoned to attend His Excellency the Governor, by the Gentleman Usher of the Black Rod, went and having returned; Mr. Speaker: I have to report to the House that in the Senate His Excellency the Governor, on behalf of Her Majesty the Queen, has been pleased to approve the choice made of myself for the office of Speaker and in your name and on your behalf I have laid claim by humble petition to the rights, privileges and immunities assured to the Commons of Northern Ireland by the Government of Ireland Act, 1920, and that the most favourable construction may be placed on all your proceedings. All these His Excellency, on behalf of Her Majesty, has been pleased to allow and confirm. My first duty to the House is to repeat my very respectful acknowledgements and thanks for the honour which they conferred upon me by placing me in the Chair of this House.

I must now call upon all Members, according to the usual custom, to take the Oath of Allegiance at the Table of the House, first doing so myself.

Thereupon Mr. Speaker, first alone, standing upon the upper step of the Chair, took and subscribed the Oath and signed the Roll.

IV. NORTHERN TERRITORY, AUSTRALIA: THE REMONSTRANCE

By F. H. Walker
Clerk of the Legislative Council

It would appear that the reaction of most people in Australia was one of amusement when they heard on their national news on 28th August, 1962, that the Legislative Council for the Northern Territory proposed to deliver to the Federal Parliament a schedule of their grievances in the form of a remonstrance. The *Sydney Morning Herald*, after noting that such a form of protest was considered obsolete, "even in England", nevertheless stated: "It is hard, therefore, to deny a measure of wry admiration to the Northern Territory Legislative Council for having dredged up this method of airing its long-standing resentment of Canberra's iron grip on the administration of the Northern Territory."

The remonstrance was introduced by Mr. N. C. Hargrave, M.L.C., the leader of the elected group in the Council. By leave he tabled the document and moved "That the Clerk, shall, as soon as it is practicable after the conclusion of this meeting, proceed with the least possible delay to the Houses of Parliament at Canberra and there present to the honorable the President of the Senate and the honourable the Speaker of the House of Representatives copies of the document which I have this day tabled in this Council."

The document consisted of eleven pages of typing including a title preamble, eight grievances and a prayer. The preamble began "The Legislative Council for the Northern Territory with respect and humility addresses itself to—The Honorable the President and Members of the Senate; and the Honorable the Speaker and Members of the House of Representatives in Parliament assembled". Then were cited two passages from article 19 of the International Declaration of Human Rights concerning the rights of the individual as regards government and also a citation of the section of the Constitution giving the Parliament powers over the Territory. A brief sentence followed: "The Legislative Council for the Northern Territory presents its grievances to the Commonwealth Parliament."

The eight grievances were:

"1. The political rights of the citizens of the Northern Territory are inferior to those of other citizens of Australia.

2. The Commonwealth Government has failed to develop the Northern Territory to the reasonable limits of the capacity of the Commonwealth and the Territory itself.
3. The Legislative Council for the Northern Territory, although responsible for the making of laws for the peace, order and good government, has no voice in the allocation or expenditure of government moneys in the Territory.
4. The Commonwealth Government has failed to accord the Legislative Council for the Northern Territory the respect and dignity due to a legislative body created ostensibly in the British parliamentary tradition.
5. The Commonwealth Government has conveyed to the people of Australia a false and misleading impression that the Northern Territory is a mendicant state.
6. By failing to stimulate a higher rate of population increase in the Territory the Commonwealth Government has exposed the Australian nation to the criticism of failing to justify its occupancy of the land.
7. The true government of the Northern Territory is a bureaucracy.
8. The defence of the Australian continent has been placed in jeopardy by the failure of the Commonwealth Governmen' to develop what is the logical entry point for any aggressor.'

Each grievance was followed by a statement having the object of justifying the grievance. Some of these statements were limited to three or four short paragraphs, but others included detail covering up to three pages.

The remonstrance passed through the Council after a division in which the six official members who are appointed by the Government voted against it while the eight elected and three non-official members supported it.

It was taken to Canberra in the week following the meeting of the Council and duly presented to Mr. Speaker and Mr. President in their offices and subsequently each House was informed of its presence by an announcement from the Chair. On the day of its presentation a petition from the elected members of the Council praying that the House should consider the remonstrance was presented to the House of Representatives by the Federal Member for the Territory, Mr. J. Nelson.

To date no debate on the remonstrance has taken place in the Federal Parliament, although some mention of it was made during the debates on the Estimates later in the year. On that occasion Mr. Nelson sought leave of the House to have the text of the remonstrance included in *Hansard*, but this was refused. Whether anything further will eventuate remains to be seen.

Claims made in certain newspapers that it was the first time such a political instrument had been used in Australia were proven to be incorrect in the light of early New South Wales history where a small number had been presented to the Parliament very early in the colony's history. Nevertheless it would appear to have been the first occasion in Australia that such a device had been used by one legislature in approaching a parent legislature.

V. EXCHANGES BETWEEN CLERKS IN THE HOUSE OF COMMONS AND CLERKS IN OTHER COMMONWEALTH LEGISLATURES

By M. T. Ryle
A Senior Clerk in the House of Commons

For a number of years, under a scheme initiated by Lord Campion, Clerks have come from Commonwealth legislatures all over the world to Westminster to spend a period, usually about three months, on a formal attachment to the Department of the Clerk of the House, to study the work of the United Kingdom Parliament. The first of these official attachments was undertaken by the present Clerk of the Southern Rhodesian Assembly, Mr. L. J. Howe-Ely, in 1949. Altogether 71 Clerks have taken part in this scheme, and more attachments are planned. In addition shorter, informal, visits have been paid to the Department by many Commonwealth Clerks.

The purposes of such visits has naturally varied. Some Clerks have come with a wealth of parliamentary experience behind them, but keen to study procedural developments at Westminster, and to compare notes with their opposite numbers in the Clerk's Department. Others, particularly from countries with new and rapidly developing legislative systems, have come as learners, to study the fundamentals of parliamentary procedure which are well established at Westminster but are also common to all Commonwealth Parliaments. Others again have come to discuss particular problems relevant to procedural developments in their own legislatures. All have been able to see at close quarters the work of the various offices of the Department of the Clerk of the House, and also something of the work of the Clerks in the House of Lords and of the officers of the Serjeant-at-Arms Department, of the Library and of *Hansard*.

Parallel with these attachments from overseas, Clerks from the House of Commons have made visits to numerous Commonwealth legislatures to assist in the revision of Standing Orders, to lecture and advise on procedural matters and to study the problems of such legislatures as well as to give their Commonwealth colleagues some of the benefit of their experience at Westminster. To this end a Fourth Clerk at the Table was appointed in 1953, at the request of Members of the House of Commons, to devote particular attention to the work of legislatures of the Commonwealth and to assist them in procedural and administrative matters. Since that appointment most visits

over-seas from Westminster have therefore been made by the Fourth Clerk, although other Clerks have occasionally undertaken such tours.

There have been two aspects common to all these visits both to and from Westminster. In the first place the emphasis throughout has been on enabling Commonwealth Clerks and Members to learn about procedure at Westminster or to be guided by Clerks from Westminster in regard to their own procedural problems—to benefit from Westminster experiences—rather than on enabling Westminster to learn about and benefit from experience in the Commonwealth. Secondly, all such visits, in both directions, have been financed by the Commonwealth legislatures concerned, both for travel and subsistence.

It has become increasingly apparent, however, that these aspects are both inadequate and inappropriate relations between many of the legislatures in the Commonwealth today. In the first place, despite the occasional journeys of the Fourth Clerk, the traffic has been primarily one-way. Valuable though experience at Westminster may have been for those who came to learn on attachments, there is no doubt that help and advice given by experienced Clerks from Westminster can be of much greater worth if given on the spot, where local history, political background and the procedural situation may be directly absorbed, and assistance given when it is most needed—at the time the problems arise. In addition, the study of procedural developments and organisation overseas—particularly at well-established legislatures—can obviously be of great value to Clerks from the House of Commons, both in broadening their outlook on problems common to parliamentary institutions everywhere and in making them aware of solutions to these problems devised by parliaments with different, but nonetheless parallel, historical development to that of Westminster. Ideas picked up in this way may well be fruitful in considering procedural advance in the House of Commons. In brief, Clerks from Westminster should go overseas to learn as well as to teach, and to acquire experience rather than to give instruction.

Indeed, the teaching feature of the system of attachment at Westminster makes it unacceptable to many of the older and more experienced Commonwealth Parliaments, and for this reason several of them have not been willing to participate in this scheme. It is clear, therefore, that a scheme is required under which more Clerks from Westminster should be able to gain experience in the Commonwealth and under which Clerks from Commonwealth countries who could less appropriately come on attachment could come to Westminster themselves to teach as well as learn.

Secondly, the complete assumption of the financial burden by the overseas countries might seem both unjust and, in many cases, impossible. For the poorer legislatures the expenses of sending a Clerk

to London are heavy, although cheerfully accepted; the expense of paying for a Clerk to come from London as well is more than they can afford. If there were to be a two-way exchange of views and experience, the financial arrangements could obviously not continue on a one-sided basis.

With this in mind, the Clerk of the House of Commons, Sir Barnett Cocks, prepared in 1962 in conjunction with several of his Commonwealth colleagues a scheme for exchange visits between Clerks of the House of Commons and those of Commonwealth parliamentary assemblies. This scheme, which was a modified version of that put forward by Lord Campion just after the last war (which came to nothing because of the shortage of foreign exchange in Britain at the time) was warmly approved in principle by the Ministers concerned (the Secretaries of State for Commonwealth Relations and the Colonies and the Minister responsible for Central African Affairs) and obtained Treasury sanction for the limited expenditure involved.

Under this exchange scheme, Clerks from the Commonwealth are seconded for limited periods of work in the Clerk's Department at Westminster. Thus they become, for the period of their secondment, members of the Department, enjoying the various privileges and the status of House of Commons Clerks. They can both study procedure in the various offices of the Department, and also perform an active rôle in the work of those offices, assisting, for example, as one of the Clerks serving the Standing Committees on public bills. Their salaries, fares and subsistence is borne by their home country. Likewise Clerks from the House of Commons can work for a period with other Commonwealth legislatures. Exchanges can take place either contemporaneously, so enabling an assembly with a small staff to spare a Clerk for secondment to Westminster for a longer period than would otherwise be possible (another advantage of the exchange system), or separately, perhaps after an interval of several months. The expenses of the Clerk sent overseas from Westminster are borne on the House of Commons Vote.

In addition to Commonwealth countries the exchange scheme has been extended to cover international assemblies such as that of the Consultative Assembly of the Council of Europe, whose Representatives are drawn from among the Members of seventeen Parliaments in Europe.

As the scheme is still in its infancy, actual changes have not yet been numerous. But already Mr. Gordon Combe, the Clerk of the House of Assembly of South Australia, has spent four months at Westminster, and a Clerk in the House of Commons will pay an exchange visit to South Australia. A Clerk from Westminster has spent short periods with the Parliaments of Eire, of Northern Ireland, and of the Isle of Man, and it is hoped that Clerks from all these oversea Parliaments will pay reciprocal visits to London next year.

The exchange scheme has thus been started. Although funds, in the United Kingdom at least, are inevitably limited, it is to be hoped that the scheme will develop successfully as the years go by. For those Commonwealth Clerks who take part, and for those who remain at home but welcome their visitors, the experience engendered by such exchange visits must lead to an enrichment of their parliamentary knowledge and experience. But more important still, it will lead to an increase in mutual awareness, friendship and understanding that must be of benefit to the furtherance of parliamentary democracy throughout the world.

VI. INITIATION OF BY-ELECTIONS

Answers to Questionnaire

The principle that no constituency should remain longer than necessary without Parliamentary representation comes into conflict at times with special considerations which suggest that the balance of advantage in practice lies in delaying a by-election, or even in not holding one at all. Some flexibility in the initiation of by-elections is useful to meet unusual circumstances and also to avoid the expense of a by-election when a general election is imminent. On the other hand, such flexibility is susceptible to allegations of abuse. Part of the Questionnaire for Vol. XXXI was framed to elicit how by-elections were effectively initiated, and by whom wide discretion in fixing the polling date could be exercised—and also with both recent and earlier allegations of abuse of the constitutional practice in the United Kingdom in mind. Had similar, or other, problems occurred elsewhere, and how were they or would they be dealt with?

The Questions asked were:

(*a*) After a vacancy has occurred, what action (official and unofficial) is necessary to set the machinery of a by-election in motion?

(*b*) To what extent is the action taken by (i) the House as a whole; (ii) the Chair; (iii) party organisations; (iv) individual members; or (v) outside bodies?

(*c*) Is there any time limit within which such action must be taken?

The fundamental principle underlying the practice in the House of Commons at Westminster is the privilege exercised by the House to provide for its own proper Constitution as established by law. One of the means by which this privilege is enforced is that the House itself orders new writs to fill vacancies which arise during the course of a Parliament. The House also determines when a vacancy exists and decides on disputed qualifications of Members. It can, and does, expel Members it considers unfitted to sit. By the Parliamentary Elections Act, 1860, however, it deputed to the Courts the power which it had formerly exercised itself to determine disputed elections.

The right of the House, and the House alone, to order the issue of new writs for filling vacancies is initiated when the House is sitting by a motion which can be moved by any Member. The motion seeks to order Mr. Speaker to issue his warrant to the Clerk of the Crown to issue a writ. It is a well observed convention, however, that this motion is moved by the Chief Whip or representative of the party to which the Member vacating the seat belonged. When the House is

in recess the Speaker (or in the event of his death or absence, Members appointed to act in his place) orders the issue of a new writ, in normal cases, on the certificate of the vacancy by two Members. Again, by convention, these Members are of the same party as the previous holder of the seat. The party to whom the late Member belonged is perhaps less ready immediately to contest a by-election than its opponents whose prospective candidates may have been previously selected and established in the knowledge of the constituency.

When the returning officer, that is, the officer appointed to hold the election, has received the writ, he must give notice of the election not later than 4 p.m. on the next day, naming a day in county constituencies between four and nine days later and in borough constituencies between three and seven days later, by which nominations must be received and naming the polling day between seven and nine days thereafter. Once the writ has been issued, there is, therefore, not more than three weeks before polling day, and it is reasonable that a party suddenly deprived of its Member should have time to chose their fresh candidate.

Leaving the initiation of the by-election procedure to the party previously in possession of the seat has on occasion been challenged on grounds of both undue haste and undue delay. On 25th January, 1957, a new writ was moved for North Lewisham, and objection was taken in the House to its being then moved, since it would thereby necessitate the election taking place on the old electoral register, a matter of days before the new register came into force. (*Hansard*, Vol. 563, c. 539). On 20th February, 1962, a new writ was moved for Orpington and complaint was made of undue delay, five months having elapsed since the vacancy occurred (*Hansard*, Vol. 654, cc. 219-223). A petition had meanwhile been presented from some of the inhabitants of the constituency and it seemed possible that some unofficial Member might seek to exercise his right to move for a new writ.

The answers contained in the other thirty-six completed Questionnaires afforded no parallel to the United Kingdom practice of leaving the timing of the moving for the issue of a writ to the discretion of the party to which the previous Member belonged. Those problems which stemmed from the alleged abuse of this practice by a party would not arise in this way elsewhere.

Only in the United Kingdom is the House of Commons able to control the issue of the writ. Once issued, however, its subsequent stages are defined within a narrow limit of time, by statute. Other Houses, which, if in session, initiate the process of by-elections, are obliged to act, usually by the passing of Resolutions, as soon as may be after the vacancy is established. In recess their Speaker (or certify the vacancy. This is the case in both Houses in Western others acting for him when necessary) is equally constrained to

Australia and in Queensland, where the Governor acts in recess if the President or Speaker are unable to do so, and in the Legislative Assembly of Southern Rhodesia, where the Clerk acts in recess if the Speaker is unable to do so.

The Chair has the duty to issue the writ, or equivalent process without having discretion to afford a delay in the Canadian House of Commons, where two Members may act in the absence of the Speaker, in New Zealand, where the Governor-General acts in lieu, in Western Samoa, in the Legislative Council of Victoria, where the Governor acts in lieu, in the Northern Rhodesia Legislative Council, in South Australia, the Australian Senate, the Federal Assembly of Rhodesia and Nyasaland, Sarawak, and New South Wales.

The Speaker does have discretion to delay in the Australian House of Representatives. Section 33 of the Constitution of the Commonwealth of Australia states—

> Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth the Governor-General in Council may issue the writ.

There is, however, a certain amount of work behind the scenes prior to the announcement by the Speaker that he intends to issue a writ.

The Commonwealth Electoral Act 1918-1962 sets out time limits for the date of Nomination and Polling day and states that the date fixed for the return of the writ shall not be more than ninety days after the issue of the writ.

Sitting Members of State Parliaments are specifically mentioned in Section 70 of the Electoral Act which states *inter alia* that:

> No person who is at the date of nomination a Member of the Parliament of a State, or was at any time within fourteen days prior to the date of nomination a Member of the Parliament of a State, shall be capable of being nominated as a Member of the House of Representatives.

To enable a State member to comply with the Act the Speaker either announces in advance the date on which he intends to issue the writ or allows sufficient time between the issue of the writ and the date of nomination.

The Act prescribes that the day fixed for the poll shall be a Saturday, and as consideration must be given to public holidays, etc., which vary sometimes in different States, careful thought must be given to the selection of a suitable polling day. The practice has grown up in more recent times for the Clerk of the House to have preliminary discussions with the Chief Electoral Officer of the Commonwealth and then to advise the Speaker accordingly.

It is usual for the Speaker to consult the various Party Leaders prior to determining and announcing the various dates involved in the by-election. If the House is sitting the announcement is made from the Chair, otherwise a press release is made and the House informed at the first opportunity. No time limit applies, and a writ

would not normally be issued for a by-election if a General Election were due in the reasonably near future.

Discretion is also exercised by the Speaker of the House of Representatives, Nigeria. He appoints the election day after consultation with the Prime Minister. It must not be more than three months after he was notified of the vacancy. In the Northern Regional Legislature of Nigeria the Speaker notifies the Premier's office, which then fixes the date after consultation with the Provincial office concerned. In consultation with the Government, the Speaker in Queensland causes the issue of the writ and fixes all the relevant dates including polling day.

Neither the House nor the Chair have any part in the normal initiation of by-elections in either the National or State Legislatures in India, where the superintendence, direction and control of all elections to Parliament is vested in the Election Commission, nor in Mauritius, Tasmania, Papua and New Guinea, the Northern Territory of Australia, or Tanganyika, where, however, the Speaker is indirectly concerned as *ex-officio* Chairman of the Electoral Commission, which fixes polling day. Action by the House was conceived possible only in Western Nigeria, where it is possible for a motion to be tabled or question asked in Parliament as to the filling of a vacant seat—although this course has not yet been taken, and in New South Wales, Legislative Council, where " conceivably in the case of undue delay in the issue of a writ the House might by resolution move for an Address to the Governor " and where disputes or questions arising in regard to any election or vacancy would be referred to the Court of Disputed Returns by Resolution of the Council. This was done in a case in 1940. In New Zealand subsection 72(4) of the Electoral Act, 1956, provides that the House may order the Speaker to issue a warrant where a vacancy exists at the beginning of a session and no writ has yet been issued.

Except in these instances, and in those of the Australian and Nigerian Houses of Representatives and Queensland, discretion, where it exists, is exercised by a person or body other than a House or its Chair. There is in India no time limit imposed on the Election Commission. In Western Nigeria the Governor in Council names the election day " when a parliamentary election becomes necessary ". These last two words afford wide powers of discretion, with no time limit. When a General Election has been pending in Queensland, there have been a few cases where by-elections have not been held, including one this year: and there is in any case no time limit. Vacancies in the Senate in Australia require to be notified to the State concerned, but a State is not bound by any time limit in filling a vacancy. There is also no time limit in South Australia, Legislative Council, the Northern Territory of Australia, and Mauritius, where in 1958 no by-election was held to fill a vacancy since the Legislative Council was in its fifth year and due to be dissolved.

In the Legislative Council, New South Wales, there is no formal time limit, but if a second vacancy were to occur in the same session, a dual election on the proportional system would be held, and if both seats had belonged to the same party, this could lead to the loss of a seat. This factor applies indirect pressure to prevent undue delay in the issue of writs.

A number of other Houses provide examples of limited discretion. In Tasmania, where nominations and polling days are normally within defined limits, the limit may be extended in certain cases, to conform with periodic elections if not more than four months' delay would thus be occasioned. In Northern Rhodesia, the Governor is not bound to issue a Proclamation ordering a by-election where a vacancy occurs within six months of the required date on which the Council is to be dissolved under the provisions of the Constitution. In Western Samoa the Returning Officer is required to appoint a day for election only if the vacancy is declared six months or more before the expiration of three years from the date of the preceding general election. In New Zealand it is provided that in any case in which it appears to the Governor General to be necessary for special reasons, he may by Order in Council authorise the postponement of the writ up to 42 days after the date of the receipt of the Speaker's warrant. The Governor General in Council in Canada must issue a writ within six months, which with the time for the electoral process implies a vacancy of not more than nine months. The Electoral Commission of Tanganyika can exceed the prescribed limit if it is in the public interest to appoint a later day. Further, no by-election may take place less than six months before the dissolution of Parliament, if that date has been proclaimed.

The remaining replies from the Federal Assembly of Rhodesia and Nyasaland, Sarawak, Western Australia, both Houses, Southern Rhodesia, Papua and New Guinea, Uganda and the Legislative Council of Victoria showed no discretion other than the normally prescribed narrow tolerances for the date of issuing the writ and polling days.

In the prescribed intervals for the various stages of the by-election process there is wide diversity both in the times and in the extent of the latitude allowed to each stage. This diversity does little more than reflect the difference in local conditions. There are, however, significant differences in principle both in the choice of the body or person to initiate the determining stage of the by-election process and between those legislatures which prescribe an inexorable, if flexible, process from the time the vacancy is established, those which prescribe a closely timed process, with power to depart from it only in stated exceptional circumstances, and those which afford unfettered discretion to the effective initiating body to decide the by-election date.

VII. OFFICIAL OPENING OF THIRD SESSION OF THE LEGISLATIVE COUNCIL OF SAINT VINCENT

By O. S. Barrow
Clerk of the Council

The Official Opening of the Third Session (1962-63) was performed by His Honour S. H. Graham, O.B.E., Administrator.

Promptly at 9.45 a.m. on Monday, 11th October, 1962, Honourable Members took their seats in the Chamber and Heads of Government Departments, the Clergy, Members of Municipal Bodies and other persons prominent in the life of the Community to whom tickets had been issued for admission, occupied their appointed places in the Galleries of the Legislature.

This was followed by the entry of the Speaker in a procession led by the Serjeant-at-Arms carrying the Mace and followed by the Clerk of the Council. Mr. Speaker and the Clerk took their places, and the Serjeant-at-Arms stood in front of the Clerk's Table with the Mace on his right shoulder. The Speaker bowed to the right and to the left.

The Clerk read the Proclamation requiring the attendance of Members to the new Session and after Prayers were read by Mr. Speaker, the Serjeant-at-Arms placed the Mace on the Table, Mr. Speaker sat down and Members and visitors did likewise. Meanwhile a Guard of Honour provided by the St. Vincent Police with a Police band formed up in the yard. Shortly afterwards the State Car arrived with His Honour the Administrator and Mrs. Graham under the Police Motor-cycle escort. His Honour inspected the Guard of Honour.

At 10 a.m. Mr. Speaker suspended the sitting of the Council and met His Honour at the entrance of the Chamber. Mr. Speaker escorted His Honour into the Chamber and they took their places on the dais.

The Mace which was resting on the brackets under the Table during the suspension was then placed on the Table and covered.

As soon as the Administrator stood on the dais and faced the Council he gave permission for the Council to be seated and delivered the following address:

Mr. Speaker and Honourable Members of this Legislative Council:

It has for a long time been the custom for the person appointed as the Sovereign's Representative in the territory to address the Council at the

earliest suitable opportunity after his arrival. Recent changes in the provisions of the Constitution permit the retention of this practice.

When I arrived here some weeks ago, the Council, in accordance with Standing Rules and Orders, was not in Session. Had it been possible for me to address the House at that time, the content of such an address would have necessarily been limited by the fact that I was making official contact with the territory for the first time. That condition has not changed very much, and so this address is not a statement of the policy of Government. Rather it is a brief summary of factors and conditions which affect the territory as a whole, and which will determine to some degree the limits within which any government may attempt to solve its problems.

Favoured with the advantages of a warm and healthy climate, the opportunity for out-of-doors life throughout the year, the charming greenery and variety of tropical vegetation, and lavish beauty of landscape, we in St. Vincent nevertheless spend our lives and perform our public duties within the limitations imposed by the geographical fact that the territory is a small island and its resources are slender. There is therefore sometimes the risk of our losing sight, even if momentarily, of the general context of world affairs in which we have to attempt solutions of the problems of the territory. And yet, on reflection, it will be generally agreed that our destinies are more and more determined by circumstances outside our boundaries and upon which too often we exert little or no influence.

The conquest of the air, the development of travel into outer space, and the results of research into the various fields of science, continue to produce factors with which public leaders, even in territories as small as this, have to reckon sooner or later. In one European country, for example, the manufacture and export of cotton goods has been displaced, or outpaced, as a money earner, by the manufacture and export of chemicals.

Of scarcely less importance have been recent developments in economic and political planning elsewhere. While in the tropical zone increasing numbers of countries have attained, or are marching towards, independence and grasp their newly won national sovereignty, important countries in Europe, independent long ago, have deliberately decided to surrender part of their politica sovereignty in their quest for the benefits which spring from economic inte gration. The European Common Market is a fact. To such matters as tariffs and quotas, quantitative restrictions and external convertibility of currency new concepts are being applied. The idea of European unification is once again actively in the air. Events are moving rapidly, and economic portents are to the effect that prices of products, upon the export of which the revenue of this and other West Indian Islands depend, are likely to be affected as a result of the economic integration taking place in Europe today. It is important to bear in mind that this can be the case, whether or not any new countries join the European Common Market. These developments, far away from our shores, have a high degree of significance for us, nevertheless, and it behoves all of us to take into account this important background of economic and world affairs when approaching solutions of the problems of this territory. A rise or fall in the price of bananas, cotton or copra, for example, can have serious effects in a community like ours.

Perhaps this is one of the reasons why Honourable Members of this Legislative Council may wish to consider as a matter of urgency the means by which the voice of this territory might be heard collectively with other voices of the region, when decisions of such economic importance are to be made on the world stage. In these times preoccupation with merely parochial issues will not suffice if lasting progress is to be secured for the territory. Our problems call for solution in the context of the world situation. We neglect the challenge at our peril. It is ours to familiarise ourselves with the outside movements and developments likely to affect us, and to plan the progress of our islands accordingly. We have to think against a bigger canvas.

In the light of all this, and particularly in the light of the movements for integration not only in Europe, but elsewhere, it is a matter for some gratification that there is likely to occupy the attention of this Honourable House during this Session, the proposals for a bringing together of the territories of the Windwards, Leewards and Barbados. I feel sure that every Member of this Council will wish, in due course, to give this matter the weighty attention it deserves. In a democracy such as ours, differences of opinion are to be expected. In a British Legislature the presence of an Opposition is a normal feature. So long as each Member of this House is motivated by the sole desire of achieving what is best for the country as a whole, in a spirit of honest give and take, then the end result should be satisfactory.

I should like to draw your attention to one or two features about the Report on the Eastern Caribbean Federation Conference, 1962. The first is this: Appendix B sets out in Parts I and II, the Exclusive Legislative List and the Concurrent Legislative List. In Part I there are 33 subjects listed; and in Part II there are a further 33 subjects listed. On all these 66 subjects the legislation of the Central Government would be supreme. Any suggestions for strengthening the centre therefore, would seem to be closer to the mark if they assumed the form either of new subjects to be added to the list, or of concrete proposals dealing with the entire political structure. For the actual nature of the structure will be more important than the name by which it is called. In any event, what is really wanted is that form of constitution which will secure good and effective government for the region as a whole. If it is true that the centre should be strong, it will be of equal importance to ensure that there is no risk of the periphery being neglected. The means by which this may be achieved will be for your consideration. A Constitution should provide not only against the fears of the present, but also for the possibilities of the future, bearing in mind both the strength and the weakness of human nature. It is therefore frequently an expression of the checks and balances necessary to ensure good government.

Forms of government, however, are seldom an end in themselves. Thus it happens that from day to day Honourable Members of this Council doubtless find their attention directed to problems many of which are neither political nor legislative. In the short time that I have been with you, it would seem that, viewed from the angle of the average citizen, our problems are largely economic and social. Much has been done and considerable progress has been made in past years. There still remains, however, the need for further and continuous development of our natural resources which are, in the main, agricultural. But it should not be too much to hope for the development of the tourist potential of St. Vincent and the Grenadines, together with the establishment of such local industries as are suitable for private enterprise. If the standard of living of the community is to be raised, unemployment removed, and the public revenue put in credit, then it seems that these results will have to be sought along the triple lines of agricultural expansion, tourist development and industrial investment in the private sector. If an answer is possible, then sooner or later the question will have to be asked and answered—to what extent can our economy be made viable? It seems desirable that in this matter our course should be charted towards definite and attainable goals.

You may therefore wish to consider during this Session the initiation of debate and action leading to the formulation of a comprehensive plan for the further economic development of the territory. The details in the formulation and scrutiny of any such plan would be your special concern.

The emphasis placed on the foregoing is not to deny the desirability of advancement in the purely political fields. But it would seem that the rate of progress therein would be greater in the context of a regional approach. Perhaps while freely admitting the claims in this direction, it is well to bear in mind that ours is also a duty to preserve what has so far been won. British democracy, upon which our Government is patterned, has at times received

higher praise from foreigners than it has from its own exponents. It is significant that in all the territories of the British Caribbean it is the ballot box, and not the *coup d'état*, which decides who shall form the Government. With us Governments are not up today and down tomorrow in accordance with the desires of ambitious militarists or factious adventurers. Changes of government are effected through expression of the will of the electorate. The credit for this stability must be shared by the entire community, but a special duty rests with the Legislature to preserve it. This is important because there are ominous portents now appearing in parts of the Caribbean which could surprise us and alter the way of our life along which we seek to determine our own progress for ourselves. An awareness of these advantages in our heritage will strengthen our will to maintain the institutions which we prefer, and alert us against the blandishments of ideologies which, while promising material benefits, cheapen human life, undermine religion and destroy individual freedom.

In this context, as well as generally, it is of importance that we be able to discern who by their deeds, practices and similarity of institutions are suited to be our associates and likely to be our friends. There is still much wisdom in the verses:

> " The friends thou hast and their adoption tried,
> Grapple them to thy soul with hoops of steel;
> But do not dull thy palm with entertainment
> Of each new-hatched unfledged comrade."

The warning in the last two lines of that quotation is of special significance today.

With the year approaching its close, this Session will shortly demand your scrutiny of the Budget. The opportunity which that exercise will give for reflection upon, and review of, the territory's problems will be set against the background which has been sketched above. At this meeting, and succeeding meetings, you will be engaged in debate and Legislation dealing with every day matters of Government. I feel sure that you will wish to enter upon all these tasks with due concern to achieve what is best for your country, while at the same time preserving the dignity and decorum of this House; and I pray God's blessing upon your deliberations.

At the conclusion of the Address the Sitting was suspended for fifteen minutes and the Speaker escorted the Administrator from the Chamber.

