The Table

BEING

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

EDITED BY
R. S. LANKESTER AND M. A. J. WHEELER-BOOTH

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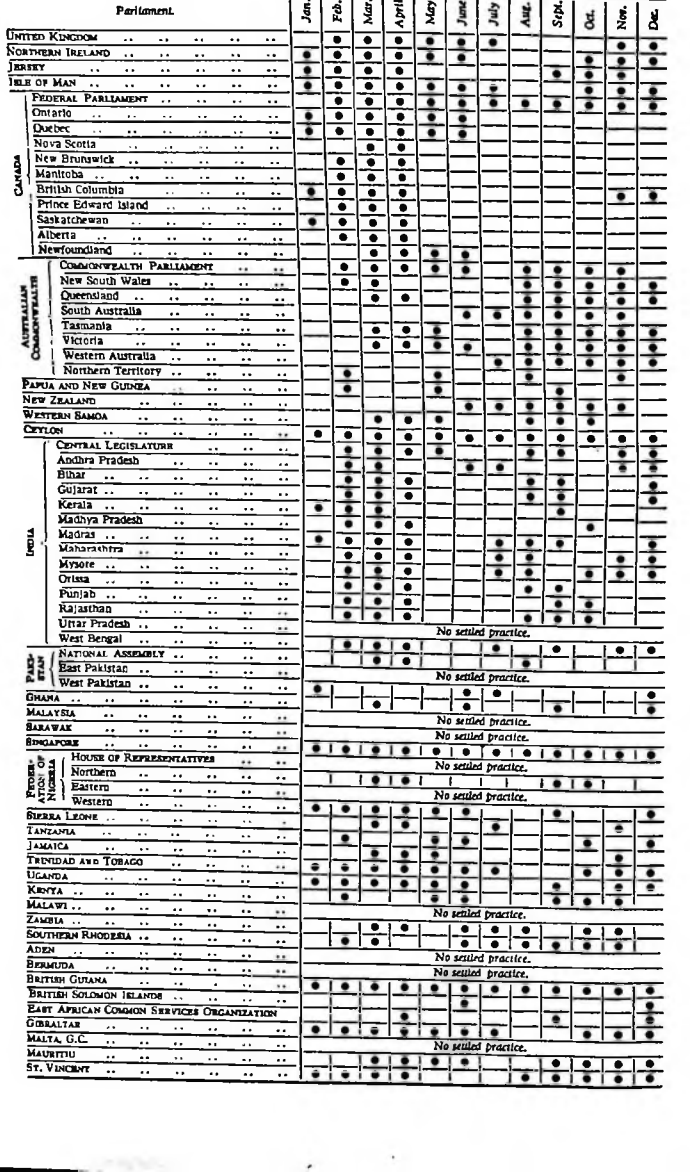

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THE SOCIETY OF CLERKS-AT-THE-TABLE
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I. EDITORIAL

Sir Frederic Metcalfe, K.C.B.—It was with deep regret that the Clerks at Westminster learned of the death in June 1965 of Sir Frederic Metcalfe, K.C.B., Clerk of the House of Commons from 1948 to 1954.

Although he was in his seventy-ninth year, nobody who had first met Sir Frederic Metcalfe during the happy epoch of his retirement would have guessed this fact. He was an alert and athletic figure who loved the old traditional games and field sports of England—cricket, shooting, fishing—while indoors he found comparable enjoyment in singing and music. He would have been the first to agree that he was happier standing knee-deep in a trout stream than ever he was sitting at the Table of the House, where he served for nearly a quarter of a century—from 1930—first as Second Clerk Assistant and then on through the two higher posts till his retirement in 1954.

As might have been expected in so active and vigorous a man, retirement, even after thirty-five years in the Commons, seemed too soon; and in the next—his sixty-ninth—year he sought and found a new outlet for his energies when he became Speaker of the House of Representatives of Nigeria. Many Clerks at Westminster remember turning on their radio sets at breakfast time to hear Metcalfe's fine baritone voice coming in strongly from Nigeria as he read the Loyal Address of his Parliament to the Queen when she visited Lagos in 1956.

Turning back the pages of Sir Frederic's personal history to the speeches made on his leaving the House of Commons, it is obvious that the Members of that time spoke in terms of far more than formal acquaintance. Referring to him as

essentially a modest man, who would have preferred not to be praised, the then Leader of the House (Captain Harry Crookshank) went on:

> The resignation of a Clerk of the House inevitably marks the end of a Parliamentary chapter. Sir Frederic leaves us with the good wishes of everyone. He has served the House for 35 years, and at all times he has been a perfect model of patience with all those who sought his guidance. Courtesy was his hall-mark and friendliness his outstanding characteristic, and he joined us in other spheres besides his work. He was a private—there is the modesty again—in our Parliamentary Home Guard during the war. With some he played golf, and in earlier days he shone as a run-getter for the Lords and Commons on the cricket field.
>
> Now he leaves us, his duty done, but young enough for us as a House—with confidence, I hope—to wish him a long and happy retirement. Today we want to thank him for his great services, and to say that we shall all miss him from his place at the Table.

Other voices from the past paid tribute to him. Among them Mr. Clement Davies (then Leader of the Liberal party) said:

> May I also add my word of thanks to Sir Frederic now that he is leaving us and thank him very sincerely on behalf of all for his kindliness, courtesy and readiness at all times to help us on any matter on which we approached him?

Mr. Charles Williams spoke as a former occupant of the Chair:

> May I put a point of view which I think very few others in the House can put—certainly one or two can—with regard to the immense value which Sir Frederic has been to those of us who had the honour of serving the House in the Chair? No-one can know how difficult is the work of the Chair and how utterly impossible that work would be except for the services of the Clerk. Sir Frederic was an old friend of mine long before he occupied any of the seats at the Table, but I must say that whatever his services to private Members have been—and they have been very great indeed—his services to the occupants of the Chair have been quite invaluable and have made our job possible.

Finally (after Mr. Clement Attlee, the Leader of the Opposition, and others had spoken) Mr. Speaker was directed by the House to convey to Metcalfe "its just sense of the exemplary manner" in which he had for thirty-five years given devoted service in the different offices of the House.

When Metcalfe first came to the House of Commons, many senior colleagues were still imbued with the leisurely traditions of the era before 1914. There was a Clerk who had two books only on his desk—Erskine May and the Racing Form Book—and who was a constant loser on the turf in

spite of having borrowed stake money from his juniors. There was another Clerk who preferred the gaming tables and who sheltered behind the walls of Parliament from bailiffs anxious to deliver summonses for debt. There was the legendary Clerk who casually borrowed £500 from a colleague: when the lender went home that night he passed the house of the borrower and heard the popping of champagne corks and the music of a band which had been procured for the evening on the strength of the loan.

It needed considerable energy to reform a department which had been set in this leisurely mould, and much of this work was due to Metcalfe's energetic sense. In 1945 he sponsored, with Lord Campion's support, the setting up of a Committee under the chairmanship of Mr. Pethick-Lawrence, whose recommendations led to the linking of the salaries of Commons Clerks with those of the administrative grade of the home Civil Service. In 1953 the increasing ties of the Clerks at Westminster with their Commonwealth colleagues were recognised by the appointment of the Fourth Clerk at the Table, and during the same period the Clerks began to attend the sittings of the Council of Europe and to accept a wider horizon than Westminster as properly within the scope of their duty in the service of the House. Not all these developments owed their inspiration to Metcalfe; in particular he was, like many who fought in the 1914-18 war, sceptical about European institutions. Yet he did not prevent his colleagues from lending support to the new democratic assemblies of the Commonwealth and Europe, and he himself made a journey to Paris to assist in drafting the provisional rules of the Consultative Assembly shortly before its first historic meetings in Strasbourg in 1949.

The influence which his emphatic approach to work exercised over his colleagues in the Commons may be summed up in this way: when Sir Frederic Metcalfe joined the Department, the approach to their duties of many Clerks was amateur, perhaps even dilettante; by the time he left, standards in all the various offices under his control were exclusively and intensely professional.

(*Contributed by Sir Barnett Cocks, K.C.B., O.B.E., Clerk of the House of Commons.*)

Mr. John Said Pullicino.—The death took place rather suddenly and quite unexpectedly on the 8th September, 1965, of Mr. John Said Pullicino, Clerk of the House of Representatives, Malta.

Mr. Said Pullicino served Parliament during the last

eighteen years, first as Clerk Assistant and later as Clerk, with diligence and integrity, and his gentleness and friendliness earned him the esteem and affection of all the Members of Parliament and of his colleagues in the Service. He was an exemplary Civil Servant.

Born on the 16th January, 1907, Mr. Said Pullicino joined the Higher Division of the Clerical Establishment on 1st June, 1925. He reached the rank of Principal Officer on the 1st April, 1948, and was transferred to the Legislative Assembly as Clerk Assistant during the same year. On the suspension of the Constitution in 1958 he was appointed Assistant Secretary in the Government Secretariat and was later promoted Clerk to the House under the 1961 Constitution.

The esteem with which Mr. Said Pullicino was held was shown during the Sitting of the 10th September, 1965, when the House first met after his death. After prayers, Mr. Speaker announced to the House the sudden demise of the Clerk of the House, whereupon the Prime Minister, the Hon. Dr. Giorgio Borg Olivier, rising in his place, moved:

> That the House desires to record its sense of great loss and its regret at the death of the Clerk, Mr. John Said Pullicino, and that an expression of the deep sympathy of the House be conveyed by Mr. Speaker to Mrs. Said Pullicino and to her family; and
>
> That the House do adjourn for an hour as a mark of respect to his memory.

The Prime Minister recalled Mr. Said Pullicino's sterling qualities and paid a glowing tribute to his character, integrity and friendly co-operation with all the parties represented in the House.

The Hon. Dom. Mintoff, Leader of the Opposition, seconding the Prime Minister's motion, described Mr. Said Pullicino as honest and sincere and a man of great humility with whom nobody could ever disagree. Then spoke the other party leaders, the Hon. T. Pellegrini, the Hon. Dr. Ganado and the Hon Miss Strickland who all qualified Mr. Said Pullicino as a man of extreme courtesy, great humility and noble Christian virtues.

Before putting the question on the motion, Mr. Speaker Pace felt it his duty to state that he would convey the condolences of the House to the family of Mr Said Pullicino whom he described as a real friend always ready and willing to be of service to others and a close collaborator of the Chair.

The Sitting was suspended for an hour as a sign of respect to his memory.

Mr. Said Pullicino was also a great believer in the future of the C.P.A. and as Secretary to the local Branch for many

years, he attended the Kuala Lumpur and Jamaica Conferences.

Our heartfelt sympathy goes to his wife and family in their sad bereavement.

(*Contributed by Louis F. Tortell, Acting Clerk to the House of Representatives.*)

Shri M. N. Kaul.—Mr. M. N. Kaul, Secretary to Lok Sabha, retired from the service of the House as from 1st September, 1964. Mr. S. L. Shakdher, who was Joint Secretary for over 11 years, succeeded him at the Table.

Mr. Kaul was associated with the House for 27 years. An Economics Tripos from Cambridge, Mr. Kaul was later called to the Bar at the Middle Temple. He practised for nearly a decade before the Allahabad High Court and was the Editor of the Allahabad Law Journal during the years 1931-37. Mr. Kaul joined the Legislative Assembly Department as a Deputy Secretary in September 1937. He officiated as Secretary from 1943 till 1947 in the Central Assembly and was appointed Secretary in July 1947.

With a Parliament, which was sovereign under the new Constitution, two tasks came to be of primary importance—the building up of an efficient Secretariat and the evolving of sound procedures. These tasks he accomplished with great vision and singular dedication.