VIII. SOUTHERN RHODESIA LEGISLATIVE ASSEMBLY: STANDING ORDERS, 1963

By L. J. Howe-Ely
Clerk of the House

The new Southern Rhodesian Constitution came into full operation on 1st November, 1962, the "appointed day" which was, in fact, the date of dissolution of the last Parliament which met under the old Constitution. The provisions of the Constitution of Southern Rhodesia, 1961,* differ greatly from those which had obtained previously, and it was apparent that the Standing Orders of the Legislative Assembly would need to be revised in order to incorporate the requirements of the new Constitution. The Constitution provided that the Legislative Assembly may make Standing Orders, subject to the provisions of the Constitution, with respect to the regulation and orderly conduct of its proceedings and the despatch of business, and for the passing, intituling and numbering of Bills, and for the presentation of Bills to the Governor for Assent. The opportunity was therefore taken, during this exercise, to revise the whole procedure of the House, which was based originally on that of the South African Parliament, and which had been modified from time to time as occasion warranted.

The major problems involved in the preparation of the new Standing Orders were twofold—firstly, the incorporation of the requirements of the Constitution, and, secondly, the complete revision of existing procedure, with the object of bringing it into line, so far as was practicable, with that obtaining in the House of Commons. Provision is made in the Standing Orders that—"in cases of doubt the Standing Orders shall be interpreted in the light of the relevant practice of the Commons House of Parliament of Great Britain and Northern Ireland".

The most important provisions stemming from the Constitution, so far as the Standing Orders of the House were concerned, were those regarding the conduct of business between the Legislative Assembly and the Constitutional Council. The function of the Constitutional Council is to act as the watchdog of the people for safeguarding their rights under the Declaration of Rights, by examining any Bill passed by the Legislative Assembly which is submitted to it,

* See article "Southern Rhodesia Constitution" in Vol. XXX THE TABLE, pp. 57-63.

and any subsidiary legislation enacted after the coming into operation of the Constitution, and by reporting to the Legislative Assembly whether, in its opinion, any such Bill or subsidiary legislation contains any provision which is contrary to or inconsistent with any of the provisions of the Declaration of Rights. Any such law, including any subsidiary legislation, which is found by a court to be contrary to the Declaration of Rights may be pronounced to be invalid.

The Constitution provides that all Bills read the third time and passed by the House, are required to be submitted to the Council, except—(*a*) Money Bills, (*b*) Bills certified by the Prime Minister as being of so urgent a nature that it is not in the public interest to delay their enactment, and (*c*) certain Constitutional Bills.

The Constitutional Council is empowered to return a Bill to the Assembly with a report either that the Bill is not inconsistent with the Declaration of Rights, or with an "adverse report" declaring that the Bill is inconsistent with the Declaration of Rights, and setting out the Council's reasons for regarding the Bill as such. The House can thereupon take one of several actions. The report on the Bill can be debated and the Bill reintroduced into the Committee of the whole House to be amended and subsequently returned to the Council; or, alternatively, having debated the report, a motion may be moved that the Bill be presented to the Governor for Assent. In the latter case, a motion may be passed forthwith by the affirmative vote of not less than two-thirds of the total membership of the House or it may be passed by a simple majority after a period of not less than six months has elapsed from the date upon which such Bill was first submitted to the Council. The alternative procedure just described may also be applied where the adverse report of the Council is not debated. Where a Bill is reintroduced into the Committee of the whole House, and is not amended, a motion for presentation to the Governor for Assent may be moved forthwith, as described above. In the case of a Bill which is reintroduced into the Committee of the whole House and which is amended, when such a Bill is reported to the House, a motion may be moved that the Bill as amended be adopted, and, if agreed to, it is then again submitted to the Constitutional Council in such a form as to indicate in what manner it has been so amended. This process can continue until the Bill is returned with a report which is NOT adverse or a motion is moved for the Bill to be presented to the Governor for Assent, which, as described above, requires either a two-thirds majority or a simple majority after a lapse of six months.

In terms of the Constitution all statutory instruments must be submitted to the Constitutional Council by the authority empowered to make such instrument and the Council is required to report to the Speaker and to the authority concerned whether or not such statutory instrument is inconsistent with the Declaration of Rights. If an

adverse report is received, the House may pass a resolution confirming the instrument within twenty-one sitting days of the report having been tabled, and such resolution is submitted to the Governor; failing this action within the prescribed time, the Governor is required to annul the instrument as from the twenty-first sitting day unless prior to that day it has been revoked or amended by the authority empowered so to do.

In regard to the proceedings of the House generally, the most significant change was in regard to the financial procedure. The procedure which had been in use for a great many years was obsolete and cumbersome, and therefore a new procedure was devised with the object of simplifying and, at the same time, expediting the proceedings of the Committee of Ways and Means and the Committee of Supply. Both the Committee of Ways and Means and the Committee of Supply are now set up in terms of the Standing Orders at the beginning of every Session, on a Motion moved by a Minister for which notice is not required and which must be decided without amendment or debate. These Committees remain extant and on the Order Paper for the duration of that Session. When the responsible Minister desires to introduce his main budget at the commencement of a financial year, or a supplementary budget during that year, the process of "moving the Speaker out of the Chair" has been adopted. The Order of the Day for the Committee of Ways and Means having been read, the motion is moved—"That Mr. Speaker do now leave the Chair". Upon this motion the budget speech is delivered and the budget debate takes place. The scope of the budget debate is limited to financial and economic matters and no longer provides an opportunity for a general "cross country" debate as in the past. The House, however, is not deprived of its traditional cross country debate, as the opportunity for this is now given in the debate on the motion for an Address in reply to the Speech from the Throne, an innovation which was incorporated into the new Standing Orders. This debate normally takes place early in the year, whereas the budget debate takes place early in July, at the beginning of the financial year. At the conclusion of the budget debate, and after amendments to the motion have been disposed of, the question is put, and when agreed to, Mr. Speaker leaves the Chair and the House is resolved into Committee of Ways and Means. In the course of his budget speech the Minister concerned will have given notice of his proposals in regard to taxation measures to be introduced, and these are printed as an addendum to the Order Paper. A limit of three days is placed on this debate, a day of debate being defined in the Standing Orders, and a day is set aside for the Ministerial reply to the debate. When the Chairman of the Committee of Ways and Means has reported the resolutions, a day is appointed for the consideration of the report, and upon the report being adopted, Bills are introduced to give effect to the resolutions

contained in the report. Amendments may be moved to the motion for the adoption of the report for the purpose of omitting or reducing any taxation proposal contained therein.

In the ordinary course of business, Bills are introduced either upon motion made after notice or after notice of presentation has been given on the Order Paper, other than Bills drafted to give effect to a resolution of the House—*i.e.*, the Committees of Supply and Ways and Means, etc. Provision is also made for the presentation of Bills without notice if Mr. Speaker is satisfied that a copy of the Bill has been sent to each Member not less than fourteen days before the commencement of a sitting of the House.

As has been stated above, the Committee of Supply is appointed by the House in terms of the Standing Orders at the commencement of every Session, for the duration thereof. All estimates of expenditure laid upon the Table stand referred to the Committee of Supply. Before the Committee can begin its work it is necessary for the recommendation of the Governor to be signified to the House in regard to the expenditure contemplated in the Estimates. This is a constitutional requirement and applies also to incidental appropriation provisions contemplated in a Bill, to taxation proposals contained in the Budget, and to any proposal, either by way of a motion or a Bill, which makes provision for imposing or increasing a tax, for imposing or increasing any charge on the revenues or other public funds of Southern Rhodesia, or for altering a charge otherwise than by reducing it; to any proposal for compounding or remitting any debt due to Southern Rhodesia, and also to any proposal to authorise the making or raising of any loan.

A system of allotted days has been introduced for the Committee of Supply. Sixteen days are allotted for the business of the main Estimates in each Session, and a maximum of six days for Supplementary Estimates. The business of Supply may include the consideration of reports from the Committee of Public Accounts. On the last but one of any series of allotted days, business is interrupted, by the Chairman half an hour before the normal hour of interruption, and if the business of the Committee has not been concluded, the Chairman is required to put forthwith whatever questions are necessary to dispose, not only of the Vote then under consideration, but of every Vote contained in the Estimates which has not yet been agreed to. These questions are decided without amendment or debate. The last allotted day is set aside for consideration of the report of the Committee of Supply and, again, half an hour before the hour of adjournment, business is interrupted and Mr. Speaker proceeds to put every question necessary to dispose of the report. The normal hour of adjournment is disregarded on the last but one allotted day, and also on the last allotted day when the report of the Committee of Supply is being put to the House, and business continues until these matters have been disposed of. On the motion for the adoption

of the report amendments may be moved for the purpose of omitting or reducing any Vote contained in the report. The Committee is empowered to report from time to time, or to make a special report to the House.

Mention has been made earlier of the debate on the motion for the Address in reply to the Speech from the Throne. Six days are allotted to this debate, of which the last day is set aside for Ministerial replies. The debate is conducted in the traditional manner, being moved and seconded by backbenchers selected by the Prime Minister. Amendments to this motion take the usual form of adding words at the end of the motion, and the course of the debate as a whole is "stage managed" by the Whips.

The House normally meets on four days of the week, and a period of an hour is allotted on two days for Questions. Provision is made for written replies to questions, and in respect of Oral Questions no Member may address more than four Questions to any one Minister on any one day. If more than four "starred" Questions are addressed to one Minister, the excess number are automatically included with those for written replies.

In view of the number of divisions called in the past by minority groups in the House, in efforts to obstruct the business of the House, some thought was given to means of curtailing the waste of time involved in this practice. The Standing Orders now provide that the presiding officer, in his discretion, may call first upon those Members who have challenged his decision, and then those who support the decision, to rise in their places. If fewer than five Members rise to challenge the decision, the presiding officer may forthwith declare the result of the division, and the names of the minority are recorded in the Votes and Proceedings. This innovation has resulted in a considerable saving of time, although, of course, it does not obviate the necessity for ringing the division bells, which are rung for two minutes.

The presiding officer is now vested with the right of selection of amendments, and is authorised to decide which amendments shall be proposed from the Chair, and in what order such amendments shall be proposed. A further power in the hands of the Chairman is that during the consideration of a Bill in Committee of the whole House, if he is of opinion that the principle of a clause and any matters arising thereon have been adequately discussed in the course of the debate on the amendments proposed to the clause, then he may, when the last amendment has been disposed of, state that he is of that opinion, and he may forthwith put the question on the clause. When a clause of a Bill is under consideration in Committee of the Whole House, a motion may be moved that the question be now put that certain words of the clause, defined in the motion, stand part of the clause, or that the clause stand part of the Bill, or that a clause be added to the Bill.

A further innovation incorporated in the Standing Orders is the provision for a debate on the motion for adjournment of the House. This debate may continue for half an hour after the motion is moved, and at the expiration of that time Mr. Speaker adjourns the House without putting any question. However, in order to safeguard the right of the Government to reply to any matter raised during the course of the debate on the adjournment, if, twenty minutes after the question on such motion has been proposed, a member other than a Minister is speaking, Mr. Speaker directs him to discontinue his speech and calls upon a Minister to reply. Notice of matters which it is proposed to raise on the adjournment is normally given by Members, and appears at the foot of the Order Paper for the particular day.

At the hour of interruption of business, unless a Minister moves the adjournment of the House, Mr. Speaker will direct the Clerk to read the remaining Orders of the Day. Proceedings on any such Order can be carried on until either a division is called on a question from the Chair or objection is taken to further proceedings. In the event of a division being called or objection raised, the Member in charge of business is asked to nominate the day for resumption and the next order is read. This process continues until either all the Orders are dealt with or a Minister moves the adjournment, when the process described in the last paragraph takes place.

The foregoing is a very brief survey of some of the procedure which now obtains. Numerous other minor changes were made, some because of the requirements of the Constitution, and others with the aim of simplifying and expediting the business of the House. Throughout the exercise of rewriting the procedure of this House, one factor was constantly borne in mind—that of safeguarding the rights of the minority and of private Members, and much thought and careful attention was given to this aspect.

IX. THE ACTS OF PARLIAMENT NUMBERING AND CITATION ACT, 1962

(10 AND 11 ELIZ. II c. 36)

In spite of the efforts of William the Conqueror to pretend that he was merely carrying on the government of Edward the Confessor, English history really does begin with 1066. One of the illustrations of this is the fact that for many centuries after the Conquest the best method of fixing a point in time was by reference to that cataclysmic event. Thus for example if one wished to describe a Parliament of the late thirteenth century, one would speak of "the Parliament begun and holden at Westminster in the octave of the Feast of St. Michael, in the fifteenth year of the reign of our Sovereign Lord King Edward, the first of that name since the Conquest". Parliaments in those days had, as now, a good deal more to do than making laws, but they have always made changes in the law, and the legislative output of each Parliament has, from the beginning, been arranged and promulgated as a "statute", the various headings of which were divided into chapters. The remaining Acts of the Parliament (answers to petitions, ordinances of permanent legal validity, grants of supply, etc.) were recognised as "Acts of Parliament" and might be numbered and arranged in various series; but our logical ancestors kept these things separate from the permanent changes in the law which they put in the Statutes. At first the Statutes were entered on a parchment roll, and copies, sealed with the Great Seal, were sent to the towns to be promulgated by being read out in the market places and so forth, but very early in the history of printing—in 1483—the Statute Roll was replaced by the printed Sessional volumes of the Statutes, which continued in an unbroken series down to 1940. At various times the private Acts were included and excluded from these volumes; and very early on these published Acts which would not have originally been regarded as statutory (*e.g.*, grants of supply and ways and means bills) were included as chapters in the statutes.

Each of the Acts in these volumes is headed by its title, which is a fairly complete catalogue of the main contents and purposes of the Act. Until about 1860, when short titles were invented, this was the only form of title which could be used in referring to Acts. For example, one would refer to "an Act passed in the fourth year of His late Majesty, entitled, "An Act for the better regulating of trade

and for the settlement of debts of traders overseas . . . " or whatever it might be. This was a cumbersome method of reference, and it had other incidental disadvantages. For example, when George IV died in 1830, there were a number of Acts waiting for Royal Assent; they naturally could not be further amended, but by the death of the King all the references in these Acts to "an Act passed in the reign of His late Majesty" (*i.e.*, George III) were wrong, because His late Majesty was now George IV. So a special Act, the "Acts of Parliament Mistaken References Act, 1830" had to be passed to put the matter right; and it has only just been possible, with the expiring of all the Acts containing the mistaken references, to repeal this Act.

Such a cumbersome method of reference, however, created a demand for a simpler system; and lawyers therefore devised the familiar notation 10 and 11 Eliz. II chapter 24 for easy reference to the various headings of the statutory output of a Session or Parliament, which for many centuries of course have now been separate entities in their own right. This system too, however, was open to objection. In the first place it required a knowledge of the accession date of the kings and queens; secondly, it might easily become cumbersome (*e.g.*, certain Acts of 1952 have chapter numbers like 15 and 16 George 6 and I Eliz. 2 c. 13); and thirdly, there was always the nightmare that there might be three separate Parliaments in one regnal year. The system of course could cope even with this, which happened several times in the first years of the eighteenth century and once or twice in the reign of George III; then one reverted to the most ancient meaning of the word "statute", and spoke for example, of 6 Anne. Stat. I c. 14. But these rarities were not well known even to those who operated the system, and we therefore find, for example, such anomalies as occurred in 1922, when all the Acts of the second Session of Parliament in that year had "(Session 2)" inserted in their short titles (*e.g.*, The Importation of Animals Act, 1922 (Session 2)).

Although for a very long time there has been, in the normal course of things, one Session of Parliament every year, yet not since the reign of Edward VII have the year and the Session co-incided. Moreover, such an event as a General Election is liable to upset the even course of Sessions, and since for a century now the easiest and most convenient way of referring to Acts has been to use the short title, which always contains a reference to the calendar year in which the Act was passed, it has been increasingly obvious that a Sessional volume of Acts of Parliament was not, from the point of view of anyone concerned only with the Acts as laws, the most convenient and easy form of setting forth and publishing the Acts. The first result of this feeling was the alteration in 1940 of the volumes of Acts from Sessional to annual—that is to say that the volume published at the beginning of 1941 contained for the first time all the Acts

whose short title mentioned the year 1940; these were chapters 3 to 56 of 3 and 4 George 6 and chapters 1 to 5 of 4 and 5 George 6. This system of arranging the annual volumes remained unchanged until 1962; but it is obvious that although an improvement, from the lawyer's point of view, upon the old arrangement, it was itself anomalous in that the user could not at once know in which of two, or possibly three, volumes was to be found an Act to which he had been referred by regnal year and chapter number.

These were the reasons which caused the Statute Law Committee, at the suggestion of the First Parliamentary Counsel, to consider at its meeting in 1961 a fundamental change in the system of numbering Acts of Parliament—to number them by the calendar year instead of by the Session in which they were passed. The Committee agreed that the change would meet everyone's convenience; but they thought the matter required further investigation, and accordingly referred it to a sub-Committee, on which were the Clerks of the two Houses, the First Parliamentary Counsel, and Sir Cecil Carr (who for many years had been associated with Statute law revision and the codification of delegated legislation).

From the example of various Parliaments within the Commonwealth, it was easily established by the sub-Committee that the proposed new system would be simple and workable: the only question that remained, therefore, was how to put it into operation. The view was advanced by the Clerk of Public Bills in the House of Lords, who was responsible for the operation of the system and was also secretary of the Statute Law Committee, that an Act of Parliament would be required, since the old method of numbering Acts had been in use in Parliament ever since the beginning, and there was no known exception to the use of this method. It was therefore part of "the law and custom of Parliament", therefore part of the law of the land, and so could only be altered by Act. It was argued on the other side by the First Parliamentary Counsel that the numbering of Acts was merely a procedural matter, which could be altered by resolution of the two Houses. Against this view, however, it had to be admitted that the Sovereign, in whose name Acts of Parliament are enacted, had an undoubted interest in the manner in which they were arranged and promulgated. The Clerk of the House of Commons, Sir Edward Fellowes, suggested that a joint Address by both Houses to the Queen might do; but no such Address had been presented for many years, and joint Addresses had always been presented in the presence of all the Members of both Houses, which would have been a big thing to arrange. For these reasons it was agreed that the right way to carry out this reform was by Act, and accordingly a short and simple bill was introduced into the Lords late in 1961. It had an easy passage through both Houses and received the Royal Assent on the 19th July, 1962; it came into force on the 1st January, 1963. From that date, therefore, all Acts of the

Parliament of Great Britain and Northern Ireland are chaptered by calendar year (thus 1963 c. 1) and not by the regnal year. The new system is applied to Private Acts and also, by analogy, to Church Assembly Measures; and the opportunity has been taken by the Queen's Printer to make various typographical improvements to the front cover of individual copies of Acts. Thus the Royal Arms now appear on the front of every Act whether it is one page, three pages, or fifty, and the short title is also printed in large letters on the front, except for very short Acts.

Whether the new system will last, like the old, for seven centuries, remains to be seen; if so it is to be hoped that that fact will be recorded in Volume DCCXXXI of THE TABLE.

X. ADMITTANCE OF BLACK ROD TO THE HOUSE OF COMMONS

The Commons have always been jealous of the right to regulate their own proceedings; and since at least the middle of the seventeenth century the interruption caused by the coming of Black Rod, and all other messengers from the Sovereign or the House of Lords has from time to time been a source of dispute.* When, in 1640, a Messenger came from the King, objection was taken that the Gentleman Usher had not brought the message himself but " because they would not by any disturbance, make the King wait, the Speaker accompanied with the House went upon this summons ". After the civil war, during the Commonwealth, Black Rod was treated at times with little respect. The House would, however, hardly wish to stand on these precedents today.

A curious incident occurred on 9th May, 1679, when a Committee was appointed to search the Journal for precedents . . . " Whether the House may debate after the message delivered by Black Rod for the House to attend upon His Majesty ". Hatsell says:

> It appears from the 7th vol. of *Grey's Debates*, p. 216, that the reason for appointing the Committee, on the 9th May, 1679, was, that, on the House receiving the King's message, the Speaker had taken up with him a Money Bill, which had passed both Houses, in order to offer it for the Royal Assent; and that, he had done this without any direction from the House, or intimation given, that the purpose for which the King had sent for the House of Commons was to give the Royal Assent to Bills; both which circumstances, as was asserted by some very experienced Members, were necessary to authorise the Speaker to carry up the Bill; and therefore they rose to oppose his doing it, even after the message delivered by Black Rod, to command the " immediate " attendance of the House in the House of Peers.

It might be inferred from this passage that the Debate took place while Black Rod waited. On reference to *Grey's Debates*, however, the passage cited begins, " Exceptions were taken at the Speaker's carrying up the Money Bill for disbanding the Army which occasioned this Debate, *at the Speaker's return*. During the debate when the Speaker was told he ought to have asked Mr. Secretary if Bills were to receive the Royal Assent, Mr. Secretary Coventry gave us his view " After the Black Rod had knocked, you could not ask a Question nor we answer ". No more was heard of the Committee as the House was engaged on the more serious business of the Exclusion

* For an account of Black Rod, see Vol. XXIII, pp. 49-52.

Bill which led the King first to prorogue on 23rd May and then in August to dissolve that Parliament.

This appears to be the only occasion since the Restoration when Black Rod possibly was not instantly admitted. When Black Rod is seen to approach the Commons' Chamber the door of the Chamber is shut. He knocks three times upon it and is thereupon admitted by the Serjeant. The door of the House is initially shut in Black Rod's face to enable the Serjeant to ascertain that the person seeking admittance is a messenger from the Sovereign, and unaccompanied by armed men or the like. Once his identity and *bona fides* have been established, the Serjeant has no alternative but to admit him; and the House cannot, without affront to the Royal Prerogative, order otherwise.

This proposition was expounded by Hatsell in his *Precedents*, first edition (1781), p. 242:

> And, as it is the established custom, that, when the Black Rod knocks at the door, he is immediately let in (without any notice given by the Serjeant to the House, or question put, as is usual in messages from the Lords, and in other cases) I apprehend that as soon as he knocks, all other business, of what kind soever, must immediately cease, the doors must be opened, and, when he has delivered his message, the Speaker and the House must, without debate or delay, go to attend the King in the House of Peers. Indeed a contrary doctrine might lead into much confusion; for if the King came, as was not unusual in the reigns of the Stuarts, on a sudden to prorogue or dissolve "the Parliament" and the House of Commons "alone" could, by their forms, by refusing to open the door, or, after the message was delivered, by debating, delaying, or refusing to pay obedience to it, decline going to receive the King's commands, they would thereby have it in their power to resist, and render of no effect, the undoubted prerogative of the Crown.

The events of 22nd April, 1831, support this. The House heard complaints of the anticipated arrival of Black Rod; when he came, however, no one suggested that the House could do other than obey the summons.

> But suddenly Sir Robert's angry speech, and the loud cheers of the reformers, were stilled by the three admonitory taps of the Usher of the Black Rod, who came to summon the House to attend his Majesty in the House of Peers. The Speaker at once rose and obeyed, the House of Commons following. (Roebuck: *History of the Whig Ministry of 1830*, Vol. II, pp. 157-8.)

Messengers from the House of Lords were sometimes delayed or refused admittance—as on 1st July, 1717, when the Question for admittance was negatived. The usage of sending oral Messages between the two Houses, from the Lords by masters in Chancery or clerks and from the Commons by Members of the House ceased in 1855 except for rare ceremonial occasions. Messages between the two Houses are now carried by the Clerks, without interrupting the proceedings of either House.

It seems clear that for 300 years at least messengers from the

Sovereign (as distinct from Messengers from the Lords) have been immediately admitted, and no distinction is made between Black Rod sent by the Sovereign and Black Rod sent by Lords Commissioners, authorised to act on behalf of the Sovereign.

Two recent incidents have, however, reopened the question. The incident which marked Black Rod's delivery of a Message from the Lords, to give Her Majesty's assent to various Bills on 13th April, 1960, was made note of on pages 132-3 of Volume XXIX of THE TABLE. Certain Members had been reluctant for the House to be interrupted at that moment and protested thereafter to Mr. Speaker.

Then, on the 25th October, 1962, immediately before the House expected to be summoned for the prorogation of Parliament, the Prime Minister made a statement relating to events in Cuba. He answered various questions put to him and, while several Members still wished to pursue the subject, Black Rod delivered his Message to attend the Lords Commissioners.

The Speaker immediately went, despite certain attempts to protest or raise points of order. On his return to the Commons' Chamber, another Member tried to raise a point of order, which the Speaker ignored and restricted himself to acquainting the House of the proceedings in the Lords, and of the prorogation of Parliament. (*Hansard*, Vol. 664, c. 1064.)

The matter was subsequently pursued outside the Chamber and on 12th December, 1962, in the next Session, Mr. Speaker made a statement to the House on the constitutional position. He ruled that the practice of the House did not now allow it "to decline to admit the Gentleman Usher of the Black Rod, or by implication to delay obedience to his request, for instance, by the further transaction of business". He relied on the passage in *Hatsell*, referred to earlier.

The Leader of the House then immediately stated the outcome of consultations designed to improve the arrangements for Royal Commissions. He doubted that the recent difficulty on a prorogation day was likely to occur again. Arrangements had been made, however, for the periodic Royal Commissions giving assent to Bills to be taken "at a time and on a day as convenient to the House as possible".

The Leader of the Opposition, Mr. Gaitskell, was not entirely happy to rely on eighteenth-century precedents, but provided that a Commission were arranged for a convenient hour, he was willing to accept the situation. In reply, the Leader of the House, Mr. Macleod, agreed that, subject to the need from time to time for urgency for a particular Commission, six o'clock on a day when the business was comparatively uncontroversial would be aimed at. (*Hansard*, Vol. 669, c. 409-412.)

It may be permissible perhaps to extend Mr. Macleod's account of how Royal Commissions are arranged.

Generally speaking, there is one before the Christmas, Easter and Whitsun recess and of course a big one just before the Summer recess.

Extra Commissions are also arranged if it is vitally necessary for a Bill to come into force on a day before one of the regular Commissions. The choice of the day and time is a matter which involves the convenience of both Houses and of the Speaker and the Lord Chancellor, and it falls to be negotiated by the Secretary of the Chief Whip in the House of Lords. It has been generally found that the most convenient time is about 6 o'clock on a Wednesday or Thursday; and in fact most of the difficulties that have recently arisen have occurred when Commissions have been fixed for other times or days. For various reasons it is necessary to fix the Commission at least three days in advance (the Letters Patent, for example, have to be got to the Queen for signature and back), and with the best will in the world it is not always possible to foresee the precise course of business in both Houses so far ahead. The sudden emergence of an important matter for debate may, therefore, be another cause of trouble. But on the whole, considering how many complexities are involved, the procedure works well and smoothly.

XI. EARLY RECALL OF THE HOUSE

Answers to Questionnaire

The Questionnaire for Volume XXX contained the following item:

Please describe procedure by which, in an emergency, Parliament or the House can be recalled to meet earlier than the day to which it has been prorogued or adjourned.

The thirty-eight replies showed that the initiative for recall was usually, but not invariably, at the behest of the Government and while the method adopted varied, little practical significance appeared to result therefrom.

The replies furnished are as follows:

United Kingdom

When Parliament stands prorogued the Queen may, by proclamation, name any day thereafter for the meeting of Parliament to despatch business, and this proclaimed date supersedes the previous prorogation.

In certain emergencies the recall of Parliament is required by Statute. Whenever the Crown shall cause the Army or Air Force Reserve to be called out on permanent service or the Territorial Army to be embodied, when Parliament stands prorogued or adjourned for more than ten days, the Queen shall issue a proclamation for the meeting of Parliament within ten days. When a proclamation declaring that a state of emergency exists has been made, the occasion thereof has to be communicated forthwith to Parliament, and if Parliament is separated by an adjournment or prorogation which will not expire within five days, a proclamation must be issued for the meeting of Parliament within five days.

When both Houses of Parliament are adjourned, they can be recalled either by Royal proclamation, or by the Speaker of each House.

The Queen is, by statute, empowered when both Houses stand adjourned for more than fourteen days, to issue a proclamation, with the advice of her Privy Council, declaring that the Parliament shall meet on a day not less than six days from the proclamation; and in the Commons all the orders which may have been made by either House and appointed for the original day of meeting, or any subsequent day, stand appointed for the day named in the proclamation.

The Lords now customarily pass a sessional resolution in the following terms:

That whenever during the present Session of Parliament the House stands adjourned, and it appears to the satisfaction of the Lord Chancellor (or if the Lord Chancellor is absent, to the satisfaction of the Lord Chairman of Committees after consultation with Her Majesty's Government) that the public interest requires that the House should meet at any earlier time during such adjournment, the Lord Chancellor or the Lord Chairman of Committees, as the case may be, may give notice to the Peers that he is so satisfied, and thereupon the House shall meet at the time stated in such Notice, and shall transact its business as if it had been duly adjourned to that time.

The Commons adopted their previous annual resolution as a Standing Order in 1947. Its terms are:

Earlier meeting of House in certain circumstances

(1) Whenever the House stands adjourned and it is represented to Mr. Speaker by Her Majesty's Ministers that the public interest requires that the House should meet at any earlier time during the adjournment, Mr. Speaker, if he is satisfied that the public interest does so require, may give notice that he is so satisfied, and thereupon the House shall meet at the time stated in such notice.

(2) The government business to be transacted on the day on which the House shall so meet shall, subject to the publication of notice thereof in the order paper to be circulated on the day on which the House shall so meet, be such as the government may appoint, but subject as aforesaid the House shall transact its business as if it had been duly adjourned to the day on which it shall so meet, and any government order of the day and government notices o motions that may stand on the order book for any day shall be appointed fo the day on which the House shall so meet.

(3) In the event of Mr. Speaker being unable to act owing to illness or other cause, the Chairman of Ways and Means, or the Deputy Chairman, shall act in his stead for the purposes of this order.

Jersey

The Bailiff (as President of the States) may convene the States whenever he thinks it necessary. Except in a case of emergency, it is customary to give three days' notice. Alternatively, a requisition for the recall of the House, signed by not less than seven members, may be addressed to the Bailiff, who considers that he has no option but to recall the States upon receipt of such a requisition.

Canada

The Canadian House of Commons rarely adjourns for a period exceeding two weeks. Ordinarily, when that happens, a special order is made to provide that if it appears to Mr. Speaker, after consultation with the government, that the public interests requires an earlier meeting, Mr. Speaker may give notice of such meeting.

The Canadian Parliament is ordinarily prorogued for a period of forty days, but a proclamation may be issued at any time after prorogation either to call Parliament for the despatch of business or

to prorogue for a further period of forty days, but Parliament may be and has been prorogued until the following day. In the ordinary course of events, a proclamation for the despatch of business is issued about thirty days prior to the date fixed for the opening of a new session but, even with modern transportation facilities, a minimum of four or five days is required for members from distant points in Canada to reach Ottawa.

Ontario

The Legislative Assembly may be recalled by the Lieutenant-Governor in Council.

Newfoundland

The House of Assembly may be recalled by proclamation.

Saskatchewan, Legislative Assembly

No special procedure is required, for the House prorogues "until it pleases His Honour to summon the same for the despatch of business", and no day is named.

When it is desired to recall the House, the Lieutenant-Governor issues his proclamation, and the Clerk informs the Members that such a proclamation has been issued. There are no limits or intervals required by law or Standing Order.

Australia: House of Representatives

Where the Speaker has, pursuant to a Resolution of the House of Representatives, set a date for the next meeting of the House, there is precedent that, in an emergency, he may call the House for an earlier date.

Where the House has adjourned by its own Resolution to a fixed date, there is no recorded precedent of the Speaker recalling the House for an earlier date. Normally when the House adjourns to a fixed date it is only for a short break of a week or so. In the case of a longer break the addition of the following words to the Special Adjournment Resolution have covered the case adequately ". . . unless Mr. Speaker shall, by telegram addressed to each Member of the House, fix an earlier date of meeting".

Should the House stand adjourned by its own resolution to a fixed date and no provision is made in the resolution for the Speaker to call an earlier meeting, Parliament could be prorogued by the Governor-General under Section 5 of the Constitution and a time would be fixed by the Governor-General for the next meeting of the Parliament.

Where the Governor-General has prorogued Parliament and has by proclamation fixed the date for the next meeting of Parliament, then, in the event of an emergency, the Governor-General acting

upon the advice of the Government could, by proclamation, call Parliament together for a date earlier than the date already fixed.

This is provided for in the wording of the Proclamation which includes the words "or (in the event of circumstances arising, at present unforeseen, which render it expedient that the Parliament should be summoned to assemble at a date earlier than the said . . .) to such earlier date as may be fixed by a Proclamation &c.".

Australia: Senate

(*a*) Where the President has been authorised by the Senate to fix the date for the next meeting of the Senate and has already fixed the date, or where the Senate has adjourned by its own Resolution to a fixed date, the President in the event of an emergency would normally act upon the advice of the Government and call the Senate for an earlier date. In the latter case, however, the President's action would require endorsement by the Senate.

If the President declined to accede to such a request from the Government, Parliament could be prorogued by the Governor-General under section 5 of the Constitution and a time would be fixed by the Governor-General for the next meeting of the Parliament.

(*b*) Where the Governor-General has prorogued Parliament and has by proclamation fixed the date for the next meeting of Parliament, then, in the event of an emergency, the Governor-General acting upon the advice of the Government could by proclamation call Parliament together for a date earlier than the date already fixed (section 5 of the Constitution).

Following the new proclamation, the Clerk of the Senate would send notices to all Senators drawing their attention to the altered date of meeting of the Senate.

(*c*) In time of war the Governor-General may by proclamation call upon all persons liable to serve in the Citizen Forces to enlist and serve as prescribed.

Section 60 of the Defence Act provides that if the Parliament is not sitting at the date of the issue of the proclamation, it shall be summoned to meet within ten days after that date.

The President would act upon the advice of the Government and call the Senate together at some date within the period prescribed above notwithstanding the fact that a later date had already been fixed by himself or by the Senate.

New South Wales: Legislative Council

(*a*) Prorogation—

After prorogation, the power of summoning the House is vested in the Governor by the Constitution Act, 1902:

S.10.—The Governor may fix the time and place for holding every Session of the Legislative Council and Assembly, and may change or vary such time or place as he may judge advisable and most consistent with the general convenience and the public welfare, giving sufficient notice thereof. He may also prorogue the Legislative Council and Assembly, and dissolve the said Assembly by proclamation or otherwise whenever he deems it expedient.

S.11.—There shall be a Session of the Legislative Council and Assembly once at least in every year . . .

There have been occasions during a prorogation when an earlier date of meeting has been proclaimed.

(*b*) Adjournment—

If the House is to be adjourned for a period exceeding the normal adjournment, the following Motion is generally passed:

That this House, at its rising Today, do adjourn until ..... (day and date) ....., at ..... (time) ....., unless the President, or, if the President be unable to act on account of illness or other cause, the Chairman of Committees shall prior to that date, by communication addressed to each Member of the House, fix an earlier day and/or hour of meeting.

This Motion has been varied by specifying the method of communication—"by letter or telegram"—or a period of notice—"two (or three) clear days"—or by adding a proviso—"that if the Premier informs the President of urgency, shorter notice may be given".

During the absence of the President last Session, "Deputy President" and "one of the Temporary Chairmen of Committees" were substituted for "President" and "Chairman of Committees".

New South Wales: Legislative Assembly

When Parliament Stands Prorogued

The Governor issues a Proclamation calling Parliament to meet at the earlier date "for divers weighty and urgent reasons" which appear to His Excellency to render it "expedient that the said Parliament should assemble and be holden sooner than the said day" (*i.e.*, the date specified in the earlier Proclamation).

When the Legislative Assembly Stands Adjourned

For many years now when the Legislative Assembly desires to adjourn for a lengthy period the Motion for the special adjournment is proposed as follows:

That, unless otherwise ordered, this House, at its rising This Day, do adjourn until ..... at Half-past Two o'clock, p.m., unless Mr. Speaker, or, if Mr. Speaker be unable to act on account of illness or other cause, the Chairman of Committees, shall, prior to that date, by telegram or letter addressed to each Member of the House fix an earlier day and/or hour of meeting.

Terms of Motion acted upon, see V. & P. 1948-49-50, p. 207.

Queensland

The House could be recalled to meet earlier than the date to which it has been *prorogued* by a Proclamation being issued summoning Parliament to meet for a new session.

To meet earlier than the date to which it has been *adjourned* would necessitate the issue of a Proclamation proroguing Parliament and then a further Proclamation issued summoning Parliament to meet for a new session.

South Australia

In South Australia, there is no specific provision to enable the House, in an emergency, to be recalled to meet earlier than the day to which it has been adjourned. Of course, the Governor could prorogue Parliament and then summon Parliament to a new Session.

In the case of an emergency during a period of prorogation, likewise, the Governor could summon a meeting of Parliament. It has been customary to give fourteen days' notice of the commencement of a new session of Parliament.

Extract from Constitution Act, 1934-61:

6. PLACE AND TIME FOR HOLDING SESSIONS OF PARLIAMENT.

(1) The Governor may—

(*a*) fix such places and times for holding every session of the Parliament as he thinks fit;
(*b*) from time to time change any such place or time as he judges advisable and most consistent with general convenience and the public welfare;
(*c*) prorogue the Parliament from time to time;
(*d*) dissolve the House of Assembly by proclamation or otherwise whenever he deems it expedient.

Provided that this section shall not authorise the Governor to dissolve the Legislative Council.

(2) The Governor shall give sufficient notice of the time and place fixed for holding every session of Parliament and of any change thereof.

Tasmania

The Constitution Act, 1934, provides:

Special sittings of Parliament
No. 54, ss. 10, 11.
Cf. 48 Vict.

13—(1) Where the sittings of both or either of the Houses shall stand adjourned, and, in the opinion of the Governor, it is desirable that Parliament shall be called together for the despatch of business before the expiration of such adjournment, the Governor, by proclamation, may declare that Parliament shall meet on such day, not being less than six days after the date of such proclamation, as may be therein specified.

Subsection (1A) inserted by No. 11 of 1958, s. 2.

(1A) When Parliament stands prorogued to a certain day and, in the opinion of the Governor, it is desirable that Parliament shall be called together for the despatch of business before the day to which it is prorogued, the Governor may, by proclamation, prorogue Parliament to such earlier date, not being less than six days after the date of the proclamation, as may be therein specified, and in such a case Parliament stands prorogued to that date notwithstanding the previous prorogation.

Victoria

Under sections 50-52 (set out hereunder) of The Constitution Act Amendment Act, 1958, the Governor has power to summon Parliament to meet on any day not less than six days from the date of the summons notwithstanding any previous adjournment or prorogation to a later day; and under section 3 (see hereunder) of the Public Safety Preservation Act, 1958, it is provided that in the event of any action having been taken or immediately threatened whereby the public safety or order is or is likely to be imperilled the Governor in Council may declare a state of emergency to exist, and if, at the time, Parliament happens to have been adjourned or prorogued to a date more than five days ahead the Governor shall issue a Proclamation summoning Parliament to meet not less than two nor more than five days from the date of the Proclamation.

Also under Standing Order No. 43 of the Legislative Council (see hereunder) if during the currency of any adjournment an emergency arises which in the opinion of the President renders it desirable that the Council should meet before the time previously fixed, the President is empowered to summon the Members to a special meeting to deal with the emergency on a day not earlier than two days from the date of summons.

The Constitution Act Amendment Act, 1958—Sections 50-52

50. The Governor may by proclamation summon the Council and the Assembly to meet for the despatch of the business of Parliament on any day not less than six days from the date of such proclamation or in the circumstances mentioned in section three of the *Public Safety Preservation Act*, 1958, not less than two nor more than five days from the date of a proclamation of emergency under such section.

51. When the Governor by proclamation summons the Council and the Assembly for the despatch of the business of Parliament as provided by the last preceding section the Houses of Parliament shall thereupon stand prorogued or adjourned (as the case may be) to the day and time declared in such proclamation notwithstanding any previous prorogation of the Council and Assembly to any longer day and notwithstanding any previous adjournment of the Council and Assembly or either of them to any longer day and notwithstanding any former law usage or practice to the contrary.

52. All and singular the order or orders made by the Council or the Assembly and appointed for the day to which the Council or the Assembly (as the case may be) has been adjourned or to any day or days

subsequent thereto other than and except any order or orders specially appointed for particular days and declared to be so fixed notwithstanding any meeting under the provisions of section fifty of this Act and other than and except any order or orders made under the express provisions of any Act of Parliament shall be deemed and taken to have been appointed for the day on which the Council and the Assembly shall meet in pursuance of such proclamation.

Public Safety Preservation Act, 1958—Section 3

3.

(1) Where at any time it appears to the Governor in Council that any action has been taken or is immediately threatened by any persons or body of persons whereby the public safety or order is or is likely to be imperilled the Governor in Council may by proclamation (in this Act referred to as a " proclamation of emergency ") declare that a state of emergency exists.

(2) No such proclamation shall be in force for more than one month, without prejudice to the issue of another proclamation of emergency before at or after the end of that period.

(3) Where a proclamation of emergency has been made the occasion thereof shall be forthwith communicated to Parliament; and if Parliament is then separated by such adjournment or prorogation as will not expire within five days then a proclamation of the Governor shall be issued summoning the Legislative Council and the Legislative Assembly to meet for the despatch of the business of Parliament on any day not less than two nor more than five days from the date of the said proclamation of emergency and Parliament shall accordingly meet and sit upon the day appointed by the said proclamation of the Governor and shall continue to sit and act in like manner as if it had stood adjourned or prorogued to the same day.

(4) Where a proclamation of emergency has been made and so long as th proclamation is in force the Governor in Council may exercise all or an of the powers hereinafter conferred upon the Governor in Council b or under this Act.

(5) Where a proclamation of emergency has been made and so long as the proclamation is in force any regulations made under this Act shall not continue in force after the expiration of seven days from the time when they are laid before Parliament unless a resolution is passed by both Houses providing for the continuance thereof.

Standing Order No. 43 of the Legislative Council

43. If during the currency of any adjournment of the Council any emergency shall arise which in the opinion of the President renders it desirable that the Members of the Council should meet for the consideration of any matter before the time previously fixed for meeting, the President shall be empowered to appoint a day and hour for a special meeting to deal with such matter and to summon Members to such special meeting: provided always that the said date shall not be earlier than two days from the date of summons.

Western Australia

For many years it has been the practice, at the end of each Session, for each House to be adjourned until a date to be fixed by the Presiding Officer.

In these circumstances it is a simple matter for Parliament to be called together at short notice—a written summons to each member being sufficient advice.

When it is reasonably certain that there is no requirement for a continuation of sittings the Session is prorogued and recent practice has been, upon prorogation, for the Governor immediately to issue a proclamation fixing the date for the next Session.

The Constitution Act provides that every Legislative Assembly shall exist for three years from the day of the first meeting. At the end of each three year period the Legislative Assembly is therefore dissolved and a general election takes place.

Following the election the Governor issues a Proclamation calling Parliament together; in the words of the Constitution Act—"giving sufficient notice thereof".

Recall of the House generally presents no problem.

Australia: Northern Territory

The Federal Act which constituted the Legislative Council made provision for the recall of the Council after prorogation by means of a petition from a majority of the seventeen Members. The relevant section of the Act reads:

> 4M.—(1). The Administrator may, by notice published in the *Government Gazette* of the Territory, appoint such times for holding the sessions of the Legislative Council as he thinks fit and may also, from time to time, in a similar manner, prorogue the Legislative Council.
>
> (2). At the request of at least nine members, the Administrator shall, by notice published in the *Government Gazette* of the Territory, appoint a time, being not later than fourteen days after the day on which he receives the request, for holding a session of the Legislative Council.

Nothing has ever been provided to enable the Members to petition for the holding of a meeting and this has been the cause for some discontent of late. The practice in the past has been for the Council to adjourn its meetings "until a time and date to be fixed by Mr. President", but at the last meeting this was amended by the addition of the words "or to be appointed by him not later than fourteen days after the day on which he receives from at least nine Members a request for the holding of a meeting". By this means the Council has reserved to itself the right to force the President to call a meeting if at any time in the future he should be reluctant to do so.

New Zealand

When prorogued to a certain date, Parliament can be called together earlier by His Excellency the Governor-General issuing a Proclamation summoning the Members to meet on an earlier date. (For an example see 1955 *N.Z. Journals of H. of R.*, pp. 471, 472, when the House was prorogued to 24th March, 1955, but was later called to meet on an earlier date, *viz.*, 22nd March, 1955.)

When the House is adjourned for a lengthy period provision is made by Resolution of the House for the House to be called together earlier or later than the date given should such a course be considered necessary.

(See 1953 *N.Z Journals H. of R.*, pp. 53, 58; 1955 *N.Z. Journals H. of R.*, p. 87.)

Western Samoa

Recall is provided for in the proviso to Standing Order 10 (1) which reads:

> Provided that in cases of emergency the Head of State may summon a meeting on such shorter notice as the circumstances require in which event notification shall be given to members either in writing or by any other means which will ensure that members are duly informed.

India: Rajya Sabha

There is no special procedure prescribed.

Under clause (2) of article 85 of the Constitution, the President may, from time to time, prorogue the Houses of either House of Parliament. Power has been also conferred on the President by clause (1) of that article to summon from time to time each House of Parliament to meet at such time and place as he thinks fit and it has been further provided in that clause that six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session. Unlike the British Parliament, the date on which the House is to reassemble is not specified in the order of prorogation by the President. At the termination of a session, the House is adjourned *sine die* by the Presiding Officer and the House is thereafter prorogued by an order of the President.

The power of summoning a House of Parliament under clause (1) of article 85 includes the power of summoning the House for an extraordinary or emergent session. Thus if the House is to be summoned in an emergency after it has been prorogued, the President is empowered under the Constitution to do so. After the President issues the summoning order, members may be summoned by telegram. There is no minimum period of interval between the date of the summoning order and the date on which the House is to meet prescribed in the Constitution.

In regard to adjournment, there is generally no adjournment of a House of Parliament in India for any length of time. The practice here is that during a session the House is adjourned from day to day by the Presiding Officer. Within a session there are breaks in the sittings of the House by adjournments postponing the further consideration of the business for specified periods—hours or days. At the end of the session, the House is adjourned *sine die* by the Presiding Officer, followed soon after by an order of prorogation of the

House. The rules of procedure in either House of Parliament enjoin that the House shall sit on such dates as the Presiding Officer, having regard to the state of business of the House, may from time to time direct. If during a session the House has been adjourned to a particular date or *sine die* and it becomes necessary for the House to meet before the date to which it has been adjourned or at any time during that session after the House has been adjourned *sine die*, the Presiding Officer is, under the rules, empowered to call the House to meet on such earlier date or at such time. Thus both the power to adjourn the House from time to time or *sine die* and the power to call a sitting of the House within a session after the House has been adjourned vest in the Presiding Officer of the House.

India: Lok Sabha

The relevant provisions of the Constitution of India—Rules of Procedure and Conduct of Business in Lok Sabha—are as follows:

(i) *Article* 85 *of the Constitution*

(1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The President may from time to time—

(*a*) Prorogue the Houses or either House;

(*b*) dissolve the House of the People.

(ii) *Rule* 3 *of the Rules of Procedure*

The Secretary shall issue a summons to each member specifying the date and place for a session of the House.

Provided that when a session is called at short notice or emergently, summons may not be issued to each member separately but an announcement of the date and place of the session shall be published in the *Gazette* and made in the press, and members may be informed by telegram.

(iii) *Rule* 15 *of the Rules of Procedure*

The Speaker shall determine the time when a sitting of the House shall be adjourned *sine die* or to a particular day, or to an hour or part of the same day:

Provided that the Speaker may, if he thinks fit, call a sitting of the House before the date or time to which it has been adjourned or at any time after the House has been adjourned *sine die*.

However, there has been no occasion so far when Lok Sabha was called to meet earlier than the date to which it had been adjourned or summoned.

Kerala

The Speaker may, if he thinks fit, call a sitting of the Assembly before the date or time to which it has been adjourned or at any time after the Assembly has been adjourned *sine die*.

Madhya Pradesh Vidhan Sabha

Under the Constitution of India the Governor is empowered to prorogue the Assembly from time to time and according to the practice prevailing in this Assembly, the House is not prorogued to a certain day but indefinitely. Under the Rules of Procedure (*vide* rule 8 (3)) the Speaker is empowered to adjourn the Assembly either to a particular day or *sine die*.

In the case of prorogation, therefore, no question of recalling the House arises. In the case of adjournment to a particular day the question of recalling the Assembly earlier may arise, but because the Speaker has been invested with the power of adjourning, it is understood that he has also the power of recalling the Assembly earlier if it is necessary to do so.

Madras

Rule 17 of the Madras Legislative Assembly Rules provides that when the Assembly has been adjourned to a particular date, the Speaker may summon the Assembly for an earlier or a later date However, no instances have occurred when the House was recalle to meet earlier than the day to which it was prorogued or adjourned

Mysore

The Legislative Assembly and the Legislative Council are usually adjourned *sine die* by the Presiding Officers and later either summoned again or prorogued depending upon the business to be transacted and there has not been any occasion of emergency when the Houses had to be recalled.

If such a situation should arise, recourse may have to be taken to the provision contained in rule 3 of the Rules of Procedure of the Legislative Assembly:

3. The Secretary shall issue a summons to each member specifying the date and place for a Session of the Assembly:

Provided that when a Session is called at short notice or emergently, summons may not be issued to each member separately but an announcement of the date and place of the Session shall be published in the Gazette and in the press, and members may be informed by telegram.

Uttar Pradesh Legislative Council

There is no specific procedure in the Uttar Pradesh Legislative Council by which, in an emergency, the House can be recalled to meet earlier than the day to which it has been prorogued or adjourned.

In case of prorogation, it is simply for the Governor to summon the two Houses of Legislature for an earlier date, and in case of adjournment it is under the discretion of the Chairman to call the meeting of the House for a date earlier than for which it stands adjourned.

Federation of Rhodesia and Nyasaland

During Prorogation

In terms of Article 27 of the Constitution of the Federation of Rhodesia and Nyasaland, the Governor-General may at any time prorogue the Federal Assembly, and in terms of Article 26 the sessions of that House shall commence at such time on such date as the Governor-General may by proclamation in the official *Gazette* of the Federation proclaim.

The procedure for fixing an earlier date for a meeting than that originally fixed in the proclamation summoning Parliament to meet, would be for the Governor-General to issue a further proclamation cancelling the original date and fixing a new date. There has been no occasion as yet for such a procedure to be followed.

During an Adjournment

It is the practice in the Federal Assembly, whenever the House is to adjourn for more than a few days, to adopt a resolution which empowers Mr. Speaker, if after consultation with the Prime Minster he is satisfied that the public interest so requires, to recall the House earlier OR LATER than the day fixed in the adjournment resolution for the resumption of the session.

This provision, which enables Mr. Speaker to postpone the resumption of the session, is unusual; indeed, the only other Parliament (as distinct from a Legislative Council, which in many colonies is normally adjourned *sine die*) in which the writer knows that a similar resolution was formerly adopted from time to time is that of Southern Rhodesia, where the practice originated during the 1939-45 War and was carried on until it was replaced in 1958 by a standing order based on that of the House of Commons relating to this matter, which makes no provision for the resumption to be postponed.

Nyasaland

Under Section 50 of the Nyasaland (Constitution) Order in Council, 1961, as under Clause XXV of the Royal Instructions which it replaced, Sessions of the Legislative Council are held at such time and place as the Governor may from time to time by proclamation appoint. The Governor may therefore recall the Council during prorogation by proclaiming a new Session.

Under the old Standing Orders, which were in force throughout 1961, the Governor was also empowered under S.O. 3 to summon the Council "although the Council may be standing adjourned", by sending a written summons to each Member. It was further

provided by S.O. 7 (3) that " whenever during a Session the Council stands adjourned, whether or not a day shall have been appointed for the next meeting or sitting thereof, and it is represented to the Governor that the public interest requires that the Council should meet or sit at any earlier time during the adjournment, the Governor, if he is satisfied that the public interest does so require, may give notice that he is so satisfied, and thereupon the Council shall meet or sit, as the case may be, at the time set out in the notice ".

Under the new Standing Orders which were adopted by the Council on 7th March, 1962, it is provided:

(1) that when the Council is in session (*i.e.*, not prorogued or dissolved) Mr. Speaker shall, in the case of an emergency (of which the Governor shall be the sole judge) and at the written request of the Governor, summon the Council to attend at a time to be appointed by the Governor (S.O. 15); and

(2) that Mr. Speaker may, if he is satisfied that the public interest requires that the Council should meet at an earlier date than that on which it is next due to meet, summon the Council to attend on such earlier date as he may appoint, but such action may only be taken if the Governor certifies that it is in the public interest.

Aden

Standing Order 77 reads:

(1) In all cases not hereinbefore provided for, the Speaker or Chairman shal decide, taking for his guide the rules, forms and usages of the House of Com mons of the Parliament of the United Kingdom of Great Britain and Northern Ireland in force for the time being, so far as the same can be applied to the proceedings of the Council.

(2) In any matter for which these Standing Orders do not provide the said practice shall be followed, but no restriction which the House of Commons has introduced by Standing Order shall be deemed to extend to the Council or its Members until the Council has provided by Standing Order for such restriction.

Gibraltar

A Proclamation by the Governor would be published in an extra-ordinary issue of the *Gibraltar Gazette* and written notice of the meeting would be sent to all members by the Clerk.

Kenya

This is dealt with in our Standing Order 5 (1) which reads as follows:

Whenever during a Session the Council stands adjourned, whether or not a day has been appointed for the next meeting, Mr. Speaker shall, at the request of the Government, appoint a day or, as the case may be, a day other than the day already appointed for the meeting of the Council, and, such day having been notified to the Members, the Council shall meet thereon at such time as shall be appointed by the Speaker.

Malta G.C.

When Parliament stands prorogued it can only be recalled by the Governor by virtue of a proclamation published in the *Gazette* stating the time and place for the holding of the meeting.* During the period when Parliament is in session and is adjourned either *sine die* or to a specified date, its earlier reassembly can only be effected by the Speaker by virtue of the powers conferred on him by Standing Order 8 (1). It is usual for the Speaker, in the latter case, after Prayers at the beginning of the Sitting, to acquaint the House of the reasons for his summons.

Sarawak

In cases of urgency, to be certified by two members of the Supreme Council, the President may at his discretion reduce or dispense entirely with the seven days' notice that must be given under Standing Order 6 (2).

Tanganyika

The early recall of the House in an emergency is covered by Standing Order No. 5 (4) which reads:

(4) Whether the Assembly is in Session or not, the Speaker shall, in the case of an emergency (of which the Governor shall be the sole judge) and at the written request of the Governor, summon the Assembly to attend at a time to be appointed by the Speaker. The length of notice in these circumstances shall be as great as the urgency of the case permits.

Uganda

The procedure for the recall of the Uganda Legislative Council in an emergency is governed by Standing Order No. 6 which provides that in case of an emergency the Speaker may call a special meeting at any time he may deem it expedient, giving the longest notice practicable.

The Uganda legislature each year holds four or five meetings of varying lengths. A meeting terminates when the Council is adjourned *sine die*, and the next meeting commences when the Council first meets after being summoned by the Speaker. The date of the first meeting of a session is fixed by Governor's proclamation.

Federation of the West Indies

Standing Order 8 (2) states:

If, during an adjournment of the House, it is represented to the Speaker by the Prime Minister that the public interest requires that the House should meet on an earlier day than that to which it stands adjourned, the Speaker may give notice accordingly and the House shall meet at the time stated in such notice. The Clerk shall as soon as possible inform each Member in writing, or if necessary by telegram, of any such earlier meeting.

* Malta (Constitution) Order in Council, 1961, sec. 59 and 60.

Trinidad

The Speaker, if he is satisfied that there is urgent necessity for the House to meet, may direct the Clerk to summon a meeting of the House for any time on any day he may determine. Such direction to the Clerk, however, must be in writing and signed by the Speaker, and shall specify the exact business for the meeting.

If the House has been prorogued, the Governor will first have to issue a Proclamation recalling the House and then the procedure above will follow.

XII. CONSTITUTIONAL CHANGES IN THE WEST INDIES

The Federation of the West Indies was determined upon in 1956 after a number of conferences stretching back to 1947. The constituent territories were Jamaica, Trinidad and Tobago, Barbados, the Leeward Islands, except the Virgin Islands, and the Windward Islands. British Guiana and British Honduras were not included in the Federation. The British Caribbean Federation Act, 1956, which came into force in August of that year provided " for the federation of certain West Indian Colonies and for the transfer, to a court established for the purposes of the federation, of the jurisdiction of the Court of Appeal established by the West Indian Court of Appeal Act, 1919 . . ." The Court was to have jurisdiction over other British West Indian Territories not included in the Federation. Power was given to Her Majesty in Council to provide for the federation of the constituent territories, for the establishment of a Federal Government, a Federal Legislature, and other necessary Federal authorities and for including subsequently other territories within the Federation. No recommendation was to be made to Her Majesty to make such provision until a draft of the proposed Order in Council had been approved by both Houses of Parliament.

In July, 1957, the draft of the West Indies (Federation) Order in Council, 1957, was laid before both Houses of Parliament and approved the same month. The Order in Council (S.I. 1957 No. 1364) was made on the 31st July. It was drawn up in consonance with the " Plan for a British Caribbean Federation ", Cmd. 8895, published in 1953, as modified by the decisions of the Standing Federation Committee. This was a body of West Indian representatives set up by the Conference in 1956 to complete the detailed arrangements for bringing the Federation into being. The Order in Council provided for the establishment of the Federation of the West Indies and contained in an Annex the Constitution of the Federation.

This provided for a bi-cameral Legislature comprising a Senate and a House of Representatives. The Senate was composed of nineteen members appointed by the Governor-General on a basis of Territorial representation after consultation with the Governors of the Territories represented, and elected its President and Vice-President from among its members. It was to be renewed every five years and was not affected by a dissolution of the Federal Legislature.

The House of Representatives consisted of 45 members elected by

adult suffrage in the federal territories. It elected its Speaker from among its own members, or elsewhere, and its Deputy Speaker from among its members.

A person appointed to the Senate or elected to the House of Representatives who was already a member of a Territorial Legislature or Executive Council could not take his seat until he had ceased so to be a Territorial Member. If he had not ceased so to be within twenty-one days, he vacated his federal seat. Likewise, a Federal Member had to vacate his seat if, with his consent, he was nominated as a candidate for election to a Territorial Legislature, or if he became a Territorial Member, whether by election or otherwise. The Federal Legislature had a term of not more than five years.

The powers of the Senate were restricted in that, in certain circumstances, a Bill could be presented to the Governor-General for his assent, although the Senate had not passed it. The Governor-General could assent to, refuse to assent to, or reserve for Her Majesty's pleasure, any Bill presented to him. An Exclusive Legislative List named matters which only the Federal Legislature could provide for and a Concurrent Legislative List named matters either the Federal or Territorial Legislatures could provide for. Federal Law prevailed in the case of conflict. All unlisted matters appertained to Territorial Legislatures. Her Majesty by Order in Counci could legislate for purposes of defence and external relations.

The Federation came into being in January, 1958. The firs elections were held in March and the Federal Parliament first met in April. The Federal executive consisted of a Governor-General appointed by Her Majesty and a Council of State consisting of a Prime Minister elected by the House of Representatives and ten other Ministers appointed by the Governor-General on the advice of the Prime Minister. This Council of State was, however, superseded in August, 1960, under the terms of an amending Order in Council by a system of cabinet government. The cabinet comprised the Prime Minister and an unspecified number of Members appointed by the Prime Minister from among the members of the two Houses of which at least two were to be Senators. The Governor-General was to appoint as Prime Minister the member of the House of Representatives who, in his judgment, was best able to command the confidence of the majority party in the House of Representatives. In general, where the Governor-General was authorised to act in his discretion in the performance of any function, he was required to act in accordance with any constitutional conventions applicable to the exercise of any similar function by Her Majesty in the United Kingdom.

The Constitution was to be reviewed within five years of its coming into force by a further Conference. This Conference was to be attended by Her Majesty's Government in the United Kingdom, the Federal Government and the Government of the Federal Territories.

The purposes would include a review of the Federal Constitution and the consideration of provisions for levying taxes on income and profits.

On 26th June, 1958, the Federal House of Representatives passed a resolution which called on the Federal Government to ensure that the conference provided for by Article 118 of the Federal Constitution was convened not later than June, 1959 "in order to achieve the goal of self-government and Dominion status within the Commonwealth at the earliest possible moment".

It was subsequently decided that in advance of the Constitutional Conference with Her Majesty's Government the Federal Government should hold an Inter-Governmental Conference with the territorial governments in order to work out a pattern of proposals on which they might be able to reach agreement before proceeding to formal discussions with Her Majesty's Government. This Inter-Governmental Conference took place in Trinidad on 28th September, 1959, and was attended by delegations from all the governments in the Federation and by observers from the Colonial Office. It adjourned on 8th October, 1959, having agreed that the next stage of the Federation's constitutional advance should be independence within the Commonwealth. To examine the implications of this intention the conference established two ministerial Inter-Governmental Committees. These two Inter-Governmental Committees, and their supporting ministerial and official working parties, met at intervals throughout the remainder of 1959 and 1960 and submitted reports.

While this process of inter-governmental discussion was proceeding the Federal Government, in pursuance of a motion carried by the Federal Parliament, proposed to the Secretary of State for the Colonies that the Federation should be granted full internal self-government, which had already been achieved by (or had been granted in principle to) Barbados, Jamaica and Trinidad and Tobago. The Secretary of State accepted this proposal and the Federation achieved full internal self-government on 16th August, 1960. The principal results of this change were that the Federal Government became fully responsible for all matters within its competence, except defence and external affairs, and the Governor-General ceased to preside over the Council of State, which became the Cabinet.

The Inter-Governmental Conference was finally reconvened on 2nd May, 1961. Once again Her Majesty's Government was represented by Colonial Office observers. The conference concluded on 16th May, 1961, having reached agreement (on some questions on a majority basis) on a wide range of questions, but leaving certain important issues outstanding, including a review of the details of the existing Federal Constitution. It had earlier been agreed that the Constitutional Conference with Her Majesty's Government should be held in London on 31st May. It ended on 16th June, 1961.

The Conference drew up a Proposed Federal Constitution. Under it, the Sovereign was to appoint the Governor-General on the advice of the Federal Prime Minister. The Legislature was to consist of Her Majesty, a Senate, and a House of Representatives. Each territory was to be represented in the Senate by two Senators appointed by the Governor-General on the advice of the Territorial Government.

The House of Representatives was to consist of 64 members as follows:

Barbados	5
Jamaica	30
Trinidad & Tobago	16
Montserrat	1
Antigua	2
Dominica	2
Grenada	2
St. Christopher Nevis & Anguilla	2
St. Lucia	2
St. Vincent	2

Alterations in membership to take account of increasing population were to be made every five years by a Standing Committee of the House of Representatives charged with this duty.

The respective spheres of the Federal and Territorial Legislatures was defined by listing those matters on which the Federal Legislature alone could deal with and those which either Federal or Territorial Legislature would deal with, federal laws taking precedence in case of conflict. All other matters were for the Territorial Legislatures.

The general conclusions of the Conference contained, however, some ominous phrases. They were, in full:

With so many delegations present at the Conference it was inevitable that certain delegations should find themselves not in agreement with some of the conclusions set out in Chapter III of this Report. Many indeed recorded dissent on particular items. It was recognised that the conclusions reached at Lancaster House were *ad referendum* to Legislatures. The Secretary of State made it clear that, in accepting the scheme as a whole for the purpose of presentation to their legislatures, delegates would be fully entitled to explain the stand which they had taken on particular matters during the Conference.