Mr. Kaul's vision was not limited to the Parliament at the Centre. He conceived of Parliament and the various State Legislatures in the country as constituting one "Grand Parliament of India". He zealously worked to build up a common fund of experience on which all the Legislatures in the country could draw. By his constant guidance to his counterparts in the States on their many procedural and administrative problems he helped the State Legislatures to grow in the image of Parliament. He took a leading part in the annual Conferences of Presiding Officers and was the inspiration behind the institution of the Secretaries Conference.

Mr. Kaul was a familiar figure in Inter-Parliamentary circles. He was Secretary of the Indian Parliamentary Group (affiliated to the Inter-Parliamentary Union and the Commonwealth Parliamentary Association) and from 1950-56 was a member of the Executive Committee of the Association of Secretaries-General of Parliaments. On behalf of this body, he undertook an inquiry into, and submitted a very valuable report on, the extent of the independence of Legislature Secretariats from the Executive in various world Parliaments.

Announcing the retirement of Mr. Kaul in Lok Sabha, when it assembled on 7th September, 1964, for the Autumn Session, Speaker Sardar Hukam Singh *inter alia* observed:

His tenure of office was marked by many transitions and changes, constitutional and procedural. In all these matters, he tendered sound advice to the Speaker and helped in moulding the constitutional provisions relating to Parliament and the Rules of Procedure on modern lines. He helped and guided the Committees of this House, particularly during the initial stages.

Not only did he advise the Speaker and the Committees, but his advice was equally available to every Member of the House, to whichever group he belonged. He gave always sincere and sound advice.

After Independence he was responsible for reorganising and expanding the Secretariat of this House to give prompt and efficient service to the Members.

He was responsible for organising the Commonwealth Parliamentary Conference in Delhi in 1957 which won high praise from all. He accompanied several parliamentary delegations to the Conferences of the Inter-Parliamentary Union and the Commonwealth Parliamentary Association and other Goodwill Parliamentary Delegations, and gave good advice on complicated matters. He was elected to the Executive Committee of the Association of Secretaries-General of Parliaments and submitted to that body valuable reports on several aspects of parliamentary procedure and secretariat administration.

He helped the Speakers and the Secretaries of the State Legislatures in their problems and his services were readily available to them at all times in Conferences and personal discussions.

His has been a distinguished record of devoted service and unflinching loyalty. His vast experience and deep knowledge were of immense help to me since I took over as Speaker. His mature advice, always so readily available, was always sound and could be depended upon.

The Speaker informed the House that in appreciation of his long and distinguished record of service he had appointed Mr. Kaul as an Honorary Officer of the House.

Endorsing "wholeheartedly" the tribute paid by the Speaker, the Prime Minister Shri Lal Bahadur Shastri said:

Mr. Kaul was a familiar and friendly figure for all of us; he was the first Secretary of Lok Sabha after our Independence. He helped in building up high traditions and healthy conventions in parliamentary work. . . . He was a devoted officer and made a valuable contribution throughout his service. . . . Indeed, I and the Government feel thankful to him for the service he has rendered and we all wish him well.

All sections of the House joined in the tribute to the retired Secretary. Mr. M. R. Masani (Swatantra) referred to "the efficiency and the great sense of fairness" of Mr. Kaul and his colleagues in the Secretariat. Mr. A. K. Gopalan (Communist-Marxist-Leninist) recalled how "the members of the Opposition—particularly myself—who were here in the first Parliament had been very much helped by the Secretary". Mr. U. M. Trivedi (Jan Sangh) thought of him "as one who always gave the most dispassionate advice" to any Member who approached him. Mr. H. V. Kamath (Samyukta Socialist Party), who felt some difficulty over the absence of provision in the Constitution for the appointment of an Honorary Officer, was quick enough to add that Mr. Kaul had "rendered great service to the House and I would not mind if the Constitution is amended for this purpose". Mr. H. N. Mukerjee (Communist) appreciated the step

as "a token of appreciation of the work which Mr. Kaul has been doing for so long for all of us".

(*Contributed by Shri N. N. Mallya of the Lok Sabha Secretariat, New Delhi.*)

Mr. Frank Barnes Johnson, M.B.E., T.D., M.A.—After 26 years as Clerk of Tynwald and Secretary of the House of Keys, Mr. Johnson retired in July 1964.

Tynwald acknowledged this long and valued service by passing with acclamation a resolution in the following terms:

We, the Lieutenant Governor, Council, Deemsters and Keys in Tynwald assembled, on the relinquishment by Mr. Frank Barnes Johnson, M.A., T.D., of the offices of Secretary of the House of Keys and Clerk of Tynwald, hereby acknowledge the indebtedness of this Honourable Court to an officer who has, for a period of twenty-six years, rendered sterling service to the Legislature of this Island.

We, therefore, subscribe to this public recognition of the talents which Mr. Johnson has brought to his duties, the unfailing courtesy and attention he has at all times given to members of Tynwald and the very able legal assistance and advice he had tendered in relation to legislation and the conduct of the business of Tynwald.

It is our wish that this testimonial should be suitably inscribed and presented to Mr. Johnson with our cordial thanks and appreciation.

After the presentation of the illuminated testimonial by His Honour the First Deemster and Clerk of the Rolls, Mr. Johnson replied suitably.

Mr. Johnson was awarded the M.B.E. in the 1965 New Year's Honours List.

(*Contributed by the Clerk of Tynwald, Isle of Man.*)

Mr. T. R. Montgomery.—On 30th October, 1964, Mr. T. R. Montgomery, Clerk Assistant of the House of Commons of Canada, retired after 50 years in the public service.

The speeches which marked his retirement in the House of Commons were as follows:

The Right Hon. L. B. Pearson (Prime Minister) said—

Mr. Speaker, I should like to call the attention of the house to an event which has for all of us its element of sadness, as I am sure it has for the gentleman concerned, although perhaps there is also an element of release and anticipation. I refer to the fact that this is the last day our Clerk Assistant, Mr. Montgomery, will be in his chair in the House of Commons.

Mr. Montgomery joined the public service in 1912 and entered the service of the House of Commons in 1915. He is in his fiftieth year of service to the House. With his service to the House he has combined other forms of public service, community service, civil service, war charities and war activities, and for all this over so many years we owe him a debt of gratitude which I am sure we are all very proud and happy to acknowledge this morning. We thank him for what he has done in the public service of Canada, and we wish him many years of happiness and enjoyment ahead.

Some hon. Members: Hear, hear.

The Right Hon. J. G. Diefenbaker (Leader of the Opposition) said—

Mr. Speaker, this is one of those times when there is unity in the House of Commons as we do an unusual honour to one who has devoted his life to the public service. The Prime Minister has spoken in detail of that service. All of us who have sat in this chamber know what Mr. Montgomery's contribution has meant. He has been kindly, courteous and always devoted to the welfare of those in this chamber. There will be universal regret that after a half century of service he is about to retire.

We have no means of showing our appreciation for those that serve us well. We have no decoration such as the Victorian Order in the United Kingdom, which permits the sovereign on behalf of the nation to show the appreciation of the nation. We take this means of saying to Mr. Montgomery how deeply grateful we have been, and indeed are, to him and to all those who serve us in this chamber in the capacity of Clerk, Clerk Assistant and the other officials who give of their best to their country. Too often we do not pay tribute to civil servants who serve us so well. This is one occasion when, through Mr. Montgomery, we can pay our tribute not only to him in affection, but also to all those who serve in the civil service in devotion to their country.

Some hon. Members: Hear, hear.

Mr. Harold E. Winch (Vancouver East) said—

Mr. Speaker . . . All of us are aware of the loyalty and ability Mr. Montgomery as Clerk Assistant has given to the House of Commons collectively and to members individually. In order to complete the record of Mr. Montgomery's services I should like to add to the words of the right hon. Prime Minister, and record in *Hansard* the fact that Mr. Montgomery, the Clerk Assistant of this house, has been a federal civil servant for fifty years and four months. Added to that record is the astounding fact that he has been an employee of the House of Commons for forty-nine years and three months, and for the past 13 years has been Clerk Assistant. . . .

Mr R. N. Thompson (Red Deer) and Mr. Réal Caouette (Villeneuve) also paid tribute to Mr. Montgomery.

At the adjournment Mr. Knowles said:

I realise that everything that needs to be said was said this morning, but I wonder if we could not arrange, those of us who are here, for the last entry in today's Hansard to be a round of applause for Mr. Montgomery?

[*Whereupon hon. Members applauded.*]

(*House of Commons, Canada, Hansard*, Vol. 109, No. 180 2nd Session, 26th Parliament.)

Sri G. S. Venkataramana Iyer, B.Sc., M.L.—In September 1965, Sri G. S. Venkataramana Iyer was due to retire as Secretary of the Mysore Legislature.

On 18th March, 1965, the following resolution appreciating the services rendered by him was moved by Sri S. Nijalingappa, Chief Minister and Leader of the House of the Legislative Assembly.

"That Mr. Speaker be requested to convey to Sri G. S. Venkataramana Iyer, B.Sc., M.L., on his retirement from the Office of the

Secretary, Mysore Legislature, an expression of members' deep appreciation of the service which he has rendered to this House for fifteen years, their admiration for his profound knowledge of its procedure and practice, their gratification for the help constantly and readily given to them, and their recognition of the great work he has done."

Speaking on the resolution Sri Nijalingappa stated that Sri Iyer had rendered yeoman service to the State and Legislature from the year 1938 when he joined service as an Assistant Secretary. Sri Iyer, he said, had served as Assistant Secretary, Representative Assembly, Assistant Secretary to Government in the Law Department, Secretary to Hindu Law Reforms Committee and Assistant Secretary to the Constituent Assembly of Mysore. In the year 1950 when the Constitution of India was adopted by the Mysore State, he was appointed as Secretary to the Mysore Legislature and held that post till his retirement. Everyone in the Legislature knew how competent he was from the manner in which he worked, not only on the floor of the House but also in his office. He was very expert in his work and was a great help to new members of the House, who found in him a friend, guide and philosopher.

Sri S. Sivappa, Leader of the Opposition, in supporting the resolution, said that Sri Iyer had earned the love and appreciation of all the members of the Legislature for a very long time and he was a man with rich knowledge and experience. He wished him a good career after his retirement.

Sri Siddaiah Kashimath, Leader of the Swatantra Party, also supported the resolution.

Sri M. V. Rama Rao, Minister for Law, who had known Mr. Iyer from the year 1945, paid tributes to the unerring instinct for giving accurate advice on all difficult occasions. His grasp of Parliamentary procedure had been very comprehensive and he had made it his special business and responsibility to keep in touch with whatever was done in regard to parliamentary conventions in every House of Legislature throughout the world. He was responsible for making the addition of a large number of very informative books to the Library. Full of experience, wisdom and information, it was but fitting that his services should be made use of in some appropriate manner even after his retirement.

Sri B. Vaikunta Baliga, Speaker of the Legislative Assembly, before putting the motion to the House, added his tribute to those already expressed by saying that he owed a deep debt of gratitude to Sri Venkataramana Iyer. He characterised him as a walking encyclopaedia for parliamentary law and practice, and considered him as a perfect officer. The resolution was adopted *nem. con.* and, according to the desire of the House, it was proposed to present a copy of the resolution properly mounted in a suitable frame.

On 29th March, 1965, an identical resolution was moved in the

Legislative Council by Sri M. V. Krishnappa, Minister for Revenue and Leader of the House, when a large number of members paid tributes to the useful work done by Sri Venkataramana Iyer. While supporting the resolution Sri G. V. Hallikeri, Chairman, Legislative Council, also associated himself with the sentiments expressed by the members and the resolution was passed unanimously.