This scheme should give the West Indies its opportunity to plan an effective and constructive role in international affairs. It should enable the West Indies, in conjunction with powerful friends and allies, to provide adequately for its own defence, and should give the Federal Government the means wherewith to provide more adequately than hitherto certain common services. By giving to all West Indians an opportunity to demonstrate their political and administrative talents on a larger stage, it will stimulate world interest and confidence in the West Indies with all the advantages—psychological and material—which that must bring to all its inhabitants.

Against this background the Conference agreed, subject to such decisions as may be obtained by each delegation from their respective legislatures and peoples, to request Her Majesty's Government in the United Kingdom to take the necessary measures to revise the Federal and Unit Constitutions on the basis set out in this Report. In this context the Conference agreed that it would not be necessary to hold elections in the Unit Territories specifically in relation to independence. A Federal General Election should be held, on the basis of the new Constitution, not later than six weeks after Independence Day. The Secretary of State assured the Conference that, on these understandings, Her Majesty's Government would take the necessary steps to introduce legislation to grant the West Indies independence on 31st May, 1962.

The Conference also expressed the desire of the West Indies to become on independence a Member of the Commonwealth. The Secretary of State warmly welcomed this proposal and undertook that at the appropriate time Her Majesty's Government would consult the other Commonwealth Governments with a view to securing their concurrence.

Independence by 31st May, 1962, was the goal; but all was "subject to such decisions as may be obtained by each delegation from their respective territories and peoples". Indeed the Government of Jamaica had already announced in May, 1960, that the electorate of the territory would determine by referendum whether or not Jamaica should remain part of the Federation.

The Government introduced the necessary legislation and the referendum, which was held on the 19th September, 1961, resulted in a majority of 35,535 votes against Jamaica remaining in the Federation.

The Government of Jamaica accepted without question the decision of the electorate and immediately put in hand the many and varied measures necessary to seek the withdrawal of the territory from the Federation and the attainment of full independence by Jamaica at the earliest possible date. The Premier, Mr. N. W. Manley, led a Government delegation to London at the end of September, 1961, to discuss with the Secretary of State for the Colonies the implications of the referendum result and to seek early independence. At the outset of these discussions the Secretary of State informed the delegation that the British Government, no less than the Government of Jamaica, accepted the result of the referendum as a final indication of Jamaica's wishes. The British Government gave an assurance that Parliament would be asked to pass legislation, if possible by the end of March, 1962, which would provide for Jamaica's withdrawal from the Federation and, provided proposals for the independence Constitution could be made available in time by the Jamaican Government, to hold an independence Conference in January or February, 1962, at which the Constitution would be discussed and a date for independence agreed. Meanwhile, the British Government gave an assurance that the independence date would be the earliest date in 1962 which was practicable having regard to the legal and other arrangements which must necessarily be made before the introduction of a new Constitution.

On the 20th September, 1961, the day following the referendum, the Jamaican Government put in hand the examination of the implications of the decision to withdraw from the Federation and to seek independence on its own.

Select Committees of both Houses of the Legislature were appointed and met together under the chairmanship of the Premier on 31st October, 1961, to consider and supervise the preparation of a draft independence Constitution. The reports of the Committees were laid before both Houses in January, 1962, and after full debate, approved unanimously.

The envisaged Conference took place in London in February, 1962. The Conference agreed that the date of Jamaican independence would be 6th August, 1962. The Jamaican delegation at the same time expressed the hope that Jamaica might become a Member of the Commonwealth and the British Government undertook to sponsor the application.

The Conference also set down a draft constitution, providing, *inter alia*, for a Governor-General appointed by Her Majesty and a bicameral legislature as before. The Senate was to comprise 21 Senators, appointed by the Governor-General, 13 on the advice of the Prime Minister and 8 on the advice of the Leader of the Opposition.

The House of Representatives was to consist of 45 elected Members of Parliament, with provision for increasing the number up to 60, if the Standing Committee so recommended and the House so approved. The Standing Committee consisting of the Speaker and three Members of Parliament appointed by the Prime Minister and three appointed by the Leader of the Opposition would have under continuous review the number of Constituencies into which Jamaica was divided, and their boundaries.

The President and Deputy President of the Senate and the Speaker and Deputy Speaker of the House of Representatives were to be elected, respectively, by the Senate and by the House of Representatives from within their own membership.

Meanwhile, the effect of Jamaica's proposed withdrawal from the Federation was felt in Trinidad and Tobago, where on 14th January, 1962, the majority party unanimously approved a resolution that Trinidad and Tobago should not participate in any new federation of the East Caribbean which might be formed but should proceed forthwith to independence without prejudice to the possibility of the territory's future association in a unitary state with other territories in the East Caribbean. The resolution also requested the Government to take the initiative in proposing the maximum possible measure of collaboration between the former members of the Federation of the West Indies regarding common services, and to declare their willingness to take part in and work for a Caribbean economic community. This resolution was endorsed at a special convention

of the party held towards the end of January, and the Government accepted the terms of the resolution as their policy in this matter.

The Secretary of State for the Colonies, Mr. Maudling, had been in the West Indies at this time, and on his return to the United Kingdom made the following statement to the House:

> As the House is aware, I paid a visit to the West Indies from 13th to 28th January. My object was to discuss with the leaders of the Governments in the Eastern Caribbean the situation arising from Jamaica's desire to leave the Federation. During my visit I had talks with the Federal Government and with the Premiers of Barbados and Trinidad, as well as with the Chief Ministers of all the Leeward and Windward Islands which form part of the Federation of the West Indies.
>
> My talks revealed that we face this situation: Jamaica has declared its determination to withdraw from the Federation and this decision has been accepted by Her Majesty's Government. The Government of Trinidad and Tobago have decided not to participate in any federation of the Eastern Caribbean. Finally, the Premier of Barbados and the Chief Ministers of the Leeward and Windward Islands, while advocating a new federation between their territories, are agreed that the present one should be dissolved.
>
> In these circumstances, Her Majesty's Government have with regret reached the conclusion that they have no alternative but to arrange for the dissolution of the present Federation.
>
> Under the Federation, however, a number of common services of great value have been operating in the area. We are anxious to ensure their continuation on a regional basis pending clarification of the constitutional position throughout the area.
>
> Her Majesty's Government have, therefore, decided to introduce legislation into Parliament very shortly which will enable us to dissolve the present Federation, and to set up an interim organisation, under a Commissioner appointed by Her Majesty's Government, which will be responsible for running the common services for the time being, until some more permanent arrangements for their operation can be worked out in conjunction with the Governments of the West Indies.
>
> Her Majesty's Government regard the suggested federation of Barbados and the Leeward and Windward Islands as a promising development. They consider, however, that a great deal of careful study both here and in the West Indies will be needed before any final decisions can be taken and they propose for their part to initiate this study in the very near future. (6th February, 1962, *Com. Hans.*, Vol. 653, cc. 230-1.)

The next step was to introduce a Bill into the House of Commons to dissolve the Federation and to provide for disposal of all the Federal agencies and common services and to deal with its assets and liabilities. This was rapidly done and the Bill received the Royal Assent as the West Indies Act, 1962, on 18th April. It provided for Her Majesty by Order in Council to provide for secession from, or dissolution of, the Federation, and it was made clear that the British Government preferred dissolution. It also made provision for dealing with common services and assets; the payment of compensation to Federal servants; the establishment of a new Court of Appeal; and broadly for the reversion of the constituent territories to their previous status. An Order in Council subsequently pro-

vided for the dissolution of the Federation on 31st May, 1962—the same date as had previously been envisaged for its independence.

In June, 1962, a conference was held to prepare for the independence of Trinidad and Tobago, and followed a similar course to that of Jamaica. It was agreed that Trinidad and Tobago should become independent by 31st August, 1962, and their delegation unanimously sought Commonwealth membership, which the United Kingdom Government readily undertook to sponsor.

The Conference also considered a draft constitution. In February, the Government of Trinidad and Tobago had published the first draft: this was distributed widely in the territory, and organisations and the general public were invited to submit written comments on it by 31st March. Over 160 memoranda were received, and from 25th to 27th April the Government held meetings with those who had submitted memoranda, at which the draft constitution was considered. The draft constitution, as amended in the light of these consultations, was considered by a Joint Select Committee of the Senate and House of Representatives, after which it was debated and, on 11th May, approved by a majority of 16 to 9 in the House of Representatives.

It made provision for the recognition and protection of human rights and fundamental freedom and for citizenship. Its institutions provided for the appointment by the Queen of a Governor-General. The existing bicameral form of legislature was to be retained, with a Senate of 24 Members, appointed by the Governor-General, 13 on the advice of the Prime Minister, 4 on the advice of the Leader of the Opposition and 7 on the advice of the Prime Minister after consultation with the leaders of religious, economic or social bodies. (The Opposition did not accept this provision.) The House of Representatives was to consist of 30 Members, but this number could be varied. The President and Deputy President of the Senate would be elected by the Senate from within their own membership.

The Speaker of the House might be elected either from among the members of the House who were not Ministers or Parliamentary Secretaries, or from outside the House. A Speaker elected from within the House would have a casting vote only. A Speaker elected from outside the House would have neither an original nor a casting vote; and if on any question the votes of members were equally divided, the motion would be lost. The Deputy Speaker would be appointed from within the House.

The principal provisions of the constitution were to be entrenched, and certain of these specially entrenched, requiring respectively the affirmative vote of two-thirds and three-quarters of all the Members of each House for their amendment.

Parliament could be prorogued or dissolved by the Governor-General on the advice of the Prime Minister, provided that, if the House of Representatives, by a majority of all its members, passed

a resolution that it had no confidence in the Prime Minister of Trinidad and Tobago, and the Prime Minister did not within seven days either resign or advise a dissolution, the Governor-General would revoke the appointment of the Prime Minister.

In any event Parliament would not continue for more than five years from the date of its first sitting after any dissolution. In time of war, however, Parliament itself might extend its life for a period not exceeding twelve months at a time up to a maximum of five years.

Provision was also made for immunity for Members from all action, whether civil or criminal, in respect of anything said in the course of Parliamentary proceedings. Further chapters dealt with the conduct of Elections, the Executive, the Judicature, Finance and the Public Service.

The Jamaica Independence Bill was introduced into the House of Commons on 22nd May, 1962, and received the Royal Assent on 19th July. The Trinidad and Tobago Independence Bill was presented on 27th June and received the Royal Assent on 1st August.

The remaining territories had meanwhile been taking counsel among themselves. On 19th January, 1962, the Premier of Barbados and the Chief Ministers of the Leeward and Windward Islands held a meeting with the Secretary of State, at which they presented proposals for a federation between their eight territories.

Between 26th February and 3rd March, 1962, representatives of the Governments of Barbados, the Leeward Islands and the Windward Islands held a conference in Barbados to consider further the question of setting up a federation of their territories. At this conference they confirmed their desire that such a federation should be established, and submitted detailed proposals to the Secretary of State. On 16th April, 1962, the Secretary of State informed the House of Commons that the United Kingdom Government had reached the conclusion that a federation of Barbados and the Leeward and Windward Islands appeared to offer the best solution to the problems of the area, provided that the federal constitution was such as to provide adequate powers to the central government and to offer a reasonable prospect of economic and financial stability.

A conference of representatives of the eight Governments to consider the proposal was held in London in May, 1962. The conference recommended that there should be a federation of the eight territories and that it should move towards independence. The territories expressed the desire thereafter for Commonwealth membership. The Federal capital was to be Barbados and the Federation called the "West Indies Federation".

The proposed Constitution envisaged a Governor-General and a bicameral Federal Legislature. Membership of both a Federal and Territorial House would be forbidden. Each territory would provide one Senator. The House of Representatives would comprise one member from each territory, together with an additional member

for each 50,000 unit of population in a territory. Territories only providing one member could provide alternate members. The Territorial Legislatures were not closely defined.

The division of powers and functions between the Federal and Territorial Governments was, as in the earlier Federation, defined in relation to exclusive and concurrent legislative lists. Provisions were also made for economic and financial matters, constitutional amendment, accession and secession, the public service and the judiciary.

It was agreed that further detailed study was required in various fields, not least the financial, and that a further conference should be held when this was useful, at which Opposition parties would be represented.

Shortly afterwards, there were elections in Grenada, which resulted in a change of government. The new government decided to seek association with Trinidad in preference to joining the proposed federation.

In December, 1962, the Secretary of State for the Colonies held a joint meeting of the Chief Ministers of Antigua, Barbados, Dominica, Montserrat, St. Kitts, St. Lucia and St. Vincent. In a statement issued after this meeting, the Ministers unanimously reaffirmed their conviction that federation offered the best prospects for the economic and political progress of their peoples; and it was agreed that a conference should be convened in London in June 1963, to reach final decisions about the form of the federation.

In preparation for this conference, discussions were held in Barbados with the Chief Ministers of the seven territories on 24th to 31st May. These discussions revealed a significant divergence of opinion between the governments concerned. Some of the differences arose from further reflection upon the original proposals, while others arose from consideration of recent expert studies of the administrative, fiscal and economic aspects of the problem.

At the final session of the conference the Chief Ministers presented a statement suggesting a new procedure for establishing the federation. This statement had been agreed between the seven Ministers, subject to reservations by three of them.

Since the suggestions in this statement involved radical changes in the proposals previously considered, and since time would clearly be required to study them, it was agreed that the Constitutional Conference in London would have to be postponed until later in the year.

The statement on which the position then rested in June, 1963, is as follows:

STATEMENT BY THE REGIONAL COUNCIL OF MINISTERS (COMPOSED OF THE PREMIER OF BARBADOS AND THE CHIEF MINISTERS OF ANTIGUA, DOMINICA, MONTSERRAT, ST. KITTS, ST. LUCIA AND ST. VINCENT)

[The Ministers] unanimously recommend, subject to the Chief Minister of

Montserrat referring the proposals back to his Government, that the Federation of the West Indies be independent from its inauguration with constitutional guarantees for the subjects set out in the Bill of Rights.

2. That the Federal Government when established and the Unit Governments accept the arrangement that the Unit Governments will continue to administer the departments responsible for the collection of Income-Tax, the provision of Postal services and the local Police Forces for a period of five years from the inception of the Federation at the end of which period the position will be reviewed by the Federal and Unit Governments, subject to the proviso by the Antigua delegation that any Unit Government not agreeing to transfer any of these services to the Federal Government should have the right to administer such services.

3. That the Federal Government exercise exclusive legislative authority in relation to the subjects set out in the Exclusive Legislative List and concurrent legislative power with the Unit Governments over matters in the Concurrent Legislative List.

4. That the Federal Government administer the departments of Audit, Prisons, Customs and Excise, the Police Training School and the Mobile Police Force, Overseas Commissions and Regional Services, Advisory Services, Federal Public Service Commissions and Telecommunications as limited in the Exclusive Legislative List.

5. That a Federal Judiciary as proposed in the report prepared by the Legal Committee of the Conference be established.

6. That a Unified Service for Administrative, Technical and Professional Staff be established.

7. That the terms of the Financial assistance to be given to the Federal Government and Unit Governments by Her Majesty's Government during the ten-year period 1963-73 be settled at the Conference to be held in June, 1963, or later as the Secretary of State may decide, and should provide for open grants for administrative purposes, grants for establishing the Federation, Development Grants and Development Loans.

8. [The Ministers] further recommend that the steps to the establishment of the Independent Federation should be in the following order:

(1) Appointment of Interim Federal Public Service Commission to appoint key Federal Officers.
(2) Preparation of Constitutional instruments and organisation of Federal Departments and Services.
(3) Introduction of Independence Bill in House of Commons June-July, 1964.
(4) Appointment of Governor-General and creation of Federal Council of Ministers into a body corporate with power to legislate by Regulations made by the Governor-General on the advice of the Federal Council limited to a number of subjects, such steps as are necessary for the launching of the Federation.
(5) Federal Elections in 1965.
(6) Inauguration, proclamation of independence and appointment of Prime Minister and other Ministers on advice of the Prime Minister.
(7) Between July, 1963, and the inauguration of the Federation full internal self-government to be given to all Unit Territories.

XIII. HOUSE OF REPRESENTATIVES, AUSTRALIA: REVIEW OF THE STANDING ORDERS

By A. G. Turner
Clerk of the House of Representatives

The House of Representatives Standing Orders Committee completed in 1962 a comprehensive review of the Standing Orders which was commenced in 1960.

The Report* of the Committee, to which was attached a schedule of proposed amendments with full explanatory notes, was presented to the House on 28th August, 1962,† and set down for consideration at a later date.

The purpose of the review was—

As a general principle, the elimination of unnecessary form and the adoption of procedures allowing more effective consideration and debating time;

The establishment of new simplified procedures appropriate to the modern needs of the House;

The omission of obsolete provisions long since discarded by the House of Commons and their replacement, where necessary, by Orders expressing modern practice;

The definition of established practice not stated in existing Orders;

The amendment of Orders which did not clearly express their purpose or which were in conflict with the practice of the House.

The Committee's recommendations involved the amendment of 101 of the 403 existing Standing Orders, the omission of 60, and the insertion of 59 new or substitute Orders.

The most important of the changes related to—

New financial procedures.
Giving notice of motion.
Giving notice of intention to present a Bill.
First reading of a Bill.
Second reading of a Bill.
Suspension of Committee stage of Bill in certain cases.
Grossly disorderly conduct.
Casting vote by Deputy Speaker.
Presentation of Papers.

Of these, the financial procedures were of the greatest interest.

It was proposed that the complex and time-consuming procedures founded on the long-established system of preliminary consideration of financial proposals in Supply, Ways and Means or other Money Committees before the Bill is introduced be discontinued, and that

* Parl. Paper H. of R. No. 1 of 1962-63.
† V. & P., 1962-63, p. 201; H. of R. *Han.*, Vol. 36, p. 761.

these committees be abolished. These procedures had, to a large extent, become pure form; the House preferring to debate the proposals at the Bill stage.

In their place would be simple procedures appropriate to modern conditions which would allow a financial Bill to be introduced in the same way as a non-financial Bill—*i.e.*, the Bill would not be introduced to give effect to a preliminary money resolution in the Supply, Ways and Means, or Money Committees.

The financial committee system of the House of Commons which had been followed by the House of Representatives since 1901 was established in the seventeenth century during the constitutional struggle between the Crown and the Parliament.

The conditions that brought about the creation of the system had long since disappeared and the use of the committees to express the financial initiative was of no advantage in the House of Representatives. The financial initiative in its application to appropriation is expressed in section 56 of the Australian Constitution which states that a vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the appropriation has been recommended by a Governor-General's Message and, in its application to a tax or duty, could be simply stated in a Standing Order.

The proposed financial procedures were briefly as follows:

Appropriation for Annual Services.—Existing procedures involved reference to the Supply Committee of Governor-General's Messages transmitting Estimates and recommending appropriation, consideration of Estimates and Supply Proposals in the Supply Committee, then in the Committee of Ways and Means, and then in a Bill to give effect to the Committee's resolutions and appropriate the moneys.

The new procedure would be the announcement by the Speaker of a Governor-General's Message (which would not be referred to any Committee) recommending an appropriation for the purposes of an Appropriation Bill, or Supply Bill, to be presented by the Treasurer. What had been the Budget Debate in the Supply Committee would take place on the second reading, the details of the estimated expenditure being considered during the committee stage of the Bill.

Provision was made for amendments of the widest scope to be moved to the second reading of these Bills in place of the narrow and technically limited amendment in Supply to reduce the first item which, under existing procedures, was the only amendment allowed.

Tax or duty proposals.—Under existing procedures, these proposals were considered in the Ways and Means Committee and then in a Bill to impose the tax or duty.

Under the new procedures, the proposals, except those for customs and excise tariffs, would be initiated by Bill. In order to protect the revenue, and as considerations relating to timing and drafting

make a Bill, at the initiation stage, an unsuitable vehicle for this purpose, tariff proposals would be introduced by motion moved in the House. It was recommended that, except in special circumstances, the motion should be treated as a formal procedure for the purpose of initiating the duty or tax and that the proposals be considered and debated on a Bill to be introduced subsequently which would replace but, at the same time, comprehend the previous motion. On the Bill becoming an Act, it would be appropriate to discharge the Order of the Day for the resumption of the debate on the motion.

Special Appropriations.—Existing procedures involved reference of the Governor-General's Message recommending appropriation to a money committee of the Whole, consideration of a money resolution in that committee, and adoption of the resolution by the House. If the Message preceded the Bill, the Bill to give effect to the resolution was then introduced. If the Message was taken after the second reading, the committee stage of the Bill had to be interrupted and the House and money committee proceedings arising from the Message dealt with; the committee stage of the Bill was then resumed.

The new procedure proposed, simply, the announcement by the Speaker of a Message immediately after the second reading of a Bill which had been introduced in the same way as a non-financial Bill; the Message would be read only and not referred to any committee.

As, under the new procedures, tariff proposals would be initiated in the House instead of in a Committee of Ways and Means, and having in mind the revenue involved, the advice of the Solicitor-General was obtained on the question whether initiation in the House would constitute compliance with the relevant references to tariffs or tariff alterations in the Customs or Excise Acts. The Solicitor-General stated that the changed procedure would not necessarily involve any amendments of the Acts but that, as the Acts are taxing Acts, it may be felt that it would be desirable for the position to be made quite certain by appropriate amending legislation. The Committee recommended therefore that, contingent on the adoption of the new financial procedures, amending legislation be introduced. Pending its enactment, it proposed that Ways and Means be temporarily continued for the limited purpose of tariffs.

The Report came before the House for consideration on 1st May, 1963,* and, with the exception of some minor alterations of the Standing Order dealing with questions seeking information, was adopted by the House. The revised Standing Orders came into operation on 13th August, 1963, the first day of the Budget sittings.

During the debate on the Report it became clear that it would be consistent with the wishes of the House if the Standing Orders Committee were to meet every year to consider, firstly, any further changes which events have shown to be necessary and, secondly, proposals submitted to the Committee by Members.

* V. & P. 1962-63, p. 455; H. of R. *Han.*, 1st May, 1963, pp. 893-930.

XIV. APPLICATIONS OF PRIVILEGE, 1962

At Westminster

Criticism of Members' actions.—On 12th March, 1962, Mr. Jeger, Member for Goole, sought Mr. Speaker's assistance on a matter of privilege. He said:

The *Sunday Telegraph* dated yesterday, carries on its front page a story which it heads:

Firms' Anger at Leipzig muddle

M.P.s Criticised in Trade and Politics Mix-up

In the course of the article reference is made to the activities of a number of hon. Members of this House and with your permission, Mr. Speaker, I should like to quote four brief extracts to illustrate my contention that this may be a matter of breach of Privilege.

The first extract reads:

" It was the presence of the M.P.s and the activities of some that caused most resentment among British exhibitors. It was certainly degrading to hear a British M.P. touting for business orders and to see the sycophantic attitude some adopted towards the East Germans. I know of one concrete case, and there are certainly others, of a British firm agreeing to pay a quarter per cent. commission to an M.P. if he could arrange an order."

The article goes on:

" Equally, I have no doubt that the reason Mr. Sternberg and Mr. Drayson are so anxious to bring M.P.s out is to build up a pressure group at Westminster sympathetic to East Germany. . . . One big steel company has refused to show at Leipzig because of the undue influence they feel was exerted by some M.P.s in previous years. . . . There is no doubt that the collective presence of a group of M.P.s creates the impression of an official delegation."

I submit that while this article is critical of those hon. Members who attended the Leipzig Fair it is, in its sense and essence, derogatory to the whole House and I therefore submit it to you as a breach of Privilege. (*Com. Hans.*, Vol. 655, cc. 902-3.)

Mr. Speaker availed himself of the twenty-four hours allowed him for consideration of a complaint of privilege. The next day he ruled as follows:

I have given very careful consideration to the hon. Member's complaint in the light of the precedents, and, in view of the opinion which I have formed, I think that I had better say as little as possible about the article.

It is my view that the article does not, *prima facie*, constitute a contempt of this House and does not, *prima facie*, involve a breach of any of its privileges.

That means that I cannot allow the hon. Member's complaint precedence over the Orders of the Day. But, of course, that has no effect on what the House might choose to do in the matter should it be raised on a substantive Motion. (*Com. Hans.*, Vol. 655, cc. 1124-5.)

QUEENSLAND

Contributed by the Clerk of the Parliament

Attack on conduct of Members.—On Wednesday, 14th March, 1962, the Leader of the Opposition (Mr. J. E. Duggan) brought forward a motion for the adjournment of the House to discuss a matter of urgent public importance, namely—"The Government's action in confirming a decision of the Licensing Commission in accepting a certain tender for the erection of an Hotel at Inala". During the debate certain statements were made concerning the Chairman of the Commission (Mr. J. L. Kelly) and Members of the Commission. (*V. and P.*, 14th March, 1962, pp. 772-3; *Hansard*, pp. 2378-2400.)

In the Brisbane *Telegraph* newspaper on Thursday, 15th March, 1962, and *The Courier Mail* on Friday, 16th March, the Chairman of the Licensing Commission challenged Members of the State Opposition over the Inala Hotel controversy. He *demanded* that they make, outside Parliament, any specific allegation of improper conduct by the Commission or any of its members . . . *challenged* any Members of the Opposition to make outside the House, and without hiding behind their Parliamentary privilege, any specific allegation of improper conduct so that appropriate action could then be taken.

On Tuesday, 20th March, the Leader of the Opposition, Mr. Duggan, rose on a question of privilege and moved the following motion:

That the statement by Mr. J. L. Kelly, Chairman of the Licensing Commission, and published in the Brisbane *Telegraph*, 15th March, 1962, and *The Courier-Mail*, 16th March, 1962, constitutes a breach of privilege.

After a lengthy debate the question was superseded by the Premier, in winding up the debate, moving under Standing Order No. 78—"That the House do pass to the next business". This motion was agreed to by 40 votes to 26.

After the division on the Premier's Motion, Mr. Walsh (Independent) gave notice of the following Motion (*Hansard*, p. 2509):

(1) That a Committee of five members of this House be appointed to enquire into the statement appearing in the Brisbane *Telegraph* of Thursday, 15th March, 1962, two copies of which are hereby laid on the table of the House in which John Lawrence Kelly, Chairman of the Licensing Commission of Queensland, a body charged with administering the Liquor Laws of this State, wherein Mr. Kelly is credited with having attacked the conduct of members of this House in regard to comments made during the course of a debate in the House.

(2) That the Committee have power to send for persons, papers and records.

(3) That the Committee report to this House on a date convenient subsequent to its findings as to what action should be taken against the said John Lawrence Kelly or any other person or persons deemed by the Committee to be responsible for the publication of the article referred to in the foregoing.

This Notice of Motion was *not* included in the Order Paper for the next Sitting because only *two* Members rose in support of the Notice and not the required number as set out in Standing Order No. 38:

. . . Provided that, before such Notice of Motion shall be entitled to inclusion among the items of General Business upon the Order Paper, it shall be necessary for the Member giving such Notice of Motion to obtain the support of at least *three* other Members who shall signify their support by rising in their places immediately after the Member shall have read aloud the Notice of Motion.

INDIA: LOK SABHA

Contributed by the Deputy Secretary of the Lok Sabha

Casting reflections on a Member on account of his speech and conduct in the House by a newspaper.—(See THE TABLE, Vol. XXX, pp. 107-111 for account of earlier proceedings.)

On the 23rd March, 1962, the Speaker (Shri M. A. Ayyangar) informed* the House:

The House will recall that I had informed the House on the 21st August, 1961, that I had cancelled the Lok Sabha Press Gallery Card and the Central Hall Pass issued to Shri A. Raghavan, the New Delhi Correspondent of the *Blitz*, in pursuance of the decision of the House on the 19th August, 1961, adopting the Thirteenth Report of the Committee of Privileges on the *Blitz* case. The Committee had recommended that:

> " the Lok Sabha Press Gallery Card and the Central Hall Pass issued to him be cancelled and be not issued again till he tenders to the House a full and adequate apology."

I have now received the following letter of apology, dated the 16th March, 1962, from Shri A. Raghavan:

On the 19th August, 1961, Lok Sabha adopted a motion agreeing with the 13th Report of the Committee of Privileges presented to the House on the 11th August.

The Hon. Speaker and the House will be pleased to remember that the 13th Report of the Committee of Privileges had recommended certain action against the Editor of *Blitz News* magazine, Bombay, and myself, its New Delhi Correspondent in connection with a despatch published in the issue of the said weekly dated 15th April, 1961, relating to a speech delivered in the House by Shri J. B. Kripalani on defence matters.

By the said motion Lok Sabha had adjudged me guilty of a gross breach of privilege and contempt of the House. Thereafter in compliance with the directive of the Hon. Speaker, I surrendered my Lok Sabha Press Gallery pass and the Central Hall entry permit.

I take this opportunity to inform the House that I am extremely sorry that I have committed a breach of privilege for which I hereby tender my apology.

May I in conclusion venture to request Lok Sabha through you, Sir, to take a lenient view and restore my Press Gallery pass and the Central Hall entry permit.

* *L.S. Deb.*, dated 23rd March, 1962, cc. 1362-3.

The Speaker then asked the pleasure of the House whether Shri Raghavan's apology might be accepted and the Press Gallery Card and the Central Hall Pass be restored to him. On the House signifying assent, the Speaker observed:

The apology is accepted and the passes will be issued accordingly.

MAHARASHTRA

Contributed by the Secretary, Maharashtra Legislative Secretariat

Disclosure of important policy decisions of Government to the Press when the House was in session.—On 30th March, 1962, the Leader of the Opposition and another member of the Legislative Assembly gave notice of their intention to raise a question of breach of privilege arising out of an interview given by the Minister for Labour, which was published in the issue of a local newspaper, dated 20-3-63. The contention of the members was that the Minister should not have disclosed to the Press important policy decisions of Government before taking into his confidence the House, which was in session at that time. The Speaker, while refusing consent to the moving of the motion, impressed upon the members of Government that when the House was in session they must not disclose to the public anything of importance bearing on the policy decisions of Government before they had first taken the House into their confidence. (*Vide, Maharashtra Legislative Assembly Debates,* Vol. VI, No. 12, Part II, dated 30th March, 1962, pp. 398-9.)

Giving of wrong or incorrect reply to questions by Ministers.—On 7th June, 1962, the Leader of the Opposition, in the Maharashtra Legislative Council, gave notice of his intention to raise a question of breach of privilege arising out of alleged untrue replies given by the Minister for Education to a certain Starred Question. While refusing his consent to the raising of the matter in the House, the Chairman of the Legislative Council ruled that incorrect replies to any questions did not by themselves involve any breach of privilege unless such replies were in the nature of defying the House or its authority or were so patently false that the Minister by giving replies in that manner was treating the House with utmost discourtesy or contempt. (*Vide, Maharashtra Legislative Council Debates,* Vol. VII, No. 2, Part I, pp. 24-9.)

Premature publication of certain Taxation Proposals.—On 8th June, 1962, the Leader of the Opposition in the Maharashtra Legislative Assembly and another member gave two joint notices of breach of privilege on the part of the Minister for Finance and certain other Ministers arising out of premature publication of certain taxation proposals before the Additional Budget was presented to the House. The contention of the members was that by publishing certain Bills

making provision for increasing certain taxes before the presentation of the Additional Budget, the Minister for Finance and certain other Ministers had committed a breach of privilege of the House. While refusing consent to raise the matter, the Speaker ruled as follows:

The Leader of the Opposition and another member have jointly given two notices of breach of privilege on the part of the Minister for Finance arising out of premature publication of taxation proposals before the additional budget was presented to the House. In the first notice, a specific instance in the shape of L.A. Bill No. XIV of 1962 (a Bill further to amend the Bombay Sales Tax Act, 1959) is mentioned in support of the above plea. In the second notice there is the general allegation that certain Ministers of Government were enabled by the Finance Minister to publish prematurely Bills containing the taxation proposals before the presentation of the additional budget.