At a farewell ceremony organised by the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, the Resolution, mounted in a decorated silver frame, was presented to Sri G. S. Venkataramana Iyer.

(*Contributed by Shri T. Hannmanthappa, Secretary of the Mysore Legislative.*)

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

C.B.E.—A. G. Turner, J.P., Clerk of the House of Representatives, Canberra, A.C.T.

C.M.G.—R. Dunlop, Clerk of the Parliament, Brisbane, Queensland

M.B.E.—M. T. Tlebere, Clerk of the Legislature and Clerk of the National Assembly, Basutoland.

M.B.E.—F. B. Johnson, lately Clerk of Tynwald and Secretary of the House of Keys.

II. PUBLICATION VERSUS PRIVILEGE: A CAUTIONARY TALE

By R. W. Perceval
Clerk Assistant of the Parliaments, House of Lords

In the case Stockdale v. Hansard, 1837, issue was joined between the Courts and the Commons on the question whether the privilege of free speech enjoyed by that House, and the consequent immunity from suits for defamation, extended to matter ordered by the House to be printed and published.*

Hansard lost his case, and three years later Parliament passed the Parliamentary Papers Act 1840, which laid down that "no Obstructions or Impediments should exist to the Publication of such of the Reports, Papers, Votes or Proceedings of either House of Parliament as such House of Parliament may deem fit or necessary to be published" and that therefore anyone sued on any such document might stop the case against him by producing a certificate from the Lord Chancellor or the Speaker, or the Clerk of either House, stating that the document upon which the action was based "was published . . . by Order or under the Authority of the House of Lords or of the House of Commons".

This Act put an end to the dispute between the Commons and the Courts, and its effect was extended to certain Papers presented to the two Houses by command of the Queen by the judgment in the case Houghton and others v. Plimsoll in 1874, when the Report of a Royal Commission which had been presented to Parliament by command was held to be privileged on the ground that the House of Commons had passed a Motion adopting the Report, and had ordered it to be printed. This judgment did not of course apply the protection of the Act of 1840 to all Command Papers, and did nothing to obscure the distinction between the publication and the internal distribution of Papers.

* In considering the long trail of consequences that followed this contest it must be remembered that the only method then available of reproducing and circulating documents, even if only small numbers were required, was printing. Therefore documents reproduced for internal circulation in an office (*e.g.*, the Foreign Office) or for use by members of the House of Commons, were customarily printed. Nowadays we are accustomed to regard printing as virtually synonymous with publishing, but it was not so a century ago; technical progress in methods of reproducing documents has introduced additional complications into a matter which is already hard enough to understand.

It was twenty years later that this distinction was suddenly and thoroughly confused. In the House of Lords, on 17th February, 1896, the Prime Minister (the Marquess of Salisbury) moved that "if, during the existence of a Parliament, Papers are commanded to be presented to this House by Her Majesty at any time, the delivery of such Papers to the Clerk of the Parliaments shall be deemed to be for all purposes the presentation of them to this House". At that time, it should be remembered, Parliament normally sat only from the beginning of February to the middle of August. Lord Salisbury explained "that as soon as Parliament ceased to sit it became impossible to circulate a Blue-book except through the very clumsy agency of the *London Gazette*. Of course, when Blue-books were only intended to supply information to the Members of the two Houses there was no objection to that arrangement, but whereas now they filled a perhaps still more important function in conveying information to the public, it was very desirable that there should be a power of publishing whenever it might be convenient to exercise such power. He had tried hard to make use of the judicial sittings of the House for the purpose which he had in view, but he had been opposed by high legal authority and had found that course impracticable" (*Hansard*, Vol. XXXVII [Fourth Series], 17th February, 1896). The Lords agreed to this proposal, and a similar resolution was adopted by the Commons just before they rose on 14th August. In 1902, both Houses turned these Sessional Orders into Standing Orders, and as such they have remained on the books of each House ever since.

In 1908 and 1909 came the two similar cases of Mangena *v.* Lloyd and Mangena *v.* Wright, which established that Command Papers, simply as such and regardless of any proceedings that had been taken upon them in either House, were covered by the privilege of free speech. Mangena was an African native, who sued two London newspapers for libel for publishing an extract from a Command Paper. Sir Courtenay Ilbert, Clerk of the House of Commons, gave evidence in each case that the Paper from which the extracts were taken was "presented to the House by the command of the King, and laid upon the Table of the House of Commons by the Under-Secretary of State for the Colonies, and that it was ordered by the House to lie upon the Table, which was always taken by H.M. Stationery Office as an authority to print the Paper, and to distribute it among the members, and to offer on sale to the public" (Law Times Law Reports 1908, 640). In the case of Mangena *v.* Wright, Sir Courtenay's actual words were:

> . . . when such a Blue Book is presented to the House a formal Order is made that it may lie on the Table—that Order is a mere form. It does not amount to more than an acknowledgment or receipt, but it is important in this way, because the Blue Book is not distributed to the public until the Stationery Office have become aware by an entry in the Votes and Proceedings that this

Order has been made; therefore this Order that the Blue Book do lie on the Table is treated as a condition precedent to publication.

Mr. Justice Darling: It is ordered to lie on the Table?—A: It is ordered to lie on the Table.

Q.: Before being published?—A: That is, the Stationery Office will not publish until they see that an Order has been made that the Blue Book lie on the Table.

In the latter case Mr. Justice Darling in his judgment said: "I have to decide among other things whether in my opinion it [sc. the Command Paper] was published by the authority of Parliament . . ." The learned judge concluded, on the authority of the previous case, Houghton and others *v.* Plimsoll, 1874, that the Paper was distributed to Members and published by the direction of the Speaker. Therefore it came under the protection of the Act of 1840, and accordingly extracts from it, published *bona fide* and without malice, were also privileged. The transcript of this case was presented and published as a Command Paper by the Home Secretary, Mr. Winston Churchill, who also, incidentally, as Under-Secretary of State for the Colonies in the previous Administration, had presented the Command Paper upon which Mangena had sued.