This question can be considered from two points of view. The first point of view is the one based upon premature disclosure of the budget owing to leakage and such other reasons. It has been ruled in the United Kingdom and also in this country that no premature publication of the budget owing to leakage can give rise to a breach of privilege. There have been so far only two cases of this nature of which the House of Commons took notice. They are known as the Thomas Case and the Dalton Case. In neither of these cases was leakage treated as a breach of privilege of the House nor were the cases sent to the Committee of Privileges for enquiry. The prevailing view in the House of Commons is that until the financial proposals are placed before the House of Commons, they are an official secret. The same principles have been followed in this country. In the present case, the premature publication of the taxation proposals is not, however, the result of any leakage. Government has deliberately published the Sales Tax Bill under the enabling provisions of Rule 112 of the Maharashtra Legislative Asssembly Rules, so as to give to the public a fair notice of its intentions with regard to sales tax-levies. Government does not apprehend, it seems, that there will be any serious repercussions by publishing these taxation proposals. Otherwise, Government would have taken suitable action to safeguard its revenue and to stop the speculative transactions immediately after the presentation of the additional budget. No such steps have been taken. This clearly shows that there is no danger of anything going wrong either by the earlier publication of the taxation proposals in the form of the Sales Tax Bill or by the presentation of the additional budget unaccompanied by necessary safeguards usually taken on such occasions. If so, there can hardly be any breach of privilege of the House. The second point of view is based upon the well-known principle that matters concerning the House should be brought before the House first before they are made public. This principle also has not been violated here, because what has been published is in accordance with the provisions of the Rule made by the House itself.

So far as the allegation, that other Ministers of Government have been enabled to publish prematurely taxation proposals before presentation of the additional budget, is concerned, it is only enough to say that this allegation is not true, because it is ascertained that the other taxation proposals contained in the other Bills have been published only after the presentation of the additional budget.

Perhaps it would have better from the point of view of parliamentary etiquette to publish such measures after the presentation of the additional budget.

For these reasons, I refuse my consent to raise the question of breach of privilege. (*Vide Maharashtra Legislative Assembly Debates*, Part II, dated 11th June, 1962, pp. 143-4.)

MYSORE: LEGISLATIVE ASSEMBLY

Disrespect to Governor.—On 9th May, 1962, the Speaker recalled the notice of breach of privilege given by Sri Ganji Veerappa on 3rd April regarding the alleged breach of privilege committed by Sri S. Gopala Gowda and pointed out in detail the time taken by several Hon. Members including Sri S. Gopala Gowda and explained how the time available was adjusted among the members for the discussion of the Motion of Thanks. This explanation had not satisfied Sri S. Gopala Gowda, who said that if that were the situation, the Address which had occasioned the debate did not deserve any respect and he kcked it on the floor and left the House. The Speaker had ordered the words uttered to be expunged since they were an insult to the Governor. He took no further action at that time as the Member had left the House.

The Speaker now wanted to know what the member had to say regarding the question of breach of privilege. Sri S. Gopala Gowda, in reply, stated that in his opinion he had not committed any offence or showed disrespect to the head of the State. He had only exercised his right of giving expression to what he felt was a right of a member.

The Speaker felt that the incident that had taken place was one of extreme gravity and seriousness and since the Hon. Member had not expressed regret for what he had done, he had no other go than to pass an order of suspension after taking the sense of the House. He accordingly put the question that the Hon. Member Sri S. Gopala Gowda be suspended from the service of the Assembly during the remainder of the Session and the motion was adopted. The Speaker then requested the member to withdraw from the House, and Sri S. Gopala Gowda withdrew from the House.

UTTAR PRADESH: LEGISLATIVE COUNCIL

Contributed by the Secretary of the Legislative Council

Gross abuse of power: charges against Chairman.—On 15th September, 1960, the Chairman, U.P. Legislative Council, announced that Sri Ram Kumar Shastri, M.L.C., had given notice of a motion in the following terms:

I hereby give notice under rule 223 of the Rules of Procedure and Conduct of Business of the U.P. Legislative Council of my intention to draw the attention of the House to a matter involving a breach of privilege of the Council and also of the Chairman.

The matter refers to a published news item in the *Delhi Hindustan Standard* dated 7th August, 1960, which came to my notice only a few days before. The matter published in the said newspaper has been sent to the newspaper by its Lucknow Office and it is clear that this was given to the newspaper reporter by Shri A. J. Faridi, Shri K. L. Gupta, Shri Maharaj Singh Bharti and Shri Jai Bahadur Singh, who are members of this House.

The matter has been published under the heading " Gross Abuse of power—Charges against U.P. Council Chairman ". The news item is a breach of

privilege of the House *per se* and in my view no investigation about the correctness of the news is at all necessary. The very publication in itself is a breach of privilege, and so under the aforesaid rule I move that the matter be referred to the Privilege Committee of the House to investigate into and report the same to the House with their recommendations. I am submitting a copy of the *Hindustan Standard* with this notice. The matter published in the newspaper contains such observations about the House and the Chairman that the very purpose of sending this matter of privilege to the Privilege Committee will be defeated if any portions are read before the House. The very caption of the news item indicates in what vituperous language the news item has been given publication to by the offending members.

Facts of the Case.—A letter was written by certain members of the House to the Head of the State who, under Article 168 (1) of the Constitution, is one of the constituents of the Legislature of the State but cannot be a member of the House. This letter was also not published in the form in which it was written. Instead, a news item appeared in the *Hindustan Standard* making a mention of the letter along with the names of some of those members who had addressed the letter to the Governor. This news item contained some aspersions on the Chairman, U.P. Legislative Council.

The matter with the leave of the House was referred to the Committee of Privileges to consider and report whether the primary responsibility for the publication of the news item devolves on the newspaper or on the members whose names had appeared in the news item.

Findings of the Committee.—The members whose names had appeared in the news item were asked by the Committee whether they had sent that news item for publication directly or indirectly. The Editor of the said newspaper was also asked by the Committee about his reactions and attitude on the subject. But no satisfactory reply was received either from any member or the Editor of the said newspaper. Thereafter the Committee considered the matter further and recommended in its report that no further action need be taken in the matter for the following two reasons:

(i) It is very difficult to prove the charges framed against the members.

(ii) The publication of the said newspaper had ceased.

MADRAS: LEGISLATIVE ASSEMBLY

Contributed by the Secretary, Legislative Assembly

Delay in laying statutory rules on the Table of the House.—Under section 41 of the Madras Beedi Industrial Premises (Regulation of Conditions of Work) Act, 1958 (Act XXXII of 1958), all rules made and all notifications issued under that Act, shall, as soon as possible after they are made or issued, be placed on the Table of both the Houses of the Legislature and shall be subject to such

modifications by way of amendment or repeal as the Legislative Assembly may make within fourteen days on which the House actually sits either in the same session or in more than one session.

The Government of Madras exempted by notification dated 22-2-1962, in exercise of powers conferred by section 40 of the Act, all the beedi industrial premises in the State of Madras from the provisions of sub-rule (3) of rule 6 of the Madras Beedi Industrial Premises (Regulation of Conditions of Work) Rules, 1959. The Notification was published in the *Fort St. George Gazette* on the 14th March, 1962, and it was to remain in force up to and till the 31st March, 1962. Copies of the notification were sent to Assembly on 14-5-1962 for being placed on the Table of the House.

Sri M. Kalyanasundaram, M.L.A., raised a matter of privilege in the House on the 30th June, 1962, stating that sending the Notification to Members after it ceased to be in force, and thus denying the Assembly the opportunity to make modifications, if any, by way of amendment or repeal for which provision had been made in the Act constituted contempt of the House.

On the 30th June, 1962, Hon. Speaker, after hearing the explanation of the Minister concerned, ruled thus:

> In view of the explanation given by the Hon. the Leader of the House, I hold that it is not necessary to pursue the matter further. But I wish to make it clear that the fact that the Court does not invalidate that notification because it was not placed before the House in time, is not a proper explanatio for not placing the notification before the House in time. On the other hanc the responsibility is all the more greater, because there must be some chec by the Assembly as provided by the rules. (*Madras Leg. Assembly Debates*, Vol. III, 1962, pp. 445-6.)

Policy statements made by the Ministers outside the Legislatures before presentation of particulars in the Legislatures.—On the 3rd July, 1962, Sri M. Kalyanasundaram, M.L.A., raised two matters of privilege, in the Legislative Assembly. In the first one he stated that a policy statement regarding education policy had been published in the *Hindu*, a Madras daily, dated 8th June, 1962. The Member stated that it was a policy statement which ought to have been made in the House.

In the second one, the Member stated that the Chief Minister of the Madras State had made a speech in Madurai revealing the Budget proposals.

The Speaker ruled that the alleged policy statement regarding education did not seem to be a policy statement at all and it was only a restatement of the existing policy. He further stated that there was nothing to show that the statement had been made by a Minister. The Speaker therefore held that no *prima facie* case was made out. He, however, observed that it would be advisable for the Minister, as in the House of Commons, to make statements

appropriate to the circumstances, fully realising the responsibility to, and the rights of the House.

Regarding the second matter, that there was a disclosure of the Budget proposals, the Speaker held that the statement did not contain anything definite and no secrets seemed to have been disclosed.

He added that even if they were Budget proposals and they had been leaked out, they did not form a matter of privilege of the House. He therefore ruled that no *prima facie* case of breach of privilege of the House was made out. (*Madras Legislative Assembly Debates*, 1962, Vol. II, p. 15-24.)

The "Malai Murasu" case.—On the 7th July, 1962, Shri M. Kalyanasundaram raised a question of privilege stating that a news item published in the Tamil daily *Malai Murasu* amounted to a misrepresentation of the proceedings of the House and contained insinuations calculated to bring the House and its honourable members to disrespect and therefore constituted a breach of privilege. On the 11th July, 1962, the Speaker ruled that there was a *prima facie* case of breach of privilege and by a motion the matter was referred to the Committee of Privileges.

The Committee held that the news item was a distorted report of the proceedings and also held that both the Editor and News Editor were guilty of committing a gross breach of privilege and contempt of the House. The Committee recommended that in view of the unconditional apology tendered by the Editor and the News Editor and the publications of correction in the subsequent issues of the daily, no further action need be taken in the matter.

The House also approved the recommendation and the matter was dropped. (*Madras Leg. Assembly Debates*, 1962., Vol. II, pp. 661-8.)

The Murasoli case.—On the 16th July, 1962, Shri J. Matha Gowder, M.L.A., raised a privilege matter in the House stating that the remarks in the editorial of the Tamil daily, *Murasoli*, dated 14th July, 1962, about Hon. Leader of the House and his reply to the debates would constitute contempt of the House and its proceedings and a serious reflection on the Leader of the House, which amounted to a breach of privilege.

The Speaker ruled that the issue need not be pursued, as Shri M. Karunanidhi, M.L.A., who was also the Editor of the daily, expressed his regret and said that an expression of regret would be published in a subsequent issue of the paper. (*Madras Legislative Assembly Debates*, 1962, Vol. IV, pp. 24-8.)

Deliberate absence of the D.M.K. Members.—On the 19th July, 1962, many of the D.M.K. M.L.As., including the Leader and the Deputy Leader of the Opposition, were arrested and detained in consequence of the D.M.K. agitation against the rise in prices. Follow-

ing the above arrests, other D.M.K. M.L.As. abstained from attending the Assembly till the end of the Budget Session. On the 25th July, 1962, Shri K. T. Kosalram raised a matter of privilege stating that the continued and deliberate absence of the D.M.K., the principal Opposition Party of the Assembly when the House was engaged in major and important legislative work, constituted a grave breach of privilege of the House and a calculated insult to the House. The Speaker, withholding his consent, ruled thus:

A Member was free either to attend the meeting or not. There was nothing in the Constitution to compel a Member to attend the Assembly daily. But to do justice to his constituents a Member was morally, though not legally, bound to attend the meetings of the House. This equally applied to a group or party in the House. Their absence did not in any way infringe any of the privileges of the House. If any Member of the House was absent for a period of sixty days, then under Article 190 (4) of the Constitution of India, the House might declare his seat vacant. (*Madras Legislative Assembly Debates*, 1962, Vol. V, pp. 267-9.)

Dina Thanthi case.—On the 30th July, 1962, Shri M. Bhaktavatsalam, Leader of the House and Minister for Finance, raised a matter of privilege regarding a news item published in the Tamil daily *Dina Thanthi* in its issue dated 28th July, 1962, about some incidents that took place in the Madras Penitentiary. The Minister stated that whereas he categorically stated in the Assembly on previous occasions that the Police had no part in dealing with the disturbances within the jail and only the convict warders and regular staff of the jail had to deal with the situation, the daily published a news item that some disturbances took place in the Madras Penitentiary and the Police had dealt with the situation by resorting to lathi charge.

After hearing the speeches of the Minister as well as Leaders of two Opposition Parties, the Speaker ruled that there was a *prima facie* case and the matter might be referred to the Committee of Privileges. The matter was then referred to the Committee of Privileges. (*Madras Legislative Assembly Debates*, 1962, Vol. V, pp. 793-5.)

MADHYA PRADESH

Contributed by the Deputy Secretary of the Vidhan Sabha

Disorder in the Visitors' Gallery.—On the 3rd August, 1962, while the House was considering the Madhya Pradesh Rationalisation of Land Revenue Bill, 1962 (No. 25 of 1962), five visitors from the visitors' gallery shouted slogans and threw handbills in the House. The Speaker, who was in the Chair, immediately ordered the Marshal of the Vidhan Sabha to arrest the demonstrators. They were accordingly arrested and detained under the custody of the Security Officer within the Vidhan Sabha premises. The Leader of the House moved a motion of breach of privilege against the demonstrators. The motion was carried and the question stood referred to the Committee

of Privileges. The Committee met immediately and considered the matter and submitted its report to the House on the same day with the recommendation that the five demonstrators be sentenced to imprisonment until the prorogation of the current session; for two of the demonstrators, who had repeated the offence, the Committee recommended that a resolution be brought in the House in the next session to the effect that two of the demonstrators, who had repeated the offence, may again be sentenced to imprisonment in the next session.

The House on the same day considered the Report of the Committee and accepted its recommendation that the five demonstrators be imprisoned till the end of the session but did not accept that a resolution be brought in the next session to punish the two offenders again who had repeated the offence. After the Report had been so adopted by the House all five demonstrators were committed to the Government prison at Bhopal until the prorogation of the current session.

The Speaker authorised the Security Officer to take the demonstrators to Government prison at Bhopal with the warrant signed by him. The demonstrators were released on 9th August, 1962, immediately on the prorogation of the Vidhan Sabha.

UGANDA: NATIONAL ASSEMBLY

Contributed by the Clerk of the National Assembly

Arrest of a Member of the National Assembly.—In the early hours of the morning of the 16th of August, 1962, the police of a Regional Government in Uganda mounted a tax raid in an area close to Kampala. Among the many persons who were interviewed by the police at the time was a Member of the Opposition of the National Assembly of Uganda; the Member was unable to produce immediately a receipt showing that he had paid his poll-tax and, despite his protestations that he was a Member of the National Assembly and that he had a receipt in his locker in Parliament House, he was unceremoniously bundled into a motor vehicle with a large number of tax defaulters and taken to the local gaol. He was kept there for some hours until another Member of Parliament, hearing of his predicament, obtained the receipt from Parliament House and secured his release.

The Member in question had come to Kampala in order to attend a meeting of the Public Accounts Committee and as he was unable to attend a meeting of the Committee on the day of his arrest, it was held by some that his arrest constituted a breach of privilege of the House. The Uganda National Assembly (Powers and Privileges) Ordinance provides that no Member can be obstructed or molested when coming to or going from the precincts of the House. Did the fact that the Member was arrested at his residence, and thus pre-

vented from attending a meeting in Parliament House that morning, constitute an obstruction? In any case, the Member in question decided not to raise a matter of privilege, but instead on the 19th of September, 1962, a resolution was moved in the National Assembly—

That this House deplores and condemns the arbitrary and uncalled for arrest of a Member of this National Assembly on 16th August, 1962, by Officers of the Kabaka's Government and calls upon Government to take up the matter with the Kabaka's Government with a view to obtaining redress and ensuring that such acts do not again occur.

The first part of the Motion received widespread support from both sides of the House, but because of the way in which the second part was couched, and because of the political relationship between the Central Government party and the Regional Government, the Government felt unable to accept the Motion. It was pointed out that since the occurrence had taken place, a protest had been made to the Regional Government and steps had already been taken to ensure that the incident would not be repeated. The shortcomings of the present Powers and Privileges Ordinance became apparent during the debate, and as a result it is likely that before long the law will be amended to provide greater safeguards for Members of Parliament in Uganda.

XV. MISCELLANEOUS NOTES

1. Constitutional

Australia (Constitutional).—The Commonwealth Electoral Act was amended by Act No. 31 of 1962 to give to aboriginal natives the right to enrol and to vote as electors.

New South Wales (Constitutional).—The object of the Constitution (Amendment) Act (No. 39 of 1962) was to declare that certain specified types of contracts and agreements are not to be contracts the entering into or holding of which would render a member of the Legislative Council or Assembly a "public contractor" and so incapable of being elected or sitting or voting as such, and his seat liable to be declared vacant. This legislation was subsequent to the publication of certain articles in the press alleging that two members of the Legislative Assembly, occupiers of houses belonging to the Housing Commission and hence in a contractual relation with the Crown, were "public contractors" in violation of Sec. 13 of the Constitution Act, 1902.

Section 13 enacts that persons who enter into or benefit from contracts with the Public Service, either at the time of election or while sitting as a member of Parliament, are disqualified from being elected or sitting as Ms. L.C. or Ms. L.A. during the currency of such contract. Sub-section 3 excepts such contracts when they are made by a company of more than twenty persons of which such person is a member. Further, under Section 19 (*e*) it is provided that "If any Legislative Councillor . . .

> (*e*) becomes a public contractor or defaulter . . . his seat shall thereby become vacant".

The Amending Act begins by inserting in Subsection 1 of Section 13, after the words "Public Service", the words "of New South Wales", thus clearly discriminating between the Public Services of this State and those of the Commonwealth and other States. It then goes on to increase the number of exceptions by inserting new subsection (4) in Section 13 and thereby exempting from the operation of the Section—

> Contracts for loans to Treasurer or authorised statutory body; contracts or agreements devolved under a will or intestacy either on a beneficiary or on an executor or trustee, the former for one year and the latter for three years from the date of devolution or the commencement of the Act, whichever is

later; certain contracts for settlements with Her Majesty or statutory body representing Her Majesty (details of which must be published in *Government Gazette*); agreements dealing with lease, occupation or sale of lands with the Crown or statutory body representing the Crown; contracts for supplies to the Crown or statutory body representing the Crown, where terms are those ordinarily used in dealings with the public; loans, etc., on like terms to those ordinarily imposed by the Crown or statutory body in dealings with the public.

New sub-section 5 defines "Statutory Body representing Her Majesty" to include any such body "that is part of or that exercises any function that is a function of the Public Service of New South Wales", and Section 19 (*e*) quoted above, is amended to bring it into line with the above amendments by the omission of the words "contractor or". It now reads "(*e*) becomes a public defaulter", similar to Section 34 (*d*) which applies to the vacation of seats by Ms. L.A. Members of both Houses are now in the same position, and the term "public contractor" is no longer in the Act.

(*Contributed by the Clerk of the Parliaments.*)

Queensland (Constitution).—The Elections Acts Amendment Bill of 1962, which was assented to on 21st December, 1962, and came into operation on that date, made provision for the introduction to Queensland of a system of compulsory preferential voting in lieu of "first past the post" voting.

(*Contributed by the Clerk of the Parliament.*)

Western Australia (Constitution Act, 1899, amended).—During 1962 the Constitution Act of Western Australia was amended in regard to the qualifications required for members to be elected to the Legislative Council and to the Legislative Assembly; and the qualifications of electors for the Legislative Council relating to enrolment of Australian natives. The first amendment, to section seven of the Act, deleted the existing requirements for any person who was not a natural born subject of the Queen to be naturalised for five years before being qualified to be elected a member of the Legislative Council. The amendment provided for an additional qualification: that the person elected shall be an elector entitled to vote at an election of a member of the Legislative Assembly, or a person qualified to become such an elector.

Summarised, the qualifications for a person to be elected as a member of the Legislative Council is residence in Western Australia for two years; full age of 30 years; natural born or a naturalised subject of the Queen, or the new qualification outlined above.

The second amendment, to section twenty of the Act, related to the qualification of any person to be elected a member of the Legislative Assembly. The amendment was similar to the first one, and

deleted the requirement for a person not a natural born subject of the Queen to be naturalised for five years before being qualified for election, and added the additional qualification as mentioned in the first amendment.

The qualifications for election as a member of the Legislative Assembly are now, residence in Western Australia for 12 months; full age of 21 years; natural born or naturalised subject of the Queen; an elector entitled to vote for the election of a member of the Legislative Assembly; or a person qualified to become such an elector. The deletion of the five year period for naturalisation brought the legislation in line with that of the Commonwealth of Australia and other Australian States.

The additional qualification was added to both sections as it was considered that any person before being qualified for election to either House should be an elector enrolled to vote at a Legislative Assembly election, or one qualified to be such an elector.

The third amendment, to section 15 of the Act, deleted paragraph (ii) of the second proviso, which proviso disqualified any Australian native, not the holder of a certificate of citizenship, from being enrolled as an elector of the Legislative Council. Provided they have the other necessary qualifications for enrolment as an elector for the Legislative Council, all Australian natives will be permitted to enrol. It must be borne in mind that enrolment for an elector for the Legislative Council is on a property qualification.

See Constitution Acts Amendment Act (No. 2), 1962, No. 48 of 1962. *W.A. Hansard*, p. 1690, 11th October, 1962.

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

Western Australia (Electoral Act, 1907, amended).—The Electoral Act, 1907, of Western Australia was amended in 1962, for the purpose of giving Australian natives the right to enrol and to vote as electors for the State, and to clarify certain matters in relation to voting by post.

The existing provisions in the Electoral Act which disqualified Australian natives from being enrolled as electors were deleted. In consequence, natives qualified in accordance with the Act will be eligible to enrol and to vote at all future State elections for the Legislative Assembly. This follows the pattern of recent legislation passed by the Parliament of the Commonwealth of Australia, enrolment for natives will be voluntary, but once enrolment is effective, voting will be compulsory. For the European race, both enrolment and voting are compulsory. There are penalty provisions in the amending Act which will safeguard the natives from being subjected to undue influence by promises, offers, recompense, or reward, or benefit for or on account of or to induce any enrolment or refraining from such enrolment.

The remaining amendments tightened up the existing provisions relating to postal voting as warranted by experience.

See Electoral Act Amendment Act, 1962, No. 51 of 1962. *W.A. Hansard*, p. 1690, 11th October, 1962.

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

Australia: Northern Territory (Constitution).—The Northern Territory (Administration) Act, 1962, amended the Principal Act which constituted the Northern Territory Legislative Council by conferring power on the Council to make Ordinances—

(*a*) declaring the powers (other than legislative powers), privileges and immunities of the Legislative Council, and of its members and committees, but so that the powers, privileges and immunities so declared do not exceed the powers, privileges and immunities of the House of Commons of the Parliament of the United Kingdom, or of the members or committees of that House, respectively, at the establishment of the Commonwealth; and

(*b*) providing for the manner in which powers, privileges and immunities so declared may be exercised or upheld.

A Bill introduced in 1960 as the Legislative Council (Powers and Privileges) Bill could not pass without many amendments because at that time the Council did not possess the power conceded in the new Act. The way is now open for the re-introduction of the clauses omitted from the original Bill.

Electoral System.—In keeping with the new Federal policy the full adult franchise was extended to Australian aboriginal natives in the elections for the Legislative Council held on 8th December. Enrolment for aborigines is not compulsory but once enrolled voting is compulsory. The effect of this extension of the franchise was that in one electorate (Stuart) more than half the voters enrolled were aborigines.

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

India (Representation of Goa, Daman and Diu).—Goa, Daman and Diu were specifically included as a Union territory in the First Schedule to the Constitution by the Constitution (Twelfth Amendment) Act, 1962. The Goa, Daman and Diu (Administration) Act, 1962, made provision *inter alia* for the representation of this Union territory in Parliament. Two seats were allotted to the territory in Lok Sabha and necessary changes were also made in the Representation of the People Act, 1950, and the Representation of the People Act, 1951.

India (Representation of Nagaland).—The State of Nagaland Act, 1962, made provision for the formation as from the appointed day of a new State of Nagaland and made consequential amendments to the First Schedule to the Constitution. This Act *inter alia* pro-

vided for representation of the State of Nagaland in Parliament. The State was allotted one seat each in the Council of States and the House of the People. Necessary changes were also made in the Representation of the People Act, 1950, and the Representation of the People Act, 1951. The sitting member of the House of the People representing, immediately before the appointed day, the Naga Hills-Tuensang Area was, as from that day, to represent the State of Nagaland in that House and continue to do so until a person was duly elected in accordance with law to fill the seat.

India (Constitution).—The Constitution Act (Fourteenth Amendment), 1962, sought to amend *inter alia* sub-clause (*b*) of clause (1) of article 81 of the Constitution so as to raise the number of members who might be chosen to represent the Union territories in the House of the People from 20 to 25. The Fourth Schedule to the Constitution was also amended so as to allot one seat to the Union territory of Pondicherry in the Council of States.

(*Contributed by the Deputy Secretary of the Lok Sabha.*)

Northern Rhodesia: Legislative Council (Constitution).—No changes were made in the privileges of the Legislative Council, but considerable changes were made in the law concerning its Members and the electoral system following the introduction of a new constitution for Northern Rhodesia. The Northern Rhodesia (Constitution) Order in Council, 1962, came into operation on the 1st September, 1962. Under section 10 of the Order in Council, the Governor, acting in his discretion, made the Electoral Regulations, 1962. Briefly, the Legislative Council can consist of:

(*a*) A Speaker;

(*b*) Four *Ex-Officio* Members:

- (i) The Chief Secretary;
- (ii) The Attorney-General;
- (iii) The Minister of Finance;
- (iv) The Minister of National Affairs;

(*c*) Such nominated members as may be appointed by the Governor (it is understood that, although the constitution places no limit on the number of nominated members, not more than two official nominated members and not more than two unofficial nominated members will be appointed).

(*d*) Up to 45 elected members elected in the following three ways:

- (i) 15 Lower Roll constituencies (mainly African);
- (ii) 15 Upper Roll constituencies (mainly non-African);
- (iii) Voters on both rolls electing up to 15 national members in seven constituencies each returning two members and

one other constituency returning a single member. In four of the seven two-member constituencies the elections were for the return in each constituency of one African member and one European member. Successful candidates in the national constituencies had to obtain 1/10th of the European votes cast and 1/10th of the African votes cast and also 1/5th of the higher franchise votes and 1/5th of the lower franchise votes. The candidates fulfilling these conditions and having the highest percentage of valid votes cast were elected. In the three remaining two-member constituencies, the elections were for the return of two members of any race.

In the event eight national seats were frustrated after one by-election and these remain frustrated during the life of the present Council.

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

Uganda (Constitution).—The year 1962 was an historic one for Uganda in that the country was given full internal self-government on the 1st of March, and full independence on the 9th of October. The first step was introduced by means of a new Constitution issued as a Schedule to the Uganda (Constitution) Order in Council, 1962, which was laid before the Parliament in the United Kingdom on the 28th February, 1962 (S.I., 1962, No. 405); and the second step by means of a further Constitution issued under the Uganda (Independence) Order in Council which was laid before Parliament in the United Kingdom on the 2nd October, 1962 (S.I., 1962, No. 2175).

On March 1st, 1962, the Uganda Legislative Council became the Uganda National Assembly and the Chief Minister became the first Prime Minister of Uganda. The Assembly was now 93 members strong and consisted of 82 elected members, 9 members specially elected by the Assembly itself, the Attorney-General of Uganda (who was made a member *ex officio*) and the Speaker, who for the first time was to be elected by the Assembly.

The March Constitution laid down that the Clerk to the National Assembly and the members of his staff were to be public officers. The Constitution also provided that the quorum for the Assembly was to be 20 members present.

The Uganda Independence Constitution covered the question of Territorial boundaries, Constitutional provisions for Federal States, Citizenship, Rights and Freedoms of the Individual, the establishment of the Office of Governor-General, the establishment of a Parliament of Uganda, the Judicature, Finance, the Public Service and Public Land. No alteration was made in constituencies or in the procedure for the election of specially elected members of the National Assembly. The composition of the National Assembly and of the

officers of the House remained unchanged though it was provided that all members of the House must, after the 9th of January, 1963, be citizens of Uganda.

The first Parliament of Uganda was formally opened by His Royal Highness the Duke of Kent, acting on behalf of Her Majesty the Queen, at an impressive ceremony held in Parliament House, Kampala, on the 10th October, 1962.

(*Contributed by the Clerk of the National Assembly.*)

Tanganyika (Constitution).—A new law was enacted during the year to declare the number of elected members of the National Assembly. There shall in future be 107 elected members (at the moment there is provision for only 71), but the increase is to take place after the present Parliament is dissolved. Consequently the Electoral Commission has drawn up new boundaries to provide for 107 constituencies. These were approved by resolution of the National Assembly on 26th November, 1962. The number of nominated members in the National Assembly remains as in 1961, that is, up to ten persons, nominated by the President.

Tanganyika also changed its status from a Monarchy to a Sovereign Republic. The change took place on 9th December, 1962, when a new Constitution, enacted by the National Assembly sitting as a Constituent Assembly, came into force. This introduced very substantial changes. Whereas the Independence Constitution of 1961 had produced a constitutional pattern similar to that of the United Kingdom, where the nominal authority in the State is separate from, and acts in accordance with, the advice of the real (or political) authority, the Republican Constitution changed all this. The sovereignty of the Crown gave place to the Sovereignty of the Republic, and the real and nominal authorities are now joined in the office of President.

Under the Republican Constitution, Parliament consists of the President and the National Assembly. The existing National Assembly continues, together with the existing members, but those of the existing members of the National Assembly who are not citizens of Tanganyika ceased to be such members on the commencement of the Republican Constitution. Those which were plural-seat constituencies will continue to be so during the life of the present Parliament, but in the event of there being a by-election for a seat heretofore reserved for a European or an Asian, that seat will become an open seat to which a member of any community (provided he is a citizen of Tanganyika) may aspire. But after the present Parliament is dissolved all constituencies will become single-seat constituencies.

An even more significant change is that Prorogation has been abolished, and so has the division of Parliament into sessions; in

future a Parliament will be divided only into meetings and each meeting into sittings. As the Prime Minister put it when moving the second reading of the Bill to declare the Constitution, this provision had been made "in order to emphasize the Sovereignty of Parliament". (*Hansard*, 23rd November, 1962, Col. 81.)

The new Constitution also provides that Money Bills or resolutions introduced by a Minister or Junior Minister do not require any recommendation.

The President's power to refuse assent to Bills is regulated by the Constitution. The President may refuse his assent to a Bill, but if that Bill is presented to him a second time within six months of his refusal, having been re-passed by at least two-thirds of the members of the National Assembly, he is required to assent to it within twenty-one days, if he has not first dissolved Parliament.

The maximum duration of a Parliament has been increased from four years to five years.

(*Contributed by the Clerk of the National Assembly.*)

Mauritius (Constitution).—As a result of the Mauritius (Constitution) (Amendment) Order in Council, 1961, which came into operation on the 1st of January, 1962, an additional unofficial Minister was appointed on the 5th January, 1962. The new Ministry is responsible for Broadcasting, Information, Posts and Telegraphs and Telecommunications.

The Executive Council therefore now consists of three *ex-officio* members and ten appointed members.

2. General Parliamentary Usage

House of Commons

Citing documents not before the House.—On 23rd November on a debate on the Adjournment, the subject of the Army and Air Force and the matter of the sending of British troops to Kuwait in July, 1961, and the efficiency of the operations were discussed.