The judgments by Mr. Justice Darling in these two cases amounted virtually to a ruling in law that the presentation of a Command Paper to Parliament was the same thing as publishing it, and that therefore Command Papers ranked as proceedings in Parliament, and so were privileged. Taken with the Standing Orders of both Houses that Command Papers should be deemed for all purposes to have been presented to Parliament if they were deposited in a couple of offices, even though both Houses might be adjourned for six months at the time, this judgment obviously gave the Government a rather surprising power to publish a libel under the immunity of parliamentary privilege.

Confusion was worse confounded in 1920, when the Speaker ruled (20th February) that "the duty of a Department is first to lay papers in dummy on the Table here, and then, as soon as there are sufficient copies printed, to distribute copies to Members. If the Department like at the same time to send them to the press, there is no objection, but there is a strong objection to any Department sending papers to the press before they are ready for Members." This ruling was probably intended to refer to Papers laid by Act as well as to Command Papers; be that as it may, it was made the basis of a Government instruction to all Departments to the effect that it was a breach of privilege to give any copies of Command Papers to any persons whatsoever before copies had been made available to the members of both Houses. This Government instruction was clearly wrong, as applied to Command Papers, and has now, forty-five years later, been altered. But it takes a long time to correct a false impression that has been prevalent in Whitehall for nearly half a century.

The moment has now arrived to turn aside from the main path,

and consider a by-product of these operations which is not itself relevant to the question of privilege and publication, but could not have taken the rather peculiar form it did but for the example of Command Papers. Ever since the Rules Publication Act of 1893 it had been necessary to publish in a prescribed manner all the main items of delegated legislation—Statutory Rules and Orders as they were called. And many of the Acts conferring the powers under which these rules and orders were made contained a provision enabling either House of Parliament virtually to revoke the Orders or Regulations by passing a resolution within a certain time limit: but these provisions for parliamentary revocation were not, in the fifty years up to 1946, uniform. Further, there were one or two nasty incidents during the war—for example a man was punished by a court of law for a breach of a regulation which had in fact been revoked at the time of the alleged offence. All these blemishes in the law and practice relating to delegated legislation led to the passage in 1946 of the Statutory Instruments Act. This first of all tightened up the code of law relating to the publication of Statutory Instruments (as Statutory Regulations and Orders were now to be called) and imposed the further requirements that there was to be printed across the top of every order the date of its making, the date on which it was to come into operation and the date on which it was laid before Parliament (if it was to be so laid). The Act also provided that, unless there was a special reason to the contrary, Instruments were to be laid before Parliament before they came into operation; and it was clearly the intention of Parliament that the headlines should indicate, among other things, whether this last requirement had been carried out. The Act also made uniform the provisions relating to parliamentary annulment of Instruments; this was now to be done by a Motion, moved within forty days (during the working part of the session) from the date of laying, for an Address to the Queen praying that the Instrument be annulled. Once the Motion had been carried, the Instrument was to be of no effect; and within a few days thereafter it would be formally revoked by Order in Council.

When the Statutory Instruments Bill had received the Royal Assent, however, the Government were appalled to find that they could not make any delegated legislation during parliamentary recesses—that is to say for two and a half months or so in the summer, a month at Christmas and ten days at Whitsun and Easter. It is true that the Act did provide a safety valve, by which the Speaker and the Lord Chancellor were to be told, and were to explain to their Houses, the special reasons why an Instrument had had to be brought into effect before being laid before Parliament. But it was clear that it would never do for the Government to claim, in fifty or a hundred cases during the summer, that the abnormal circumstances were merely that Parliament was not sitting at the time when they wished

Instruments to come into operation. The Statutory Instruments Act was to come into force on 1st January, 1948, and the Government accordingly proposed to the House of Commons a new Standing Order, following the precedent of the Command Paper Standing Order of 1902, by which " the delivery of a copy [of a Statutory Instrument] to the Votes and Proceedings office on any day during the existence of a Parliament shall be deemed to be for all purposes the laying of it before the House " (now Standing Order 115). There was virtually no debate or discussion on this Order, which was voted upon late at night on 4th November, 1947. In the Lords, however, when a similar text was placed before that House, Viscount Simon, an ex-Lord Chancellor, objected. If an Act of Parliament required something to be done, he said, you could not comply with it by making a Standing Order under which the doing of something else should be deemed to be the performance of the deed required by the Act. If the Act required a Paper to be laid before Parliament, it was clearly invalid and ultra vires to claim by Standing Order that the Paper had been laid before the two Houses merely by being dumped in two offices at the end of August, if both Houses were in recess from the end of July to the middle of October. This point was so obviously sound that the Government did not proceed for the moment with its Motion for the new Standing Order in the Lords, and between January and June 1948 the Statutory Instruments Act operated as Parliament intended it should—that is to say that instruments did not normally come into operation before they were laid before Parliament; and if they did there was an explanation and notification to Parliament in each case. This situation was not however satisfactory to the Government, and during that same six months they introduced and passed through both Houses the Laying of Documents before Parliament (Interpretation) Bill, which received the Royal Assent on 30th July, 1948. This Bill, in language of the utmost obscurity, in effect validated the existing Commons Standing Order, and also a similar order (No. 61) which the Government was now able to induce the Lords to accept.

And so the device which had seemed so practical to the Prime Minister in 1902, and which by its illogicality had failed to distinguish the various elements in the presentation and publication of a Paper to Parliament by command of the Sovereign, served as a precedent nearly fifty years later by means of which the Government was able to stultify the operation during one third of the year of a constitutional provision deliberately inserted by Parliament into an Act for the protection of the subject. Not only that, but the artificiality of the procedure by which this Standing Order is operated involves a round of tedious and pointless duties for a number of people, and wastes a considerable amount of public money every year.

Now we can return to the main theme—Command Papers and their privilege. After having heard evidence from the Clerk of the

House of Commons, a judge had twice laid it down as the law of the land that a Command Paper, being published by authority of Parliament, was protected against action in the courts for defamation. In the last twenty years or so, however, the authorities of the two Houses have been curiously reluctant to rely on this piece of law. Some time during the Korean War, the government contemplated publishing a report which might have had defamatory aspects, but in the event they are said to have decided that it could not be issued as a Command Paper, which it normally would have been, and finally the report was not issued at all. Then came the " Molony Report " on consumer protection. Some doubt was entertained on whether this too might not be regarded as libellous, and the Speaker is said to have refused to issue a certificate for the purposes of the Parliamentary Papers Act 1840 which would have stayed any suit founded on the Report. In this case, however, the Government took their courage in both hands and published the Report as a Command Paper in July 1962 (Cmnd. 1781). Then in February 1963 came the Report of Mr. J. B. Muirie, an accountant, on certain transactions entered into by Baileys (Malta) Limited, who had been given certain concessions to run the Admiralty Dockyard in Malta (H.C. 62/63 No. 131). It was clear to the Colonial Secretary (Mr. Duncan Sandys) that the danger of a libel action founded on this Report was very great, and the Government therefore decided to move in the House for the Report, which was accordingly returned to the Order of the House on 14th February, 1963, and Ordered by the House to be printed. This, beyond question, gave it the full protection of the parliamentary privilege of the House. A similar course was taken on 19th December, 1963, by the Minister of Works, Mr. Rippon, when he wished to publish a Report on the defects of certain barrack buildings that had fallen down at Aldershot (H.C. 1963/64 No. 36).

One further case remains. In July 1963 a major scandal—the Profumo Affair—had broken upon the Government, who eventually requested Lord Denning (Master of the Rolls) to investigate the security aspects of the matter. His Report was nearing completion in the beginning of September, and consideration was given by the Government to the question of protecting its author against action in the courts for defamation. The precedent of the Baileys (Malta) Report was considered; but the trouble was that Parliament was not going to sit again until towards the end of October, and the matter was universally regarded as extremely urgent. Could then the judicial sittings of the House of Lords, which were due to begin early in October, and one of which could be easily held earlier, be used for the purpose of ordering Lord Denning's Report as a return, and having it printed to the Order of the House of Lords? Lord Denning after all was a Law Lord, and there seemed something appropriate about inviting his fellow Law Lords to protect him. But the same

feeling as had thwarted Lord Salisbury in 1896 again prevailed—that the sessions of the Law Lords ought not to be used for anything which could be regarded as remotely political. On the other hand if the whole House were to be convened to authorise the printing and publishing of the Report, they would almost certainly wish to discuss the whole of the Profumo Affair, which would not have been very sensible or desirable before the Report on its security aspects was published. Supposing then the Report was published as a Command Paper, would a certificate be issued, on the strength of Mr. Justice Darling's judgments of 1908 and 1909, that the document had been "published by order or under the authority of the House", so giving it the full protection of the Parliamentary Papers Act of 1840? Eventually it was found possible to publish the Report as a Command Paper in the usual way.

All cautionary tales should have a moral. This story has one, though it will probably only be appreciated by Members of our illustrious society. It is I think that when, in the unfolding of the British constitution, there is a first-class issue and a first-class row, the result is likely to be a good and proper answer to the question posed. The case in point here is the first-class row that took place between the Commons and the Courts over the libel action brought by Stockdale *v.* Hansard in 1837. The issue is correctly resolved by the Parliamentary Papers Act 1840, which decided—in ordinary language—that documents which formed part of the proceedings of either House, or were ordered to be published by either House, should carry parliamentary privilege. But documents which were published independently of any parliamentary proceedings were not intended to be protected by this Act, and there was no good reason why they should be. But, half a century after the passage of the Act, the Prime Minister, a judge of the High Court and a Clerk of the House of Commons between them managed thoroughly to confuse again the distinction which the Act of 1840 had made clear. This confusion in turn led to an enduring procedural mistake, namely the Standing Orders of 1902. And this in its turn was used as a precedent when the Government wished still further to distort procedure in order to save itself from the imprudent commitment it had entered into in the Statutory Instruments Bill of 1945. Several of the mistaken decisions made by the Prime Minister, the judge and the Clerk of the House about 1900 have proved unworkable—it has not proved possible, for example, to rely upon the decision given by Mr. Justice Darling that the presentation and publication of a Command Paper renders it immune from suits for libel. If I may make a final attempt to boil down the moral of this tale into a sentence, it would be I think that while it is easy enough, in taking a decision on procedure, to produce a solution that will settle the immediate difficulty, the sign of genius in a Clerk at the Table is to be able to produce a solution that will not, in future years, either itself be seen to be a distortion of proper

practice on the matter in question, or be able to be used by future generations as a foundation on which to erect further distorted procedural structures.

Postscript. Since this article was written, a relevant event has taken place which deserves to be recorded here. In August, 1965, the Home Office, undeterred by the risk of action for libel and relying, presumably on Mr. Justice Darling's judgments, presented by Command (under the Standing Orders) the "Challenor Report" (Cmnd. 2735), on why a detective-sergeant in the Metropolitan Police had been allowed to continue on duty when suffering from schizophrenia. The inquiry here was held in public, under s. 32 of the Police Act 1964; but there is nothing in this or any other Act which specifically confers immunity upon the published report of such an enquiry.