In rebutting the charges made principally by Mr. George Wigg, the Secretary of State for War (Mr. Profumo) quoted from two letters received from officers commanding units in the operation, prefacing the first quotation with, "This is one of a series of letters which we received", and adding . . . "I have many letters" (*Com. Hans.*, Vol. 667, c. 1668-9).

The following Monday, 26th November, Mr. Wigg raised a point of order of which he had given the Speaker and Secretary of State for War notice, in these terms:

"I wish to draw your attention and that of the House to an irregularity which occurred during the winding-up speech by the Secretary of State for War on Friday afternoon. In his reply the Secretary

of State for War quoted a letter from the Commanding Officer, 11th Hussars, and he also quoted another letter from a commanding officer whom he did not specify. I would point out that neither letter bears a date.

"The proceedings of the House in this matter are governed by what is set out on page 460 of *Erskine May*. For the benefit of hon. Members, perhaps I might read what it says. It says:

> Another rule, or principle of debate, may be here added. A Minister of the Crown is not at liberty to read or quote from a despatch or other state paper not before the House, unless he is prepared to lay it upon the table. This restraint is similar to the rule of evidence in courts of law, which prevents counsel from citing documents which have not been produced in evidence. This principle is so reasonable that it has not been contested . . .

"That Ruling was the subject of a further Ruling by your predecessor, who, on 31st March, 1952, ruled as follows:

> The rule in this House is analogous to the rule in courts of law, that the tribunal—in this case the House—should have the best evidence in front of it. In that case, if the laying of one letter or citation of part of the correspondence would, in fact, give a misleading view of what has actually transpired, then it would be necessary to lay the whole of the letter or the whole of the correspondence. (*Com. Hans.*, Vol. 498, c. 1356.)

"The War Office has undertaken a survey by the Army Operations Research Group of factors affecting the health and efficiency of the troops in "Operation Vantage".

"My submission is that the right hon. Gentleman, having quoted the letter from the Commanding Officer, 11th Hussars, is now in duty bound by the rules of the House to produce not only the correspondence, but all the analogous matters, including the survey of the health and efficiency factors, which is in the files of the War Office.

"It is my further submission that it is impossible, the Army being organised as it is, for the 11th Hussars letter to have reached the Secretary of State for War without a great deal of other correspondence at all levels. I suggest for your respectful consideration, Mr. Speaker, that if the Minister sends out what is tantamount to a questionnaire, and if he undertakes a survey and agrees in his wisdom to quote part of it, it is his duty to lay the whole of that survey before the House so that the House and the country can come to a fit and proper judgment. I await your ruling, Sir."

Mr. Speaker replied: "I can say what the rule is, but I do not think that I am qualified to say what its application is in this case. I will explain what I mean.

"The Minister quoted from what appeared to be two letters of a kind really constituting public documents, and I would conceive that the rule of the House in that context would require him to lay the whole of each of those letters, unless he is saying, of course, that

these are documents the rest of which is of such a nature that their disclosure would be inconsistent with the public interest. About that I would not know at all, and that is on the assumption that these are accepted to be public documents in the sense of documents to which our rule applies.

"With regard to the rest of the matter, supposing there be—I would not know—a series of parallel documents so that the position is that the quotation from only two of them would be liable to give a false impression of the whole, then I think that our rule is that the rest should be laid, subject, once again, of course, to objection being taken, if it be the Minister's desire to take it, that their disclosure would be inconsistent with the public interest.

"That is our rule, and I cannot rule further on its application to this case because I have no knowledge of what documents are in existence."

The Secretary of State for War (Mr. Profumo) then said: "Mr. Speaker, I am very ready to lay both the letters from which I quoted, in their entirety, before the House. I referred to only two letters—I have not referred to any other documents—and I am, naturally, prepared to lay those letters before the House."

After points of order relating to what constituted a "correspondence" and how its nature should be judged, Mr. Profumo added: "I quoted quite spontaneously and did not extract them from any wider series of documents, or from a report. I did so merely to show that two commanding officers resented the fact that these criticisms appeared to have been made, and had asked my hon. Friend and I if we would try to put the position right in public. They are the only two letters which affected this argument. They stand on their own."

And again, "I have received no other letters from commanding officers on this aspect. That is what I told the House."

Mr. Speaker, replying to further points directed to how the House might judge what was relevant or misleading, added: "The point is that no one but the Minister can say, because no one but the Minister has the knowledge, whether there is peril that this process of selection might give a false impression. He is the only person who can answer that. If he gives the wrong answer, I suppose that the House will deal with him, but it is no good pressing the Chair about it. The Chair cannot do more than state the rules."

Mr. Wigg persisted in his assertion that it was incumbent on the Minister, since he did not claim privilege for the documents, to lay on the table the whole of the correspondence. He would give notice of a motion reflecting on the honour of the Minister if he did not do so. (*Hansard*, Vol. 668, c. 31-42.)

On 28th November, Mr. Profumo laid as Command Paper 1891 the two specific letters but no others. No further proceedings were taken on this.

3. Privilege

Nigeria: Northern Region (Legislative Houses, Powers and Privileges Law, 1962).—The Law declares and defines the Privileges and Powers of the Legislative Houses, regulates the maintenance of Order, and gives protection to persons employed in the publication of House documents.

A Member is declared not to be "liable to any criminal or civil proceedings, arrest, imprisonment or damages by reason of anything which he may have said in a House or by reason of any matter or thing which he may have brought before a House by petition, bill, resolution, motion or otherwise." Civil processes cannot be served on him in the Parliamentary precincts while a House is sitting, nor can criminal processes, except with the leave of the House. The House to which a Member belongs must be notified by the Court in the case of the Member's arrest or imprisonment. The President, Speaker and officers are immune from the jurisdiction of any court in respect of the exercise of their properly conferred powers.

The Houses are given powers to summon witnesses and for them to be examined on oath. The witnesses are given the privileges of witnesses before the High Court. Public Officers are required to produce confidential papers without the leave of the Governor-General. Members and officers shall not give evidence elsewhere in respect of proceedings or examination by a House, except with the leave of the House.

Publications authorised by the House and extracts of proceedings or House papers published in good faith and without malice are privileged. Offences and contempts of the Legislature are specified in two schedules. Those in the first are punishable only by the High Court and comprise such matters as bribery and molestation of members or witnesses; those in the second are punishable by the House or the High Court and relate to the maintenance of order and the day to day management of House business.

4. Order

House of Commons (Criticism of Chairman of a Standing Committee).—On the 20th February, 1962, when the House was debating London Government, Mr. Strauss, an Opposition Member, representing a London constituency, sought the help of the Speaker on behalf of himself and other Members of a Standing Committee which was considering the Transport Bill.

The Committee had adjourned at 7 p.m. and was to meet again at half-past eight. The business before the House was important and he asked the Speaker to take action to protect Members from being summoned to duty in other parts of the building when they wished to be in the Chamber.

He was supported by Mr. Marsh and other Opposition Members.

Mr. Speaker replied: "I am sorry about this difficulty; we have had

it before. I do not think that I can act in the matter myself, because I am at present in the Chair for this debate, which cannot be interrupted, but I will cause communication to be made with the Leader of the House to see whether there can be any assistance from that quarter. That is all that I can do." (*Com. Hansard*, Vol. 654, c. 282.)

The next day, the Chairman of the Standing Committee in question, Sir Samuel Storey, sought the Speaker's ruling on the manner in which the complaint had been made:

"May I seek your guidance on a matter arising out of the remarks of the hon. Member for Greenwich (Mr. Marsh) during the debate last night on local government in Greater London?

"You will recall that the right hon. Member for Vauxhall (Mr. Strauss) asked your guidance about the position of hon. Members who wished to attend the debate, but who were members of Standing Committee E, which was sitting upstairs. The right hon. Gentleman was followed by the hon. Member for Greenwich, who said that he

> tried without success to get the Chairman of the Committee to permit us to take part in this debate. We have made representations on behalf of our constituents in that matter, which is a direct constituency interest and of interest to the people of London. There seems to be no good reason at all why this Standing Committee should go on at this exceptional hour. We have tried, but without any success at all, to get assistance upstairs, but it has been refused . . . (*Com. Hans.*, Vol. 654, c. 281.)

"As you will know, Mr. Speaker, the Chairman of a Standing Committee has no powers or duties about the sittings of a Committee, except to fix the time of the first meeting, to adjourn the Committee at one o'clock, to accept or reject a Motion for the adjournment, or to suspend the sittings of the Committee. At no time yesterday was I asked to accept a Motion for the adjournment of the sitting. The only thing I was asked was whether it was possible to fix the time at which the Committee should rise in the afternoon, and I had to rule that it was not competent for the Committee to fix beforehand the time at which it should rise at an afternoon sitting.

"I am not so much concerned about the misrepresentation of the hon. Member for Greenwich. But I am concerned about the implication that it is possible in this way to criticise the conduct of a Chairman of a Standing Committee. May I call your attention to two precedents? The first was on 14th August, 1889, when Mr. Speaker Peel gave a Ruling in reply to a point of Privilege raised by the then Member for Sunderland, Mr. Samuel Storey.

"While declining to rule that it was a matter of privilege, Mr. Speaker Peel went on to say:

> . . . I should like to say, regarding as I do all questions of order that may be raised in Grand Committee upstairs, that I cannot allow appeals to be made to me on points of order rising in Grand Committees, there being no such appeal, in my opinion, from the decision of a duly constituted Chairman of a Grand Committee.

"The other precedent to which I should like to call your attention is one given by Mr. Speaker Fitzroy, on 29th June, 1928, when he said:

> With regard to this question, of which the hon. Member has been kind enough to give me notice, I should like to lay down an emphatic Ruling that there is no appeal from the Chairman of a Committee to Mr. Speaker; and, in the second place, that, if any Member or group of Members have any criticism to make of the Chairman of the Committee, or, indeed, of anyone in the Chair, the proper thing to do is to put down a Motion on the Paper, so that it may be discussed in the ordinary way in the House. (*Official Report*, 29th June, 1928; Vol. 219, c. 852.)

"In view of what happened yesterday, I should like to ask you to confirm, as I feel certain you will, that the precedents I have quoted still hold good."

Mr. Speaker thereupon replied: "I am obliged to the hon. Member. Seeing these words in the *Official Report*, I realise that they could carry the implication of criticism of the Chairman, and I reiterate our well-known rule that no such criticism is proper, save on a substantive Motion.

"I do not think that the other point arises, because, as I understood yesterday's occasion, there was no question of appeal from some decision of the hon. Member himself. There would, of course, be no such appeal, but I do not think that it was made." (*Com. Hansard*, Vol. 654, c. 413-5.)

Tanganyika (Speaking Twice to a Question).—Tanganyika affairs made one of their very rare appearances in the centre page of *The Times* of 15th June, 1962, when one of the two pieces of Trade Union legislation about to come before the Budget Meeting of the National Assembly was noticed. A "rough passage" through the Assembly was predicted for the Trade Disputes (Settlement) Bill. Even when the Bill was passed without demur, its passing was also noticed, though in a smaller paragraph on the "Overseas News" page of 2nd July.

What escaped notice in the press—either local or overseas—was the occasion, believed to be unique in the history of the Tanganyika Parliament, on which a Member, other than the Mover, was permitted in full Assembly to speak twice upon the same question.

This occurred on 27th June in the second reading of the Trade Unions Ordinance (Amendment) Bill, 1962, in the following circumstances:

Mr. V. Mkello, the only Trade Union leader now left among the back benches of the Assembly, had given prior notice as required by our Standing Orders of his intention to move "reasoned amendments" to both Bills. The first of the two to be taken was the Trade Union Ordinance (Amendment) Bill and the Minister of Health and Labour (himself a former Trade Union leader) moved the second

reading in the normal way and was seconded and the Speaker then proposed the question. Mr. Mkello was the first to catch the Speaker's eye and he promptly rose to move "that this Assembly do decline to give a second reading to the Bill for the following reasons". Mr. Mkello spoke to his reasons, was seconded and sat down. The Speaker then proposed the question of Mr. Mkello's amendment. Only one Member, the Prime Minister, spoke on the question of Mr. Mkello's amendment in order to oppose it. Even Mr. Mkello's own seconder did not speak to it. The question was then put and the amendment negatived. This took place at about 11 a.m. and the debate on the second reading was then resumed. In accordance with normal practice Assembly was suspended at 12 noon and resumed again at 5 p.m. The Member whose speech was interrupted at 12 noon resumed at 5 p.m. and finished after about a quarter of an hour. Then Mr. Mkello rose again and the following passage is extracted from *Hansard*:

The Speaker: Are you rising to speak, Mr. Mkello, you are out of order because you have already spoken once. You cannot speak again.

Mr. Julius Nyerere: On a point of order I am not sure that the Hon. Mr. Mkello did speak on the motion which we are debating. I thought he spoke on his own motion.

The Speaker: No, Sir, I am sorry. He did speak on the original motion. He got up to speak and then he moved the amendment and I think he has finished his right of speech.

Mr. Laxman: On a point of order, isn't it true that the Hon. Mr. Mkello was speaking on his amendment and moving his amendment and not on the original Bill?

The Speaker: He cannot speak again.

That, it seemed, was the end of it and another Member then rose and embarked upon a long speech in support of the second reading. But it was clear that the whole Government front bench was just as disappointed at the Speaker's ruling as were Messrs. Nyerere and Laxman. They all, for some reason unknown to the Speaker and officials of the House, wanted Mr. Mkello to speak again. The Speaker's Counsel who was fortunately sitting in the Adviser's box at the time could be seen thumbing his copy of *Erskine May* and presently the volume was handed up to the Speaker with a note. The note referred to the Speaker to page 448 of the 16th Edition in the top paragraph of which it is stated:

A second speech has been allowed to an unofficial Member under special circumstances on an explanation from the Speaker, the pleasure of the House having been signified. (*H.C. Deb.* (1909), 12, c. 2105; *ibid.* (1920), 128, c. 1472.)

As soon as the Member speaking at this time had finished the Speaker said:

Mr. Speaker: Hon. Members, our Standing Orders do not allow any Member to speak twice on the same question. However in the special circumstances

of this Bill I am quite prepared to put a question and ask the consent of the House that Mr. Mkello be allowed to speak again, provided he does not repeat what he has already said in the House.

The Speaker then put this question and it was agreed to nem. con. Mr. Mkello thereupon rose and explained that in the morning he had moved his reasoned amendment to try during the second reading to reject the Bill as printed. But he had learned only that same morning that Government intended itself to move some amendments to the Bill as printed during the Committee Stage. Mr. Mkello continued:

> Now, Sir, I only got these amendments from the Government this morning and I had not had time to study them and that is why I opposed the Motion in the morning. But having gone through them after lunch I am very happy to say now that I am in a position to support the second reading of the Bill

When on the following day the time came for Mr. Mkello to move his reasoned amendment to the Trade Disputes (Settlement) Bill, for which Government had also given notice of its intention to move a number of amendments at the Committee Stage, Mr. Mkello spoke instead in support of the second reading.

(*Contributed by the Clerk of the National Assembly.*)

5. Procedure

House of Commons (Dissent from ruling of Chairman of Ways and Means: Censure Motion).—On 14th March, 1962, the Committee of Supply (a Committee of the whole House) was considering the Navy Estimates, Vote A. The Question before the Committee was:

> That 100,000 Officers, Seamen and Juniors and Royal Marines, who are borne on the books of Her Majesty's Ships and at the Royal Marine establishments, and members of the Women's Royal Naval Service and Queen Alexandra's Royal Naval Nursing Service, be employed for the Sea Service, for the year ending on the 31st day of March, 1963.

One amendment to this motion appeared on the paper in the name of Mr. Emrys Hughes, an Opposition Member, seeking to reduce the vote by 1,000 men.

In the course of the debate, Mr. Hughes asked the Chairman when his amendment would be called. The Chairman replied:

> It was not my intention to select the Amendment in the hon. Member's name, but, of course, the subject matter of it can be fully discussed during the course of the general debate. (*Com. Hans.*, Vol. 655, c. 1400.)

This led to a series of points of order, lasting about half an hour, in which Members urged upon the Chairman that his power to select amendments under Standing Order 31 (now S.O. 33) did not extend to not selecting any, or where only one was offered, not selecting

that; and further, that the Committee of Supply had the power to reduce motions for grants; that not to select an amendment took away this right from the Committee; and that this derogation of its rights was not intended by the Standing Order.

The relevant portion of the Standing Order reads:

> In respect of any motion, or in respect of any bill under consideration either in a committee of the whole House or on report, Mr. Speaker, or in a committee the Chairman of Ways and Means, and the Deputy Chairman, shall have power to select the new clauses or amendments to be proposed . . .

The Chairman reiterated his decision not to select the amendment and then said:

> I invite the hon. Gentleman and the Committee to examine the conclusion to which we should be driven if it were established that the occupant of the Chair should not, upon occasion, exercise his duty of selection. If an hon. Member chose to table an Amendment to these Service Votes on each of the three occasions on which they are considered, he would, regardless of the interests of other hon. Members, ensure unto himself the right to be called and to make a lengthy speech. I cannot feel that that would be in line with equity in the conduct of the Committee's proceedings. I am very reluctant to take up more of the Committee's time on this subject, and I therefore think it right that the Committee should continue with its business, accepting the Ruling which I have given. (c. 1404-5.)

Despite further points of order, he adhered to his ruling.

Mr. Sydney Silverman, another Opposition Member, subsequently put down a motion of censure on the Chairman of Ways and Means in the following terms:

> That this House respectfully dissents from the Rulings given by the Chairman of Ways and Means whereby the only Amendment calling for a reduction on the Navy Estimates was not moved, considered or decided and declares that the right and, in appropriate circumstances, the duty of the Committee of Supply to reduce any proposed grant of money to the Crown cannot and ought not to be frustrated, abrogated or diminished in any manner by the Chair.

The Government afforded time for the motion on 27th March, 1962, and in moving his motion Mr. Silverman said:

> I make no apology for tabling the Motion. It is not put down, and I do not move it, in any spirit of censure of the Chairman of the Committee of Supply. Obviously, the Motion is framed in terms of censure because, however mildly one expresses it, to dissent from a Ruling of the Chair under our way of doing our business necessarily involves, at least in form, some such censure.
>
> We have no hard feelings about it. Indeed, we are grateful to the Chairman of Supply for the patience, courtesy and consideration with which he listened to a rather prolonged argument about his Ruling at the time. Looking back on the matter and reading the debate, I am glad to see that even in the heat of the argument, I paid tribute to the Chairman of the Committee in that regard.

Two points are involved, one a general one and the other limited to the Committee of Supply, in which special considerations have always applied. The first is the general power of Mr. Speaker when the House is sitting, and of Mr. Deputy-Speaker in his capacity of Chairman of Ways and Means when the House is in main Committee, to select Amendments. I do not propose to take up time by reading Standing Order No. 31; I am sure that it is in everybody's mind. This is the Standing Order which reposes in the Chair the power to select Amendments.

Historically, it is not a very old power. There was no power whatever not to call an Amendment put on the Order Paper until 1909, and the new Standing Orders which appeared in 1909 gave a limited power to restrict the calling of Amendments, but only on a Motion passed *ad hoc* by the House of Commons itself. This was changed for the present Standing Order in 1919, so that we are not dealing with an old tradition, or an old practice or a developed procedure which it would be difficult after a long time to alter or modify. We are dealing with a comparatively recent power.

Erskine May puts the power very clearly and what it was intended to do. It may be found quoted on the occasion when the matter was originally raised on the Navy Estimates, when I raised the original point of order with the then Chairman. *Erskine May* puts it in this way, under the general heading " Multiplication of Amendments ", on page 476 of the latest edition:

" Experience has shown that in most cases the discretion conferred on the Chair by Standing Order No. 31 to select the amendments which may be moved is the best method of securing reasonable opportunities for all varieties in opinions. This power is exercised by the Chair in such a way as to bring out the salient points of criticism, to prevent repetition and overlapping, and, where several amendments deal with the same point, to choose the more effective and the better drafted."

It is not a power to prevent the critical points at issue from being debated. It is a power to facilitate it and to regulate it, to enable it to work more efficiently. It is not a power to prevent it, and I need not take that part of the argument any higher than rely on the plain and ordinary meaning of the words themselves. To select is to choose between one thing and another, not a power to deny, not a power to prevent. It is a power to select out of a number of Amendments, to choose one or more than one rather than the others.

Where there is only one, obviously, no question arises of a power to select, unless selection, like election in some countries, means the power to choose where there is only one candidate. Where there is only one Amendment, there cannot be a choice, unless we regard it as a power to choose to call it or not to choose to call it, but that is not what Standing Order No. 31 says. It is a power to select among Amendments in order to prevent multiplication, but, where there is only one, there is no multiplication to prevent.

Mr. Silverman's second argument was that the Committee of of Supply had the right to grant, postpone, reduce or refuse what was asked. Not to select the only amendment which sought to reduce what was asked was to deprive the Committee of one of its rights—that to reduce. Whatever the general effect of S.O. 31, in the Committee of Supply it ought not to be interpreted to permit the Chair not to select the only amendment put down, nor, if several were put down, any of them.

The Leader of the House (Mr. Ian Macleod) said there were instances where no amendment had been selected—

I need not quote examples—there are many within the recollection of all hon. Members—where a single Amendment to a Motion or Clause has not been

selected by the Chair. It is important to make it clear that this practice is almost as old as the Standing Order itself, which was first made in 1919, for in December of that year the Chairman of Ways and Means, in Committee on the Government of India Bill—Mr. Whitley, who afterwards became Speaker—on Clause 8, said:

"I do not select any of the Amendments to this Clause." (*Official Report*, 4th December, 1919; Vol. 122, c. 688.)

No protest or comment was made.

I could give any number of examples since then, but I submit that it is quite clear—and that it is within the recollection of hon. Members—that it is the established practice of this House that in the exercise of its power of selection the Chair may decline to call all the Amendments, or a single Amendment, put down to any proposition which the House is considering.

He "could find no evidence that the power of the Chair in the matter of selection is any different in Committee of Supply from what it is on any other occasion". The Chair had the duty of securing reasonable opportunities for all varieties of opinion. Where many members wished to speak and only a short time was available, it would clearly be undesirable that the Chair should have to give precedence to a particular Member just because he had put down an amendment.

After a two and a half hour debate, the Leader of the House reiterated his conviction that the Chair had acted in accordance with the practice of the House. He undertook, however, to study all the matters raised in the light of the debate.

Mr. Silverman, saying that, whoever was right, the debate had disclosed a real difficulty, and thanking the Leader of the House for his offer to review the situation, then withdrew his motion. (*Com. Hansard*, Vol. 654, c. 1026-80.)

House of Commons (Amendment to a motion to commit a Bill).—The Government had announced their intention, after second reading of the London Government Bill, to move to commit part of the Bill to a committee of the whole House, and the remainder to a Standing Committee.

The relevant paragraphs (3) and (4) of Standing Order No. 38 which regulates committal motions reads:

(3) A motion to commit a bill to a standing committee in respect of some of its provisions and to a committee of the whole House in respect of other provisions may be made by the member in charge of the bill and if made immediately after the bill has been read a second time, shall not require notice, and may, though opposed, be made and decided after the expiration of the time for opposed business. If such a motion is opposed, Mr. Speaker after permitting, if he thinks fit, a brief explanatory statement from the member who makes and from a member who opposes the motion shall, without permitting any further debate, put the question thereon.

(4) If the question on a motion made under paragraph (2) [motions to commit a Bill *in toto* to a committee of the whole House] or paragraph (3) of this order is negatived, Mr. Speaker shall forthwith declare that the bill stands committed to a standing committee.

The London Government Bill was read a second time on 11th December, 1962, whereupon Mr. George Brown, Deputy Leader of the Opposition, sought to move "That the Bill be committed to a committee of the whole House".

Had Mr. Speaker accepted the motion, either it would have been carried, or if negatived, the whole Bill would have been committed to a Standing Committee. The Government would have had no opportunity to move their motion. Mr. Speaker, in the event, replied:

> The right hon. Gentleman raises a very difficult point for me. So far as I know, none of my predecessors has ever been faced with it. I have looked at it with some diffidence. Regarding Standing Order No. 38 as a whole, I cannot find in it a sufficient indication of legislative intent on the point. I shall have to take refuge in the practice of the House—I am sure that that is right—by which I look first in the direction of the hon. Member in charge of the Bill. I am afraid that that means that the answer is "No".

Mr. Brown thereupon sought to be allowed to move a manuscript amendment to the Government motion, in order that the House might be enabled to decide whether or not the whole Bill should be committed to a committee of the whole House.

Mr. Speaker replied: "I follow the delight of doing so from the point of view of the right hon. Gentleman, but I do not think that under paragraph 3 of the Standing Order it is open to me to do so. It leaves no room for me to adopt that course."

The Minister in charge of the Bill thereupon moved the Government motion with a brief explanatory statement. Mr. Mellish (Opposition) attempted to intervene as follows: "Am I in order in making one point? May I say to the Minister, through you Mr. Speaker, that so far as the Motion is concerned it may be acceptable only if an assurance is given—" to which Mr. Speaker replied: "No, that is wholly out of order. I am obliged to put the Question at once, subject to allowing a statement in opposition, of which no one apparently desired to avail himself. This House has no procedure for putting a question to Ministers through me."

Question put and agreed to.

(*Com. Hans.*, Vol. 669, Cols. 343-4.)

6. Standing Orders

Canada: House of Commons (Minor Revision of Standing Orders).—In the sessions of 1960 and 1961 of the Canadian Parliament, special committees were appointed to consider with Mr. Speaker the procedure of the House of Commons. In both cases, the committee reported a number of minor amendments which were enacted on a trial sessional basis.

A similar committee was re-appointed in 1962, and in its report, which was presented on 10th April, 1962, it recommended that several of the provisional changes be confirmed. The House con-

curred in the report on 12th April, 1962. The changes are summarised hereunder.

Standing Order 15 which sets out the day-by-day order of business was amended to provide forty one-hour periods on Mondays, Tuesdays and Wednesdays for Private Members' business. This standing order as enacted in 1955 provided six Mondays and two Thursdays comprising about 40 hours of sittings for such business.* This change necessitated several minor consequential amendments to other standing orders.

A complementary amendment to Standing Order 31 specifies that when the business of Private Members is being considered between five and six o'clock p.m., no member shall speak for more than twenty minutes at a time.

Heretofore, there was a limitation of ten days on the debate for an address in reply to His Excellency's speech at the opening of a session. Standing Order 38, as amended, reduced the limitation to eight days and also stipulated that no member, except the Prime Minister and the Leader of the Opposition, shall speak for more than thirty minutes at a time in the said debate; provided that forty minutes shall be allowed to the mover of either an amendment or of a sub-amendment.

As enacted in 1955, Standing Order 58 placed a limitation of eight sitting days on the Budget Debate. An amendment to this order reduced the allotted days to six in number; and also applied a limitation on the length of speeches in such debate similar to that provided for during the Address debate—Standing Order 38, above

(*Contributed by the Second Clerk-Assistant of the House of Commons.*)

Queensland (Amendments to Standing Orders).—The following amendments were adopted by the House on 5th December, 1962, and agreed to by the Governor on 11th December, 1962.

Standing Order No. 13—Nomination of Temporary Chairmen.

The Amendment provides for Mr. Speaker to nominate a panel of temporary Chairmen at the commencement of every *Parliament* instead of each *Session* and for a vacancy to be filled when Parliament is apprised thereof. There was no previous provision in the Standing Orders for filling a vacancy.

Standing Order No. 22—Standing Orders Committee.

The Committee is appointed at the commencement of every *Parliament* and not each *Session*. Another amendment provides for four members including Mr. Speaker to form a quorum. For many years the *prorogation* of Parliament has been arranged by the Executive Council and not by the Standing Orders Committee and for that

* See THE TABLE, 1955, pp. 76-83.

reason the words "*and Prorogation*" are omitted from the Standing Order.

Standing Order No. 37A—Disallowance of Regulations, Rules, or Orders in Council.

As several Acts of Parliament refer to the disallowance of Proclamations by the Legislative Assembly, provision is made for such motions to be dealt with under this Standing Order. The order of importance of these documents is "Proclamations, Orders in Council, Regulations and Rules", and the Standing Order is being amended along those lines. Hitherto a motion under this Standing Order had to be set down for consideration within *seven days* after notice. The Standing Order now provides seven "*sitting*" days and not *calendar* days.

Standing Order No. 280—Disposal of Original Bills.

Minor amendments were made to this Standing Order. Bills are to be forwarded to the *Official* Secretary at Government House and not to the *Private* Secretary and the designation of Her Majesty's *principal Secretary of State for the Colonies* is now "*Secretary of State for Commonwealth Relations*".

Standing Order No. 281—Bills to be Numbered by the Clerk of the Parliament

The Standing Order is amended to conform to the provisions of the Acts Interpretation Acts Amendment Act passed during this Session which sets out that public Acts shall be numbered *in regular arithmetical series beginning with the number one* and commencing a new series of numbers with each *secular year* and not *year of Her Majesty's reign*. The Minister for Justice explained the reasons for the amendment when introducing the Bill on 29th August, 1962.

Standing Order No. 300—Appointment of Printing Committee.

A Committee of seven Members, to be called the Printing Committee, is to be appointed at the commencement of every *Parliament* and not each *Session*.

Other amendments set out that the *function of the Committee shall not cease until their successors are appointed; four Members shall form a quorum and a vacancy in the Committee shall be filled whenever Parliament is apprised thereof.*

Standing Order No. 330—Library, Refreshment Room and Parliamentary Buildings Committees.

As in the case of the other Committees, this Committee is to be appointed at the commencement of every *Parliament* and not each *Session*.

(See *Hansard*, pp. 2200-2202.)

(*Contributed by the Clerk of the Parliament.*)

Australia: Northern Territory (Standing Orders).—Two important changes were made to Standing Orders at the last meeting in 1962. The first instituted a new system for Questions on Notice. In the past Questions on Notice were answered orally in the Chamber at Question time; now the reply will be written and oral questions and answers will be limited to Questions without Notice. This system is much closer to that of the House of Representatives whose Orders are generally used as our model.

Standing Order No. 8 previously provided for the appointment by the President of three members to take the Chair in the Committee of the Whole when directed by the President. But in practice the President on most occasions took the Chair in Committee himself so that one elected member although nominated as a Chairman of Committees for a period of seven years was only permitted to take the Chair on two occasions. The effect of the new Standing Order is to provide for the election of a Chairman and two Deputy Chairmen, the President no longer presiding in Committee.

New Zealand (Amendments to Standing Orders).—A number of changes in the Standing Orders were adopted in 1962, the main ones relating to time limit of speeches and the procedure for asking oral Questions of Ministers.

Northern Rhodesia Legislative Council (Amendments to Standing Orders).—As a result of the adoption on 28th June, 1962, of the Report of the Standing Orders Committee:

(*a*) *Standing Order* 17 (4) was amended to provide

that any Private Members' business not reached when the Council adjourns *sine die* or adjourns to a fixed date not less than three weeks ahead shall lapse.

(*b*) *Standing Order* 33 was replaced by a new Standing Order 33 as follows:

33 (1) Every Member in giving notice of a motion shall deliver at the Table or to the office of the Clerk before eleven o'clock in the forenoon a copy of such notice fairly written, signed by him and, in the case of a Member other than a Minister, signed by a seconder of the motion and including the date proposed for bringing on such motion.

(2) The day proposed shall be not more than three weeks ahead and, where notice is given on a Saturday, not less than one week ahead. Where notice is given on any other day the day proposed shall not be a day of the week in which notice is given.

(3) Subject to the Council being in session on that date, and further subject to the provisions of Standing Order *twenty-three*, the motion shall be set down on the Order Paper for that day unless it has been previously withdrawn.

(*c*) A proviso was added to *Standing Order* 135 (1) as follows:

Provided that, when a Select Committee have completed their deliberations during an adjournment of the Council *sine die*, the Chairman of the Select

Committee may present the Report of that Committee to the Speaker, whereupon it shall be deemed to have been brought up and laid upon the Table.

Maharashtra: Legislative Assembly (Amendments to Rules).—The following amendments to the Rules of the Assembly were published by the Legislature Secretariat in Notification No. 1/Com. 62, on 31st July, 1962:

1. *Sittings of the Assembly.* For rule 4, the following rule was substituted:

4 (1) After the commencement of a Session, the House shall, subject to the direction of the Speaker, meet from Monday to Friday and its sittings shall, subject to a like direction, ordinarily commence at 13.00 hours.

(2) Unless the Speaker otherwise directs, the sittings of the House on any day shall ordinarily conclude at 18.00 hours.

2. *Private Members' Business.* Rule 12 was amended to provide, *inter alia*, that

The last two and a half hours of a sitting on Friday shall be allotted for transaction of private members' business:

Provided that the Speaker may allot different Fridays for the disposal of different classes of such business and on Fridays so allotted for any particular class of business, business of that class shall have precedence.

Provided further that the Speaker may, in consultation with the Leader of the House, allot any day other than a Friday for the transaction of private members' business.

Provided further that if there is no sitting of the House on Friday, the Speaker may direct that two and a half hours on any other day in the week may be allotted for private members' business.

3. *Withdrawal of motions.* For rule 39, the following rule was substituted:

39 (1) A member who has made a motion may withdraw the same by leave of the Assembly.

(2) Leave to withdraw a motion may be asked for at any time before the question on the motion is put or, if a division is asked for, before the division takes place.

(3) The leave shall be signified not upon question but by the Speaker, taking the pleasure of the Assembly. The Speaker shall ask: "Is it your pleasure that the motion be withdrawn?" If no one dissents, the Speaker shall say: "The motion is by leave withdrawn." But if any dissentient voice be heard or a member rises to continue the debate, the Speaker shall put the motion at the end of the debate.

(4) If leave is granted to a member to withdraw his motion, the amendments, if any, which have been proposed to the motion shall also be deemed to have been withdrawn.

4. *Questions.* In rule 70, in sub-rule (2), it was provided that:

unless the Speaker otherwise directs, such questions shall be answered within three months from the date of the receipt thereof by Government.

In rule 75, a new sub-rule provided that:

(1a) When two or more members table starred questions on the same subject and one of the questions is admitted, the names of the other members shall be bracketed with the name of the member whose question has been admitted.

Provided that the Speaker may direct that all such questions be consolidated into a single self-contained question covering all the important points raised by the members and the names of all the members concerned shall be bracketed and shown against the question in the order of their priority.

Provided further that in computing the number of starred questions which a member is entitled to table under sub-rule (1) the consolidated question in the case of the members other than the member whose name is shown first in the order of priority, shall not be taken into account.

5. *Budget.* The following rule was made:

228-A. Nothing hereinbefore contained shall be deemed to prevent the presentation of the Budget to the Assembly in two or more parts, and when such presentation takes place, each part shall be dealt with in accordance with these rules, as if it were the Budget.

6. *Length of Speech.* In rule 263, sub-rule (5), it was provided that the mover of the motion, while moving it and the Minister-in-charge of the Department concerned while speaking for the first time, may speak for more than twenty minutes but not exceeding thirty minutes, as the Speaker may in his discretion allow.

Maharashtra: Legislative Council (Amendments to Rules).— Amendments to the Rules of the Council to the same effect to thos made for the Legislative Assembly were approved by the Council in December, 1962. In the matter of hours of Sitting, however, 1400 hours (instead of 1300 hours) was named as the hour for meeting, and a half-hour recess from 1600 hours to 1630 hours was provided for.

A further amendment to the Rules provided that the Chairman might "allow a day or days for the completion of all or any of the stage involved in the consideration of the [Appropriation] Bill by the Council". Certain other clarifying amendments were also made.

Madhya Pradesh: Vidhan Sabha (Amendments to Standing Orders).—Provision was made in January, 1962, by additional Standing Orders for the Speaker to be informed (1) when a Member was arrested or sentenced on a criminal charge, or detained under an executive order and (2) when a Member is released on bail or otherwise.

Mysore: Legislative Council.—The Report of the Committee on Rules of Procedure and Conduct of Business, containing draft Rules, was presented to the Council on 24th September, 1962.

Uttar Pradesh: Legislative Assembly (Amendments to Rules).— An amendment in sub-rule (1) of Rule 16 of the Rules of Procedure

and Conduct of Business of the U.P. Legislative Assembly, 1958, was made in 1962 as under:

16. *Hours of Sitting* (1) The Assembly shall meet from 10.30 a.m. to 5.30 p.m. with a break from 1 p.m. to 2 p.m.

Provided that in special circumstances the House may by a resolution extend the duration of the sitting. The Speaker may, however, extend the duration of the sitting by 15 minutes on his own motion.

Western Samoa (Amendments to Standing Orders).—The Standing Orders of the Legislative Assembly relating to the procedure in Committee of Supply for consideration of estimates of expenditure were revised in 1962 to conform with the provisions of the new Constitution following the attainment of Independence. The important change made now provides that the estimates of expenditure on all the services of the Government, excepting statutory expenditure, must be introduced into the Legislative Assembly before the commencement of the succeeding financial year by means of an Appropriation Bill. The details of these financial requirements are contained in the draft estimates of expenditure and the financial statement, which are laid on the Table by the Minister of Finance following the first reading of the Bill. The Minister then moves the second reading of the Bill and reads the financial statement. After the motion for the second reading of the Bill has been seconded the debate thereon is adjourned for not less than fourteen days and the draft estimates stand referred to the Public Accounts Committee for consideration and a report thereon. When the debate is resumed it is confined to the financial and economic state of Western Samoa and the Government's financial policy.

In Committee of Supply a maximum of fourteen days only is allowed for the discussion of the draft estimates and Appropriation Bill. The Business Committee selects the order in which the departmental votes are to be considered and at least three days' notice of any amendment to reduce a vote must be given by a Member. The Minister of Finance is the only member who may move an increase to any vote for which three days' notice is required and provided the prior approval of the Head of State has been obtained. These proposed amendments are notified to the Committee by means of a Supplementary Order Paper.

It is not competent for any Member to move a dilatory motion on the day upon which the proceedings on the Appropriation Bill are to be concluded. When the Bill has been reported from the Committee of Supply the third reading is taken forthwith and no debate is allowed thereon. The same procedure applies to the consideration of Supplementary Appropriation Bills.

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

Uganda (Standing Orders).—The Standing Orders of the Uganda National Assembly underwent a large number of amendments during 1962, and the Assembly approved amendments on four separate occasions. Many of the amendments were necessitated by the introduction of new Constitutions for Uganda, in March, 1962, when Uganda achieved full internal self-government, and again in October, 1962, when Uganda became a fully independent State. The most important changes in the Standing Orders may be summarised as follows:

(*a*) The Uganda (Constitution) Order in Council of the 26th of February, 1962, empowered the Governor by Order at any time before the first sitting of the National Assembly to make such amendments to the Rules and Orders of the Legislative Council as appeared to him to be necessary for the purpose of facilitating the conduct of the business of the Assembly at that sitting. The change-over from Legislative Council to National Assembly occurred on the 1st March, 1962, and very soon thereafter the Governor, under the powers mentioned above, made "The Legislative Council (Amendment of Rules and Orders) Order, 1962" introducing a number of amendments to the Standing Orders of the Legislative Council. These sought to insert the words "National Assembly" and "Speaker" for the words "Legislative Council" and "President" wherever they occurred in the Orders. Provision was also made under a new Standing Order for the election by the Assembly of a Speaker and a Deputy Speaker.

(*b*) Provision was made for a Minister to move a Motion seeking to terminate a meeting of the National Assembly by a certain date. (A Session of the Uganda Parliament consists of a number of separate meetings each lasting approximately three to four weeks.)

(*c*) Provision was introduced for the moving of the adjournment of the Assembly on a definite matter of urgent public importance.

(*d*) Government business and Private Members' business was defined, and provision made for Government business to be taken on certain days of the week and Private Members' business on other days. (A later amendment was made in December, 1962, in the face of strong opposition, reducing Private Members' days from two a week to one day a week.)

(*e*) A new Order freed all Monday sittings from "Half hour" adjournment motions moved at the end of a day's sitting. (The relevant Standing Order was again amended in December, 1962, to make Tuesdays, as well as Mondays, free from such motions.)

(*f*) As the result of another new provision the Speaker may now,

in his discretion, direct that the debate on an amendment to a Motion may include debate on the matter of the original Motion where, in the Speaker's opinion, the matter of the amendment is not conveniently severable from the matter of the Motion; where the Speaker so directs, a Member speaking to an amendment is not entitled, after the amendment has been disposed of, to speak to the Motion, and any Member who has already spoken to the Motion may, in speaking to the amendment, speak only to a new matter raised thereby.

(*g*) A further amendment to Standing Orders was introduced with the object of doing away with the formality of moving a Motion to enable the Assembly to move into Committee on a Bill or into Committee of Supply and, for the first time, the procedure was introduced for dealing with a Vote on Account.

(*h*) An important procedural amendment which was introduced on the 28th of May, 1962, revised the procedure for debating the annual Budget in the Assembly and for holding debates on estimates policy in the House before moving into Committee of Supply on the details of Votes.

(*i*) Two appendices were included in the reprinted volume of Standing Orders: the first consisting of Regulations (made under Standing Order No. 92) for the conduct of elections of Uganda representatives to the Central Legislative Assembly of the East African Common Services Organisation. The second Appendix reproduced the Fifth Schedule of the Constitution of Uganda which laid down the procedure for the election of specially elected members of the National Assembly of Uganda.

(*Contributed by the Clerk of the National Assembly.*)

Papua and New Guinea (Standing Orders Amendments).—The Standing Orders relating to Divisions were amended on 5th March, 1962, to provide that the two minutes which elapse between the calling of a division and the closing of the doors should be measured by a sand-glass; and that the doors should be "closed and locked" instead of "closed or guarded".

Tanganyika (Standing Orders).—There were no amendments made to Standing Orders in 1962. However, a thorough revision of Standing Orders is now being made to bring them into line with Tanganyika's new Constitution and new status.

A new edition will be published during 1963.

7. Electoral

South Australia (Electoral).—The Electoral Districts (Re-division) Act of 1962 provides for the setting up of an Electoral Commission comprising three Commissioners—one to be a Supreme Court

Judge who will be the Chairman, and the other two being the Surveyor-General and the Assistant Returning Officer for the State, for the purpose of dividing the State into at least 40 but not more than 42 Assembly Districts and into 24 Legislative Council Districts. The Report of the Commission will form a basis for consideration by Parliament of amendment of the Constitution Act. Present divisions provide for 39 Assembly Districts and 20 Legislative Council.

The Commission will present copies of its report to the Governor, the President of the Legislative Council and the Speaker of the House of Assembly.

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

India (Electoral).—Article 82 of the Constitution provides that upon completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies for electing members to the House of the People shall be readjusted by such authority and in such manner as Parliament may by law determine. On completion of 1961 census, the readjustment became necessary. The Delimitation Commission Act, 1962, accordingly sought to set up a Delimitation Commission for effecting such readjustment on the basis of the population figures of 1961 census. The Act also laid down certain instructions as to the manner in which such readjustment will be made by the Delimitation Commission. The readjustment made by the Commission will apply to every General Election to the House of the People held after the final orders of the Commission have been published and to every by-election arising from such General Election.

(*Contributed by the Deputy Secretary of the Lok Sabha.*)

8. EMOLUMENTS

House of Commons (Members' Salary and Expenses).—The present salary of Members of £1,750 per annum, composed of a basic salary of £1,000 and addition remuneration of £750 to provide for expenses, came into effect in July, 1957. Members were also entitled to free rail, air and sea journeys between their homes, Westminster and their constituencies.

On 16th May, 1961, in answer to a written question, the Financial Secretary to the Treasury announced:

> Following representations from hon. Members there have been discussions between the Authorities of the House and the Government. It has been agreed that the time is ripe to alter the existing arrangements by which the reimbursement of travel expenses incurred on Parliamentary duties is confined to journeys by rail, air and sea, and it is proposed accordingly to make it possible for certain expenses of journeys by road to be claimed as an alternative. The appropriate Resolution will be laid before the House shortly.

It is intended that the scheme should cover only those journeys in the triangle Westminster-home-constituency for which provision is already made under the existing rail, air and sea scheme, and that the maximum amount that may be claimed should be the cost of the corresponding first-class railway journey. While the Resolution to be laid before the House will be in general terms, it is proposed that the expenses claimed should be confined to the petrol costs personally incurred in the use of private cars, and that these should be assessed on mileage by the most direct route and the average fuel consumption of the car used. Details of the scheme will be made available to Members individually by the House Authorities as soon as possible.

As payments in respect of this allowance will be cash allowances paid to salaried officers, they will, in accordance with the ordinary Income Tax rules, be liable to tax to the extent that they relate to journeys between Members' homes and Westminster or between their homes and their constituencies.

If the Resolution is approved by the House in time, it is proposed that the scheme should come into operation when the House resumes after the Whitsun Recess.

The cost of the scheme cannot be closely estimated until the extent to which Members make use of it is known and the extent to which it will be used in substitution for journeys by rail. It is not, however, expected that it will add a substantial proportion to the cost of the existing scheme. A Supplementary Estimate would be submitted as necessary later in the year.

It has been agreed that this principle should appropriately be extended to Members of the House of Lords and that the arrangements of the two Houses should be brought as closely in line as the differing circumstances permit. This will be provided for in the Resolution to be submitted. (*Com. Hans.*, Vol. 640, cc. 135-6 written answers.)

The House came to the foreshadowed Resolution on 18th May, as follows:

That, in the opinion of this House, provision should be made—

(*a*) for the payment to Members of this House of allowances not exceeding the fare by rail in respect of the cost of travel by road upon any journey upon which, under the Resolution of this House of 15th November, 1945, facilities would be available for travel by any public railway, sea or air service;

(*b*) for enabling Members of the House of Lords to recover out of the sums voted for the expenses of that House the cost of fares incurred by them in attending that House for the purposes of their parliamentary duties, being fares in respect of travel by any public railway, sea or air service (including travel between airport and air station in the coaches provided for persons using any such air service), and allowances not exceeding the fare by rail in respect of the cost of travel by road incurred by them as aforesaid. (*C.J.*, 1960-61, p. 235.)

This concession was somewhat extended on 21st December, 1962, when the Economic Secretary announced:

To enable Members to recoup the cost of petrol used where they travel by the fastest route—*e.g.*, by motorways or by-passes, instead of by the shortest mileage, it has been decided to allow additional mileage up to a maximum of 25 per cent. over the standard shortest route. This is, of course, subject to the maximum payment of the normal first-class single rail fare for the direct journey. (*Hans.*, Vol. 669, c. 263 written answers.)

There was, meanwhile, a considerable body of Members who felt the time was ripe for a review of Members' salaries—a matter which, hitherto, had always been dealt with by the House itself. On 15th June, 1961, for example, the following exchange took place at Question time:

Mr. Shinwell asked the Chancellor of the Exchequer what increase in the salary and expenses of hon. Members is necessary to bring them up to the money equivalent when the present rates were decided.

Sir E. Boyle: On the basis of the change in the internal purchasing value of the pound since July, 1957, the equivalent now of the £1,000 salary and of the £750 additional remuneration of hon. Members would respectively be £1,056 and £792.

Mr. Shinwell: Then why not pay the increase? Why should we be deprived of our rights? Why should civil servants, teachers, doctors and even footballers get an increase in salary while impoverished and impecunious Members of Parliament have to look outside in order to gain a little extra to keep their heads above water?

Sir. E. Boyle: That is a highly controversial question, and I am glad it does not fall to me to decide it. (*Hans.*, Vol. 642, c. 622.)

In the public controversy some play was made on the two components in the salary of £1,750, and on the liability to tax of Members, in respect of the £750 in particular. In answer to a question on 13th February, 1962, the Chancellor of the Exchequer defined the tax position of Members:

Members of Parliament are liable to tax on their remuneration of £1,750 per annum, but, like other Schedule E taxpayers, can claim a deduction for expenses incurred wholly, exclusively and necessarily in the performance of their duties.

Mr. Callaghan: May I ask the right hon. and learned Gentleman to make it trebly clear that Members of Parliament are in exactly the same position, no better and no worse, as any other Schedule E taxpayer; that they have no privileges, and have to prove every penny of their expenses in the same way as has any other citizen in the country?

Mr. Lloyd: That is precisely true. There is no privilege for Members of Parliament in this respect. They have to justify their expenses just as any other citizen has. (*Hans.*, Vol. 653, c. 1124.)

On 24th July three Members, one from each party, put down broadly similar Questions to the Prime Minister seeking acceptable machinery (perhaps of a non-Parliamentary nature) to investigate and recommend from time to time appropriate salary scales for Ministers and Members of Parliament. The intention was to devise a lasting solution of what was to the House a somewhat embarrassing question.

The Prime Minister replied:

I am considering various suggested methods of dealing with Ministers' and Members' salaries, but I do not at present contemplate setting up special machinery.

and later added:

I think there are some arguments for which the House should accept its own responsibilities. However, as I say, I am considering this matter which, I think, is really in the long run a matter about which the general sense of the House should be taken.

Mr. Gaitskell, Leader of the Opposition, then asked:

The Prime Minister said that he had been considering ways and means. Would he be prepared to receive an all-party deputation—perhaps the three hon. Members who have tabled the Questions under discussion could represent other hon. Members—to discuss their particular proposal? Is the right hon. Gentleman aware that, while appreciating that there are certain objections to outside bodies, there is also a fairly strong argument in favour of this kind of decision being, to some extent, supported by outside evidence and the views of outsiders? Many of us feel that there is something a little undignified for the House of Commons to have continually to revert to this subject. Many of us would support a system such as exists in some countries whereby the salaries of hon. Members are automatically related to those of other public servants.

To which the Prime Minister replied:

I am willing to consider all these questions. If the Leader of the Opposition would like to discuss the matter with me personally, or if there were a desire for an all-party deputation either to me or the Leader of the House, we would be happy to receive it. (*Hans.*, Vol. 663, c. 1270-2.)

An all-party deputation of Members subsequently made representations to the Prime Minister. The results of this and other discussions were not made known until 8th April, 1963, when the Prime Minister announced:

As I think the House knows, I have had several discussions in recent months with the right hon. Gentlemen the Leaders of the Labour and Liberal Parties and with back bench Members of all parties on the subject of Members' pay, to which that of Ministers' pay is related.

I have considered the representations that have been made to me and I think it right that I should now inform the House of the Government's decision.

The pay of Members was last increased in 1957. I recognise that there are individual cases of difficulty. Nevertheless, I do not think that it would be right for the Government at the present time to propose any increase. In fairness to hon. Members, I ought also to add that the Government do not expect to propose any increase in the pay of Ministers or Members during the life of this Parliament.

Mr. Harold Wilson, Leader of the Opposition, found the statement totally unsatisfactory. There was hardly a legislature in the world worse paid than their House; a number of Members were experiencing financial hardship; and would not the Prime Minister agree to set up a Select Committee to examine the matter? Other Members also pressed for some form of action.

The Prime Minister accepted that some hardship existed. The facts which a Select Committee could ascertain were already known. If it made recommendations the responsibility could be no other than that of the Government of the day to make a proposal on finance

and for the House of Commons to support it or refuse it. An effective proposal would mean a very substantial increase in the remuneration paid to Ministers and Members and the Government's view was that this matter should not be dealt with in the concluding stages of this Parliament, but should be left to the next Parliament. (*Hans.* Vol. 675, c. 1093-7.)

New South Wales (Personal Accident Insurance).—By Executive Action arrangements have been made with the Government Insurance Office for the provision of accident insurance for Members of both Houses of Parliament, at the expense of the Government.

Details in respect of Members of the Legislative Council are—

Air Travel:

The Open Policy providing cover for Ministers and officers travelling by air on official business has been extended to cover Members of the Legislative Council, with a maximum cover of £A6,000.

Accidents (other than in respect of Air Travel):

Cover is for accidents arising solely out of activities and duties as a Member of the Legislative Council, and, in brief, the Policy provides for:

(1) Payment of £A6,000 in event of death;
(2) Lump sum payments for loss of limb or sight according to the table in Section 16 of Workers' Compensation Act;
(3) Unlimited payments for medical and hospital expenses;
(4) Unlimited payments of £A24 per week for total and permanent incapacity preventing continuance as a Member.

Air Travel coming within the category of "official" business has been defined as including:

(1) All cases where cost of fare is met by the Government;
(2) Travel for the purpose of attending or returning from meetings of Parliament where cost of travel is met by Member;
(3) Members of Legislative Assembly travelling on electorate business, where cost of travel is met by Member.

A premium is charged by the Government Insurance Office for each flight, and Members are asked to furnish particulars of each flight after its completion, for which cover is applicable, to the Usher of the Black Rod, who will then advise the Government Insurance Office and the Treasury.

As rates of premium vary according to the age of the insured, it was necessary for the Clerk to obtain this information, which is treated as confidential, to pass on to the Government Insurance Office.

The scheme became operative on and from 27th September, 1962.

(*Contributed by the Clerk of the Parliaments.*)

Western Australia (Increase of Parliamentary Allowances).—By legislation passed in 1962, the basic Parliamentary and electorate allowances for Members of both Houses of the Parliament of Western Australia were increased. The Parliamentary Allowance was increased by £280 per annum, and the electorate allowances by £150 per annum. These combined increases of £430 per annum took effect as from 1st January, 1963. Details of all allowances paid from that date are as follows:

WESTERN AUSTRALIA—PARLIAMENTARY, OFFICIAL, ELECTORATE AND EXPENSES ALLOWANCES OF MEMBERS OF BOTH HOUSES, JANUARY, 1963

Office.	*Parlty. Allowance.*	*Official Allowance.*	*Electorate Allowance.*	*Expenses Allowance.*	*Total.*
	£A	£A	£A	£A	£A
Premier	2,500	1,900	800	600	5,800
Deputy Premier ..	2,500	1,450	800	300	5,050
Leader of Govt. in Council	2,500	1,450	600	300	4,850
Other Ministers (7) ...	2,500	1,300	600-800	200	4,600-4,800
Leader of Oppos. ...	2,500	950	800	200	4,450
Deputy Leader Opp.	2,500	400	600	100	3,600
Leader of Oppos. in Council	2,500	400	950	100	3,950
President	2,500	450	800	150	3,900
Speaker	2,500	450	800	150	3,900
Chairmen of Committees (2)	2,500	250	800-850	75	3,625-3,675
Government Whip ...	2,500	—	600	200	3,300
Opposition Whip ...	2,500	—	800	150	3,450
Metrop. Members ...	2,500	—	600	—	3,100
Country Members ...	2,500	—	800-950	—	3,300-3,450

NOTE.—Postage Allowances in addition to above: Country Members £75, Metropolitan Members £50, Leader of Opposition £100, Deputy Leader of Opposition £75 p.a.

Rental of telephone at Member's private residence is met by the Government.

Electorate Allowances are: Metropolitan £600, Country £800 or £850, North-West £950.

All £ Australian.

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

Uttar Pradesh (Members' Emoluments).—A Bill, as passed by the U.P. Legislative Council, seeking to amend the U.P. Legislative Chambers (Members' Emoluments) Act, 1952, was laid on the table of the Assembly on 3rd December, 1962, and it was passed by the U.P. Legislative Assembly on 3rd April, 1963, with some amendments.

It regulates accommodation allowances, subject to deductions in the case of members provided with free furnished accommodation; and provides that a member can draw his salary from the date of constitution of the Assembly (or of his election or nomination) instead of from the date of his taking the oath.

9. ACCOMMODATION AND AMENITIES

Western Australia (Completion of the Houses of Parliament).—Previous reference to the additions to the Parliamentary Building in Perth have been made in THE TABLE (Vol. XXV, p. 124, Vol. XXVI, p. 177, and Vol. XXX, p. 167) and it is now possible to report that, by the time Volume XXXI is published, constructional work is expected to be completed.

Although the Foundation Stone of the building was laid on 31st July, 1902, the eastern frontage was not completed at that time and, for the ensuing sixty years, the stone has stood apart from the main building.

Alterations to the original plans necessitated moving the stone to a new location and in October, 1962, when this was being done, workmen unearthed a tin-plate canister containing documents which had been deposited when the stone was laid.

They were damaged by rust and water, but some of them are being replaced with other up-to-date papers under the stone in its new position.

Furnishing and interior arrangements generally will no doubt take some time, but it is anticipated that the completed building will be officially opened in 1964.

(*Contributed by the Clerk of the Parliaments.*)

Tasmania (Parliament House).—Parliament House Act, 1962 (No. 49, enacted on 20th November, 1962) gave control of the grounds of Parliament House to a House Committee created by the Standing Orders of the Houses of Parliament.

10. CEREMONIAL

British Guiana (Visit of His Royal Highness the Duke of Edinburgh).—On 1st February, 1962, His Honour the Speaker informed Members that he had prepared a Loyal Address for presentation to His Royal Highness, The Prince Philip, Duke of Edinburgh, on the occasion of his visit to the Legislature on Wednesday, the 7th of February, and in order to have it placed on record, he proposed to move a motion at a later stage for that purpose.

Copies of the Address were circulated and later His Honour the Speaker moved that the following be the Loyal Address to be pre-

sented to His Royal Highness, the Duke of Edinburgh, on the occasion of his visit to the Legislature:

To: His Royal Highness, The Prince Philip,
Duke of Edinburgh, K.G., P.C., K.T., G.M.B.E., F.R.S.

May It Please Your Royal Highness:

On behalf of the Legislature and the people of British Guiana, it is my privilege and honour to welcome Your Royal Highness most warmly and affectionately in our midst, and to express our great happiness at Your Royal Highness's visit to us at this time.

The people of our country have always maintained a warm and devoted attachment to the Throne, and in particular we cherish an enduring loyalty to Her Gracious Majesty the Queen. Your Royal Highness's acceptance of our invitation to visit us before beginning your tour of other South American countries is yet another manifestation of the strong and abiding interest which The Royal Family have shown, and we recall with pride the visits paid this country within recent years by Her Royal Highness The Princess Margaret, Her Royal Highness The Princess Royal and Her Royal Highness The Princess Alice, Countess of Athlone.

We would have wished, and indeed it would have given us considerable joy and happiness, if it had been possible for Her Majesty to come on this Royal Visit; but we are not dismayed for, with the shrinking of distances by the development of speedier means of travel, we look forward to the pleasure and honour of welcoming Her Majesty in this English-speaking South American country in the not too distant future.

We are pleased to welcome Your Royal Highness so shortly after your visit to Africa in connection with the Independence celebrations in Tanganyika. We trust that by Her Majesty's Gracious Command it may be possible for British Guiana to be similarly honoured when we too celebrate our own Independence.

The Guianese people respect the fine traditions of many British Institutions and admire the fine qualities of the British people which have been handed down in the course of many struggles to obtain and maintain their freedoms. We cherish these same freedoms and are similarly determined to protect and preserve them.

We are conscious of the exacting nature of the duties of the tour which lie ahead, and would sincerely wish that health and strength remain with you in abundant measure, not only for your immediate tasks, but throughout your life, which we trust will be long, fruitful and happy.

And finally Your Royal Highness, we express the hope that, short though your stay with us perforce will be, you will enjoy every moment of it, and carry back to Her Majesty The Queen good tidings of our country and our people. We are confident that your Visit will strengthen the ties of friendship between our peoples.

Question put and agreed to.

On the 9th February, His Honour the Speaker read the following letter received from the Private Secretary to His Royal Highness, the Duke of Edinburgh—

GOVERNMENT HOUSE,
GEORGETOWN.
8th February, 1962.

DEAR MR. SPEAKER,

The Duke of Edinburgh desires me to express his profound gratitude for the Ceremony which was arranged in his honour in the Legislative Assembly Chamber yesterday afternoon.

His Royal Highness was very pleased to meet so many members of the Legislature.

Prince Philip was most impressed with your beautiful Chamber and has asked me to reiterate his thanks for the charmingly mounted Loyal Address with which he was presented.

Yours sincerely,
(sgd.) JAMES ORR.

XVI. SOME RULINGS BY THE CHAIR IN THE HOUSE OF COMMONS, 1961-62

The following index to some points of Parliamentary procedure, as well as Rulings by the Chair, given in the House of Commons during the Third Session of the Forty-second Parliament of the United Kingdom (10 & 11 Eliz. II) is taken from Volumes 648 to 666 of the Commons *Hansard*, 5th Series, covering the period from 31st October, 1961 to 30th October, 1962.

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.

Adjournment
—*of House, motion for*
—cannot be accepted in certain circumstances [649] 1114
—Chair cannot refuse Member's right to attempt to move motion on subject which must involve legislation [649] 1677
—notice of intention to raise matters on, to be given in traditional phraseology [648] 957 [649] 1342 [663] 208 [659] 420 [660] 1561
—on day prior to long adjournments, time allocated to different subjects not appointed in a strict sense, but allocated by Speaker [658] 704
—*debate on*
—must not involve requests for legislation [664] 972
—out of order if only Ministerial responsibility is for legislative remedy [649] 1677 [659] 178
—raising matters on, without due notice to Ministers deprecated [649] 678, 1682
—*under S.O. No. 9 (Urgency)*
—*subject accepted*
—Thailand (dispatch of British forces to) [659] 1543-50 (but leave refused by House on a division)
—*subjects refused (with reason for refusal)*
—Anglo-Spanish Naval exercises (already in progress for two days) [651] 450
—ceasefire in Katanga (not within Standing Order) [651] 44
—Committee of One Hundred (search warrants under Official Secrets Act) (ordinary administration of the law) [650] 1392

Adjournment (*continued*)

—Congo (failure of Government to protect British lives and interests in Katanga) (not within Standing Order) [651] 45
—Congo (supply of bombs for use in) (not definite nor urgent) [651] 45
—Congo (United Nations troops) (no direct Ministerial responsibility) [650] 1394
—Congo (violation of United Nations Charter) (not within Standing Order) [650] 936
—cotton textile industry (no reason given) [661] 474
—deportation of Miss Carmen Bryan (not acceptable on day on which guillotine of Supply falls) [663] 640
—Goa, situation in (not definite and no direct administrative responsibility) [651] 953
—Iraq (nationalisation of 6,000 British firms) (not within Standing Order) [650] 1389
—monopoly, creation of, by merger of I.C.I. and Courtaulds (not urgent, remedy would require legislation) [652] 903
—nuclear tests (use of Christmas Island) (not urgent) [653] 643
—pit closures in Scotland (social consequences of); (failure to give information) (neither within Standing Order) [662] 1357-58
—proposed transfers of certain subsidiary companies with resultant monopoly (no Ministerial responsibility) [651] 225
—railways (intervention by Member in wage negotiations) (indefinite) [652] 58
—Royal Prerogative of Mercy, exercise of (not within Standing Order) [654] 648
—Thailand (dispatch of British forces to) (immediate opportunity of debate in normal way) [660] 680

Amendment(s)

—*not debatable [660] 1454
—*printing error in, does not debar selection [662] 197
—*selection of [650] 1457
—*selection of, power of Chair not to select any amendment [655] 1400
—*to money Resolution must not go beyond scope of Queen's Recommendation [649] 1487

Allocation of Time Motions

—Debate on motion which applies to more than one Bill, need not be limited to one of the Bills at any one time [655] c. 424
—not in order in debate on, to discuss merits of Bill [652] 468, [655] 503

Bills, public

—*Motions for leave to introduce*
—may be opposed by Member of Government [654] 422
—*Re-committed*
—*Debate on Clause in, is limited in scope to Amendments selected [654] 541-7
—intervention not allowed in proceedings on [654] 422 [659] 1352

Chair

—decisions of, cannot be debated except on a substantive Motion [650] 1473
—does not allocate time of House [649] 682
—Members cannot address Questions to other Members through [649] 1680
—no power to ration time [656] 238
—not a matter for, if Member does not give way [649] 952
—right of selection not to be criticised [656] 1211

Clause

—new Clause on consideration has to be read a second time before amendment to it is moved [662] 1366

Closure

—†reasons for accepting or refusing not to be debated or criticised except on a Motion [649] 583,* 591* [664] 367, 413-5 [664] 720†
—refused owing to shortness of debate [664] c. 721

Consolidated Fund Bill

—scope of debate on second reading [653] 1523

Debate(s)

—cannot take place without a Question before the House [649] 1151, [654] 1143, [656] 1021
—scope of, on motion to adjourn House to a given date [661] 210, 217

Division

—called again, on complaint of obstruction [662] 379
—name corrected in [658] 1021, [660] 229

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—Question on second or third reading to be put without discussion [649] 621

House, Sittings of

—time to move suspension of Standing Order governing [651] 354

Members

—*Chair cannot compel to be in Chamber [657] 1425
—conduct of, cannot be criticised except on a substantive motion [648] 775, [657] 1609, [660] 223
—*may use copious notes [650] 941
—*out of order to refer to Members by name [657] 1429
—should address Chair [652] 477

Ministers

—Chair cannot accept responsibility for conduct or absence of [649] 1648
—Chair does not expect to receive explanation concerning which Minister is to address the House [649] 867
—may be allowed to use copious notes [649] 948

Notices of Motions

—cannot be given by another Member on behalf of Member chosen by ballot [650] 447

Opposition Front Bench

—right to sit upon [649] 683

† Motion of censure on Speaker subsequently put down, but time for debate not made available.

XVII. EXPRESSIONS IN PARLIAMENT, 1962

The following is a list of examples occurring in 1962 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

"bayankaramana" (dangerous) in the sentence "a dangerous situation was created by an opposition party". (*Madras Leg. Ass.*, Vol. I, 1962, p. 228.)

"deliberately misquoted". (1962 *N.Z. Hans.*, p. 1822.)

"despicable" (persons outside the House). (1962 *N.Z. Hans.*, p. 3271.)

"jalebion ki rakhwali kutia" (dog watching the sweets). (*V.P. Vidhan Sabha*, Vol. 237, p. 711.)

"Do you think this Minister is hide bound?" (*West. Aust. Hans.*, p. 145.)

"frivolity" (with reference to the speech of the Prime Minister). (*Lok Sabha Debates*, 12-11-1962.)

"How about a keg or two at the polling booths?" (*West Aust. Hans.*, p. 1770.)

"I knew the report was utter bosh". (*West. Aust. Hans.*, p. 2413.)

"it never entered my mind about there being any skulduggery". (*West. Aust. Hans.*, p. 883.)

"suno" (listen). (*U.P. Vidhan Sabha*, Vol. 234, pp. 321-2.)

"aisho-aaram" (luxury). (*U.P. Vidhan Sabha*, Vol. 231, p. 739.)

"nonsense, absolute" (with reference to certain remarks by a Member). (*Lok Sabha Debates*, 10-12-1962.)

"not saveloys, but snags". (*West. Aust. Hans.*, p. 1109.)

"not wise" (buthisalithanam alla) (with reference to laying of granite black-top roads in villages). (*Madras Leg. Ass.*, Vol. IV, 1962, pp. 626-7.)

"Pull your head in!" (*West. Aust. Hans.*, p. 2716.)

"Question! We don't trust you much." (*N. Rhod. Leg. Co. Hans.*, 105, c. 762.)

"stick to the truth". (1962 *N.Z. Hans.*, pp. 2424-5.)

"the camouflage of democracy goes on every hour, every day, every week, every month and every year". (*West Aust. Hans.*, p. 82.)

"the Minister talks of red herrings; that is a stinking red herring". (*West Aust. Hans.*, p. 2359.)

"bina sochay samjhay sankalp prastut kar diya" (the resolution has been moved without thought). (*U.P. Vidhan Sabha*, Vol. 232, p. 141.)

"uchchchrinkhal" (unmannerly). (*U.P. Vidhan Saba*, Vol. 230, pp. 71-3.)

"we did 'twig' that . . ." (*N. Rhod. Leg. Co. Hans.*, 105, c. 90.)

"when I come to the city and see some of the rat-bags drinking at the hotels on the way". (*West Aust. Hans.*, p. 1864.)

"Why flog a dead horse?" (*West Aust. Hans.*, p. 250.)

"kambakht" (wretched). (*U.P. Vidhan Sabha*, Vol. 233, p. 1265.)

"galat" (wrong). (*U.P. Vidhan Sabha*, Vol. 236, p. 220.)

Disallowed

"aap hamare adhyaksha nahin hain Ham apko adhyakhsha nahin mante" (you are not our Speaker . . . We don't take you as our Speaker). (*U.P. Vidhan Sabha*, Vol. 235, p. 260.)

"aap safai den" (please explain (to the chair)). (*U.P. Vidhan Sabha*, Vol. 234, p. 1089.)

"A.1". (*Rhod. Fed. Ass.*, Vol. 17, p. 205.)

"absolute tripe". (*S. Rhod. Assem. Hans.*, Vol. 51, 2628.)

"accusation that an honourable Senator is telling a lie". (*Aust. Senate Hans.*, Vol. 21, p. 556.)

"adhikaron ka hanan ho raha hai" (the rights are being assailed (for an action of the chair)). (*U.P. Vidhan Sabha*, Vol. 234, p. 970.)

"an allegation that a Senator supported the activities of the Nazis in Germany". (*Aust. Senate Hans.*, Vol. 22, pp. 1006-8.)

"anyaya" (injustice (Speaker's ruling)). (*U.P. Vidhan Sabha*, Vol. 234, p. 1075; Vol. 235, p. 252.)

"a person whose practice in this Senate is muck-raking". (*Aust. Senate Hans.*, Vol. 22, p. 1015.)

"apke liye sharm ki batt hai" (it is a matter of shame for you (to the Chair)). (*U.P. Vidhan Sabha*, Vol. 233, p. 448.)

" . . . ashamed to belong to this Upper House ". (*West Aust. Hans.*, 2087.)
" Because of pressure from his bosses he crawled out of this chamber and did not vote." (*Aust. Senate Hans.*, Vol. 21, p. 305.)
" bloody ". (*Orissa Leg. Ass. Debates*, Pt. II, Vol. II, No. 7, p. 55.)
" bloody ". (1962 *Uganda Nat. Ass. Hans.*, p. 49.)
" boofheads ". (*Queensland*, 723.)
" both Senator —— and Senator —— have been saying exactly what the Communist party has been saying ". (*Aust. Senate Hans.*, Vol. 22, p.1250.)
" brute ". (*Maharashtra Leg. Assem. Debates*, Vol. 7, Pt. II, p. 1508.)
" character assassination ". (1962 *N.Z. Hans.*, p. 3207.)
" confused and unintelligent ". (1962 *N.Z. Hans.*, p. 3194.)
" conspiracy " (with reference to any motion before the House). (*Maharashtra Leg. Assem. Debates*, Vol. 7, Pt. II, p. 612.)
" cowardice " (to describe Minister's conduct). (666 *Com. Hans.*, 599.)
" damned sniping political statement ". (1962 *N.Z. Hans.*, p. 2374.)
" deliberate malignity ". (1962 *Can. Com. Hans.*, 1137.)
" dishonest advocacy ". (*Aust. Senate Hans.*, Vol. 21, p. 492.)
" disloyal ". (*Queensland*, 1643, 1893.)
" dogsbody ". (*Rhod. Fed. Ass.*, Vol. 15, p. 595.)
" evil genius ". (1962 *Can. Com. Hans.*, 138.)
" false " (with reference to answers given by Government). (*Maharashtra Leg. Assem. Debates*, Vol. 7, Pt. I, p. 1114.)
" falsification ". (1962 *N.Z. Hans.*, p. 3142.)
" fascist ". (*Aust. Senate Hans.*, Vol. 21, p. 160.)
" fascist Minister ". (*Aust. Senate Hans.*, Vol. 22, p. 707.)
" filthy ". (1962 *N.Z. Hans.*, p. 1423.)
" filthy liar ". (*Queensland*, 1091.)
" fraudulent character " (of a Bill). (1962 *Can. Com. Hans.*, 2644.)
" fuehrer ". (*Aust. Senate Hans.*, Vol. 21, p. 550.)
" God help us ". (*Rhod. Fed. Ass.*, Vol. 17, 138.)
" Government giving way to outside pressure ". (1962 *N.Z. Hans.*, p. 3070.)
" Government policy is dictated from outside ". (1962 *N.Z. Hans.*, p. 3290.)
" growling and grunting like a whale with a bellyache ". (1962 *N.Z. Hans.*, p. 864.)
" gutter politics into which my friend Senator —— would seek to lead me ". (*Aust. Senate Hans.*, Vol. 21, p. 399.)
" Hitler ". (*Aust. Senate Hans.*, Vol. 21, p. 1159.)

"hooliganism, reign of" (with reference to the activities of the Members of the ruling party). (*Lok Sabha Debates*, 20-4-1962.)

"how dirty can you get". (1962 *N.Z. Hans.*, p. 3247.)

"humbug". (*Aust. Senate Hans.*, Vol. 21, p. 376.)

"if he was T.B. tested he would be thrown out". (*Queensland*, 1742.)

"ignoramus" (bapuda). (*Orissa Leg. Ass. Debates*, Vol. II, Pt. II, No. 3, p. 24.)

"in his usual mixture of bombast and bull". (1962 *N. Rhod. Leg. Co. Hans.*, 105, c. 64.)

"it is a Nazi-like lie; it is a fascist lie with strong overtones of McCarthyism". (1962 *Can. Com. Hans.*, 1145.)

"jhooth" (lie). (*U.P. Vidhan Sabha*, Vol. 234, p. 889.)

"just stand and we will take it as read". (1962 *N.Z. Hans.*, p. 3268.)

"lie" (poi). (*Madras Leg. Ass.*, Vol. I, 1962, pp. 119-20.)

"lie". (*Com. Hans.*, Vol. 656, c. 206; 1962 *N.Z. Hans.*, pp. 745, 2445, 3255; *Queensland*, 894, 1472, 1623.)

"little bit of guts". (*S. Rhod. Assem. Hans.*, Vol. 50, 1174.)

"lousy". (*Queensland*, 1114.)

"lying". (*Com. Hans.*, Vol. 660, c. 983.)

"McCarthy" applied to a Senator. (*Aust. Senate Hans.*, Vol. 22, p. 457.)

"magpies". (*Queensland*, 482.)

"matter a damn". (*Rhod. Fed. Ass.*, Vol. 19, p. 2154.)

"Members lacked courage". (1962 *N.Z. Hans.*, p. 982.)

"Members trying to deceive the House". (1962 *N.Z. Hans.*, p. 2873.)

"mug". (*Queensland*, 628.)

"nail the lie". (1962 *N.Z. Hans.*, p. 922.)

"old boy" (addressed to Chair). (*Com. Hans.*, Vol. 668, c. 1642.)

"pagal" (insane) (for the Government). (*U.P. Vidhan Sabha*, Vol. 233, p. 881.)

"Parliamentary delinquent". (*Queensland*, 1973.)

"pass the buck". (*S. Rhod. Assem. Hans.*, Vol. 50, 338.)

"political pervert". (*Queensland*, 956.)

"politically dishonest Premier and his henchmen". (*Queensland*, 325.)

"prize snooper". (1962 *N.Z. Hans.*, p. 3120.)

"rabble". (*Queensland*, 1002, 1752.)

"ratbag". (1962 *N.Z. Hans.*, p. 711; *Queensland*, 1292.)

"rotten rump of a Parliament". (*Com. Hans.*, Vol. 663, c. 1657.)

"rowdyism" (kalithanam) (with reference to the action of members of a Party. (*Madras Leg. Ass.*, Vol. V, 1962, p. 45.)
"ruffian" (goonda). (*Orissa Leg. Ass. Debates*, Vol. II, Pt. II, No. 11, pp. 20-1.)
"sadan ka samai nasht ho raha hai" (the time of the House is being wasted). (*U.P. Vidhan Sabha*, Vol. 234, p. 511.)
"sadan ke samen ka durupyog karna hai" (misuse of the time of the House). (*U.P. Vidhan Sabha*, Vol. 236, p. 445.)
"scabs". (*Queensland*, 710.)
"shararat" (mischief). (*U.P. Vidhan Sabha*, Vol. 235, p. 195.)
"sharp practice" (to describe another Member). (*Com. Hans.*, Vol. 666, c. 943.)
"she is lined up with Senator —— who supports the red line". (*Aust. Senate Hans.*, Vol. 22, p. 1250.)
"shoot you to start with". (*S. Rhod. Assem. Hans.*, Vol. 50, 703.)
"shut up". (*Queensland*, 539.)
"singing an elegy" (oppari vaippathu) (with reference to views on the Budget). (*Madras Leg. Ass.*, Vol. II, 1962, p. 328.)
"snide". (*Queensland*, 381.)
"stick to the truth". (1962 *N.Z. Hans.*, pp. 1599, 3212.)
"stooge". (*Rhod. Fed. Ass.*, Vol. 19, 1748, 1859.)
"There are people who regret the solution of the Cuban situation" (applied to a Senator). (*Aust. Senate Hans.*, Vol. 22, p. 1577.)
"tikrambazi" (manœuvring by hook or crook). (*U.P. Vidhan Sabha*, Vol. 237, p. 91.)
"trafficker in licences". (1962 *N.Z. Hans.*, p. 729.)
"tricked deliberately by the Rt. Hon. Gentleman". (*Com. Hans.*, Vol. 663, c. 1485.)
"tripe". (*Rhod. Fed. Ass.*, Vol. 18, p. 68.)
"unmitigated liar". (*Queensland*, 894.)
"untrue". (1962 *N.Z. Hans.*, pp. 158, 246.)
"wangle". (*Com. Hans.*, Vol. 662, c. 315.)
"weak, lily-livered loons who rush into Parliament". (*Queensland*, 383.)
"wilful and deliberate misrepresentation". (*Aust. Senate Hans.*, Vol. 21, p. 105.)
"wordy dual" (gusthi pottargal) (with reference to exchange of remarks between a Member and a Minister). (*Madras Leg. Ass.*, Vol. V, 1962, p. 164.)
"yeh mananiya mantriji ki chaal hai" (it is hon'ble Minister's trick). (*U.P. Vidhan Sabha Deb.*, 234, 345.)
"you are only a fool". (1962 *N.Z. Hans.*, p. 3213.)
"you goat". (1962 *N.Z. Hans.*, p. 1483.)

Borderline (Deprecated)

"Even Ministers are speaking irresponsibly." (*Madras Leg. Ass.*, Vol. III, 1962, p. 256.)

"putting the screw on some of the local authorities . . ." (*N. Rhod. Leg. Co. Hans.*, 105, c. 1795.)

"shameless". (*Mysore Leg. Ass.*)

". . . 'spiv-like gentlemen'. . . ." (*N. Rhod. Leg. Co. Hans.*, 105, c. 1592.)

XVIII. REVIEWS

Procedure in the Canadian House of Commons. By W. F. Dawson. University of Toronto Press. $6.00.

Canada used to be known as the "oldest Dominion"; her Federal Parliament was constituted by the British North America Act of 1867. This independent existence of nearly a century, together with the diversity of cultures existing in the component Provinces, and the proximity of an even more independent neighbour to the south, would lead one to expect to find basic differences in the systems and forms of procedure of the Canadian Houses from those of the United Kingdom Parliament. In fact, however, the influence of France on the one hand and the United States on the other have been very slight and, in the words of the author of the book under review, there is "no question but that Westminster is still the most powerful single influence on Canadian procedure". There are, of course, differences of detail, some of them quite startling, to which Mr. Dawson gives full weight.

This is not to say that this work is intended either as a day-to-day handbook of Canadian procedure or a formal comparison between the procedures of Canada and the United Kingdom. Mr. Dawson, who was for several years a member of the staff of the Canadian House of Commons, has obviously felt in full measure the frustration known occasionally to all parliamentary officers when confronted with Members who either refuse to take advantage of rules and forms which would work manifestly for their benefit, or recoil in horror from any change in ossified and out-moded procedures. The purpose of the work, therefore, is reformatory. Every chapter concludes with suggestions for improving the machinery which it has described, and the final ten pages of the book are a concentrated plea for measures to be taken in advance of the time when excessive strains are put on the Canadian House. As readers of this Journal will know, the tension became nearly unbearable in 1956 during the passage of the Pipeline Bill; yet even after that rude buffeting, the positive and negative sources of mischief (comprised in the semi-automatic procedure for appealing against Speaker's rulings on the one hand and the absence of any effective form of closure on the other) still flow unchecked. One is inescapably reminded of the operation, in this country, of the Tribunals of Inquiry (Evidence) Act. Every time a Tribunal is appointed under its provisions, the same complaints of possible injustice to individuals are made, and

are followed by the same generalised undertakings to review the whole machinery before it is set in motion again; yet strange to say, the appointment of each successor Tribunal finds the basic Act unamended.

Nevertheless, the almost missionary sense of urgency with which Mr. Dawson's book is pervaded does not detract from its usefulness to the student of things as they are, who wishes to discover how things are done in Ottawa without exhaustive research into Beauchesne and Bourinot. The chapters into which it is divided each cover some separate aspect of the proceedings and institutions of the House, and dissection is invariably preceded by comprehensive (and comprehensible) description and appraisal. The briefest and least complicated chapter in the book is that dealing with Government Bills and Public Bills (the latter term being the Canadian equivalent of "Private Members' Bills" in the United Kingdom); the process of three readings, with a committee stage for amendments, has so far provided ample opportunity for full debate on bills, and appears to give little cause for dissatisfaction, even to the author. *Per contra*, the fairly lengthy chapter on the limitation of debate is a telling critique of the ineffectiveness of artificially complicated procedures. The Canadian system of closure, which consists of a sort of *ad hoc* guillotine imposed after notice before the commencement of a particular day's sitting, and is as far as your reviewer knows unique, has been used only fifteen times since the rule was adopted in 1913; these applications have not been spread out evenly during the whole period, but have usually come in bunches, each of which (with one exception) has been followed fairly shortly by the defeat of the then Government. The restrictions imposed on the length of individual speeches also tend to have the effect, not unknown elsewhere, of making each speaker averse to foregoing a minute of his ration.

One of the most interesting chapters is that describing the functions of the Speaker and the history of his office. Although by 1867 the principle of the Speaker being re-elected from one Parliament to the next (as long as he wished to serve) was fairly well established in the United Kingdom, it was never transplanted to Canada; on the other hand, despite the fact that the Canadian Speaker changes with every Parliament, he is in no sense a partisan manager of business in the style of the Speaker of Congress; even the notorious Mr. Speaker Anglin, who in 1873, less than two years before his election, had written in a newspaper that certain members of the opposing party would "wade through filth so vile to Governorships, Judgeships, places in the Cabinet, places out of the Cabinet, profits and so-called honours"—sentiments which were resolved by the House to be "a high contempt of the privileges and constitutional authority of this House"—seems to have behaved with reasonable impartiality after ascending to the Chair. Nevertheless, Mr. Dawson notes with ap-

proval a growing public interest in the possibility of a more permanent Speakership.

The book is clearly written, cogently argued and well printed, and will be stimulating reading not merely for those who are interested in the development of parliamentary institutions in Canada, but also for those elsewhere in the Commonwealth who, while basically satisfied with the Westminster system, wish to ensure its flourishing growth in their own garden and are accordingly anxious not to neglect any suggestion for improving their methods of watering, pruning and grafting.

(*Contributed by the Fourth Clerk at the Table, House of Commons.*)

The New Zealand Constitution. By K. J. Scott. Clarendon Press, O.U.P. 25s.

In this description of the development and working of the New Zealand constitution, Professor Scott has been careful to treat his subject with detailed reference to its parent and model, the constitution of the United Kingdom; as the former cannot be understood apart from the latter. He has succeeded in producing a useful and self-contained study which is particularly interesting when the author is dealing with the differences which have arisen in the constitutional practice of the two countries.

Like the United Kingdom, and unlike every other country, New Zealand possesses no written constitution. It does, however, have two documents which more closely resemble such a constitution than anything on the English statute book: the New Zealand Constitution Act, 1852, and the Electoral Act, 1956. Of these, the first was an Act passed by the United Kingdom Parliament "to grant representative government to the Colony of New Zealand" of which, by 1893, only twenty-one of its original eighty-two sections were in force, and which had ceased to be regarded as "the constitution" as early as 1860. The Electoral Act might, at first sight, seem to be a better candidate for the title, as it has an "entrenching" section which provides that those sections dealing with such basic parts of the constitution as the secret ballot, the length of Parliament and the adult franchise, may only be repealed or amended by a 75 per cent. majority of the House of Representatives or else a majority in a referendum. However, this entrenching clause is not itself entrenched so that only a certain moral sanctity prevents the entrenched sections from being as vulnerable to a simple majority as the rest of the Act. But whatever the strength of the entrenched sections may or may not be, the Electoral Act has not so far come to be referred to as the Constitution, nor is it likely to be so.

Professor Scott is careful to distinguish between the law of the constitution which is, for the most part, contained in the two Acts already mentioned and in the Statute of Westminster, 1931 (the

puzzling section four of which is fully discussed by Professor Scott), and the conventions of the constitution. In *Modern Constitutions* K. C. Wheare has described the way in which convention may operate to affect the law of the constitution as threefold: it may nullify a provision of constitutional law; it may transfer a lawful power from one person to another; or it may supplement the law of the constitution. Professor Scott shows that this analysis of the operation of convention is entirely applicable to New Zealand. But perhaps the most important rôle of convention, in the working of both the New Zealand and the United Kingdom constitutions, has been that of determining the position of the Cabinet. The similarity in development of Cabinet government in the two countries has been striking, but Professor Scott points out two important differences. First, the strength of the caucus is far more developed in New Zealand, and there is evidence that this form of organised back-bench opinion is more successful in influencing the decisions of the Cabinet, than, for instance, the United Kingdom 1922 Committee has been during the last decade. The second difference is that, in New Zealand, the doctrine of collective Cabinet responsibility is much looser. The New Zealand Cabinet has, on several occasions, disowned a Minister who carried out an excessively unpopular measure; he is expected to accept sole responsibility, and resign, in the interests of his party. Perhaps even more surprising is that it frequently happens that a Minister criticises the decision of the Cabinet without, however, resigning—an action which would undoubtedly offend, in the United Kingdom, against the stricter concept of collective responsibility.

As the violence of the political controversies of the past becomes increasingly remote, it is natural that the rôle played in a modern democracy by the civil service should increase in importance. It is an acknowledged fault of Dicey's *Study of the Law of the Constitution* that he paid too little attention to the newer organs of government, and it is satisfactory to find that Professor Scott has devoted two chapters to the Public Service and the Administrative Tribunals.

(*Contributed by J. Vallance-White, a Clerk in the House of Lords.*)

Legislatures. By K. C. Wheare. Home University Library.

As one would expect in a volume of this series, this book consists of a simple and clear exposition of the facts about all the important legislatures of the world. And as one would expect from this author the exposition is a model of conciseness and completeness. The book is obviously intended for students and others who require an introduction to the subject; and it is therefore no doubt a little unfair that it should be subjected to the expert scrutiny of the Society.

Professor Wheare's method is scientific—that is to say, he collects all the facts, arranges them carefully in the proper order and forms, from the resulting picture, his conclusions by what the philosophers

call "induction"—that is, the formulation of scientific laws from the examination of a large mass of arranged facts. This method of course demands complete accuracy in the collection of facts and great skill in their arrangement, and considerable knowledge and flair in the weight which is given to each fact under examination. Professor Wheare's book is not, looked at from this point of view, entirely without flaw. Our Members will know, for example, from Volume XXVIII, page 28, of THE TABLE, that the average post-war number of public Acts passed annually by the United Kingdom Parliament in the 1950's was 75, not 70 as stated by Professor Wheare on page 162; that the proportion of Private Members' Bills among these was 17 per cent., not 5 per cent.; and that the number of Public Bills introduced was 90, not 80. Further, when the author quotes perfectly correctly from what Sir Winston Churchill said about the rebuilding of the House of Commons in its pre-war size and shape, one is led to suppose that various characteristics which that House now has are derived from the fact that its furniture and accommodation have always been this shape. But in fact the Commons sat throughout the seventeenth and eighteenth centuries and for the first third of the nineteenth arranged in a shape which was rather like a horseshoe magnet with a bar across the ends, the Speaker sitting in the middle of the curved end. And when plans were being drawn up for the rebuilding of the House after the great fire of 1834 at least one of them—still to be seen on display in one of the lower corridors—made provision for a diamond-shaped House with the Speaker sitting at one of the sharper points. And in fact close students of the history of the House of Commons know that many of its salient characteristics derive from the fact that, during the seventeenth and eighteenth centuries, the prominent men in the House sat actually side by side with the Speaker, who did not then sit in isolated splendour, separated from the front benches by a yard or two of carpet.

These blemishes in the work make one wonder whether certain other of Professor Wheare's conclusions may not rest on equally doubtful evidence. For example, he claims that experience of legislatures in various parts of the world proves that strong second Chambers are incompatible with strong cabinet Governments. If by "cabinet Government" you mean a Government which is more or less merged in Parliament, then this statement is possibly true. But "cabinet Government", which we have had in England since the time of William and Mary, is normally taken to mean a form of Government in which the cabinet bears collective and corporate responsibility either to the King or to Parliament; and there seems no intrinsic reason why a cabinet should not owe responsibility to some form of oligarchy, which might easily be enshrined in a second Chamber. In fact, the system under which England was governed for a large part of the eighteenth century was not very remote from this, although the English oligarchs of that time, in spite of being for

the most part peers, did not express their power through the House of Lords.

In short, we may say that the book has the defects of its merits. If you look at legislatures scientifically, you must look at them as a biologist looks at bees. You observe their behaviour, and you can only try and understand them through your observations of their behaviour. But Parliaments after all consist of human beings, and it is possible to understand what they are doing by other means than their external actions. There is only too much evidence on the subject of what politicians think they are doing, and a study of this would not always produce the same results as those to which Professor Wheare has been led by his scientific method. Moreover, in the case of many of the most important legislatures—those, for example, of England, France and the United States—the reason for what they now do, or a large part of it, is buried in the past, and cannot be discovered from observation of their present behaviour. And sometimes, moreover, the influence of the past is indirect: it is because, for example, the Americans wished to avoid what they regarded as certain undesirable features of the English Parliament that they framed their Constitution as they did; and they were also influenced by the academic ideas of certain constitutional scholars. Similarly the French, in constructing the Constitutions of their various Republics, have been reacting from what they regarded as the faults of their previous systems, and moreover in the case of the Fifth Republic have been subject to the personal, and rather military, notions of General de Gaulle.

None of this appears on the surface; but for a real understanding of the legislative systems of the world it is necessary to delve rather deeper than the top layer of facts spread out for scientific examination.

XIX. THE LIBRARY OF THE CLERK OF THE HOUSE

The following volumes, recently published, may be of use to Members:

African One-Party States. By *G. M. Carter*. Oxford. 58s.
Government and Industry in Britain. By *J. W. Grove*. Longmans. 42s.
Parliaments. Cassell (for the Inter-Parliamentary Union). 30s.
The Man on Horseback—the Role of the Military in Politics. By *S. E. Finer*. Pall Mall Press. 27s. 6d.
Salaries in the Public Services in England and Wales. By *H. R. Kahn*. Allen and Unwin. 60s.
The Parliament of Switzerland. By *C. J. Hughes*. Cassell (for Hansard Society). 30s.
The Challenge of the Common Market. By *Uwe Kitzinger*. Blackwell. 12s. 6d.
Smuts I: The Sanguine Years: 1870-1919. By *W. K. Hancock*. Cambridge. 52s. 6d.
The Secretariat of the United Nations. By *S. D. Bailey*. Carnegie Endowment. 25s.

We have also received copies of "Public Affairs", the monthly journal of the Gokhale Institute of Public Affairs, Bangalore, India. Various aspects of Indian politics and public affairs are discussed in the journal, which can be obtained for an annual subscription of four rupees.

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(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.

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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.

Ashley, Jonathan Gordon Charles, A.A.S.A., Dip.P.T.C.—Clerk-Assistant and Usher of the Black Rod, Legislative Council, Western Australia, since 11th January, 1963; *b.* 28th September, 1921; *m.* 1944, 1 *s.*, 3 *d.*; *ed.* Perth Boys' High School and Perth Technical College; Associate of Australian Society of Accountants; Diplomate (Accounting), Perth Technical College; State Public Service, 1937-56; served overseas 2nd A.I.F., 1941-45; appointed to Parliamentary Staff as Clerk of the Records and Accounts, Legislative Council, 31st March, 1956.

Grose, Graham Norman Hallett.—Usher of the Black Rod and Clerk of the Records, Legislative Council of Victoria, Australia; *b.* 1926; *ed.* Wangaratta High and Ivanhoe Grammar Schools and Melbourne University; *m.* 1955, 3 *d.*; joined Victorian Public Service, 1942; Clerk of Petty Sessions, 1942-50; Clerk in Reader's Office, Legislative Assembly, 1950-51; Clerk of Papers, Legislative Council, 1951-54; Clerk of Papers and Assistant Clerk of Committees, 1954-62; Secretary, Distribution of Population Committee, 1959-63; Usher of the Black Rod and Clerk of Records, 1962.

Hogan, David.—Clerk-Assistant, Northern Territory Legislative Council; *b.* 28th January, 1923, at London; *ed.* Sydney University; B.A.; served in Australia; Imperial Forces 1941-49; attended Sydney University, 1950-52; joined Commonwealth Public Service in Darwin in 1958; appointed Clerk-Assistant Legislative Council in 1960.

McKay, Paul Trevor, B.A.—Third Clerk-at-the-Table, House of Assembly of Tasmania; *b.* 1940; *ed.* Hobart High School and University of Tasmania; joined House of Assembly staff, 1958; Assistant-Clerk of Papers, 1961; Third Clerk-at-the-Table and Secretary of the Public Accounts Committee, 1963.

Muhammad Iqbal, Chaudhri, B.A.(Alig.).—Secretary, Provincial Assembly of West Pakistan; *b.* Amritsar, 16th October, 1908; *ed.* Muslim University, Aligarh, graduated in 1930; joined Secretariat of the Punjab Legislative Council, 1931; served in various posts first in the Secretariat of the Council then the Legislative Assembly of Punjab, 1931-47; Superintendent, West Punjab Legislative Assembly, 1947-52; Assistant Secretary, Punjab Legislative Assembly, 1952-56; Deputy Secretary, Provincial Assembly of West Pakistan, 1956-58; Deputy Secretary, Finance Department, Government of West Pakistan, and Secretary, West Pakistan Development Advisory Council, 1959-62. Appointment to the present position, May, 1962.

Murphy, Bruce Gregson.—Clerk-Assistant and Sergeant-at-Arms, House of Assembly, Parliament of Tasmania; *b.* Hobart, Tasmania, on 12th October, 1922; *ed.* Hobart High School; *m.* 1947, 3 *s.*, 3 *d.*; joined Tasmanian Civil Service, May, 1939; appointed Third Clerk-at-the-Table and Secretary to the Leader of the Government in the Legislative Council, November, 1954; appointed to present position 30th May, 1963.

Musekwa, Pius.—Clerk of the National Assembly of Tanganyika; *b.* 1932; *ed.* St. Francis's College Pugu, Dar es Salaam, and University College, Makerere, Kampala; B.A. (Hons.) (History); Clerk-Assistant of the National Assembly, April, 1960; appointed to present position 9th December, 1962.

Addendum to Record of Service published in Vol. XXX

Kpodonu, Alfred Senaya.—Solicitor and Advocate.

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ABBREVIATIONS

(**Art.**) = Article in which information relating to several Territories is collated. (Com.) = House of Commons.

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