III. INDIA: POWER OF LEGISLATURES TO COMMIT FOR CONTEMPT AND JURISDICTION OF COURTS

(Keshav Singh's Case)

BY S. L. SHAKDHER

Secretary, Lok Sabha (India)

The committal to prison of Shri Keshav Singh by the Legislative Assembly of Uttar Pradesh for committing a breach of privilege and contempt of the House and his writ petition to the Lucknow Bench of the Allahabad High Court for setting him at liberty, led to a chain of events giving rise to " important and complicated questions of law regarding the powers and jurisdiction of the High Court and its judges in relation to the State Legislature and its officers and regarding the powers, privileges and immunities of the State Legislature and its members in relation to the High Court and its Judges in the discharge of their duties ". The questions of law involved were of such public importance and constitutional significance that the President considered it expedient to refer the matter to the Supreme Court for its opinion. The main point of contention was the power claimed by the Legislatures under Articles 105 (3)/194 (3) of the Constitution to commit a citizen for contempt by a general warrant with the consequent deprivation of the jurisdiction of the Courts of Law in respect of that committal.

Facts of the Case

On 7th March, 1963, the Legislative Assembly of Uttar Pradesh referred to its Committee of Privileges the complaint made by a member that Shri Keshav Singh and two others (all non-members) had committed a contempt of the House and a breach of privilege of a Member by having printed and distributed a leaflet containing false and defamatory allegations against a Member in the discharge of his duties in the House. The Committee of Privileges held that a breach of privilege of a Member and a contempt of the House had been committed by the three persons concerned and recommended that they be reprimanded by the Speaker. The House agreed with the report of the Committee on 18th December, 1963, and the contemners were ordered to present themselves before the House to receive the reprimand on 4th February. On the said date they failed to turn up and it was ordered that they must appear before the

House on 19th February, 1964. On that date, two of them put in their appearance and were reprimanded by the Speaker in the House. Shri Keshav Singh, who did not care to comply with the directions of the House, was summoned again to be present on 3rd March, 1964, but even on that date he did not present himself before the House. As it was obvious that Shri Keshav Singh was deliberately not appearing before the House, a warrant for his arrest and production before the House was ordered to be issued. In pursuance of the warrant of arrest, Shri Keshav Singh was arrested on 13th March, 1964. In the meantime, Shri Keshav Singh had sent a letter to the Speaker, dated 11th March, 1964, which was worded in language derogatory to the dignity of the House and the Speaker.

When Shri Keshav Singh was produced before the House on 14th March, 1964, he stood with his back towards the Speaker, showing great disrespect to the House and did not care to give any answer to the questions put to him by the Speaker. The Speaker, thereupon, reprimanded him in the name of the House in accordance with the resolution of the House dated 18th December, 1963.

A Member of the House then invited the attention of the Speaker to the disrespectful behaviour of Shri Keshav Singh and also to his letter referred to above. Thereupon, the Leader of the House (Chief Minister) moved the following resolution:

> That the way in which Shri Keshav Singh has behaved in the House and even prior thereto, the way in which he had been defying the directions of the House, amply indicate that Shri Keshav Singh was bent upon committing contempt of the House. As the said contempt has been committed in the actual view of the House, it is resolved that Shri Keshav Singh be sentenced to imprisonment for seven days and be lodged in the District Jail, Lucknow, to undergo the imprisonment and the Superintendent, Lucknow Jail, be directed to keep Shri Keshav Singh in Jail as a prisoner of the House.

The above resolution was adopted by the House and Shri Keshav Singh was sent to the District Jail, Lucknow, for serving out the sentence of imprisonment.

On 19th March, 1964, Shri Keshav Singh, represented by Shri B. Solomon, Advocate, presented a petition to the Lucknow Bench of the Allahabad High Court under Section 491 of the Code of Criminal Procedure and under Article 226 of the Constitution, against the Speaker of the House, the House, the Chief Minister of Uttar Pradesh and the Superintendent of the District Jail, Lucknow, where Shri Keshav Singh was imprisoned, praying that he be set at liberty, on the ground, *inter alia*, that his detention after the reprimand had been administered to him, was illegal and without any authority and further praying that pending the disposal of his petition he be ordered to be released on bail.

The above petition was admitted by the High Court and Shri Keshav Singh was released on bail that very day pending disposal of the writ petition filed by him.

On 21st March, 1964, the Legislative Assembly of Uttar Pradesh adopted a resolution to the effect that the two Judges of the Allahabad High Court, who had entertained the petition of Shri Keshav Singh and ordered him to be released on bail, Shri B. Solomon, the advocate who had presented the petition to the High Court, and Shri Keshav Singh, had by their actions committed a contempt of the House. The Assembly ordered that Shri Keshav Singh be taken into custody to serve the remainder of his sentence and that the two Judges and Shri B. Solomon be taken into custody and brought before the House. Further, when the period of imprisonment of Shri Keshav Singh was completed, he was ordered to be brought before the House for having again committed a contempt of the House on 19th March, 1964, by causing a petition to be presented to the High Court against his committal by the House.

The two Judges of the High Court thereupon presented petitions to the Allahabad High Court under Article 226 of the Constitution on 23rd March, 1964, praying for a writ of *mandamus* restraining the respondents thereto, namely, the Speaker, the House, the Marshal of the House and the Superintendent of Police, Lucknow, from implementing the aforesaid Resolution of the House dated 21st March, 1964. Shri B. Solomon, Advocate, also presented a petition to the High Court under Article 226 of the Constitution for a similar writ of *mandamus* and further for taking action against the Speaker of the House and the House for contempt of Court.

A full Bench of the Allahabad High Court, consisting of 28 Judges, admitted the petitions of the two Judges on the same day and directed the issue of notices to the respondents and restraining the Speaker from issuing the warrant in pursuance of the Resolution of the House dated 21st March, 1964, and from securing execution of the warrant if already issued, and restraining the Government of Uttar Pradesh and the Marshal of the House from executing the said warrant, if issued.

Similar orders were made by the High Court on 25th March, 1964, on the petition of Shri B. Solomon, Advocate, for a writ of *mandamus*.

The order passed by the High Court was served on the Speaker on the morning of 24th March, 1964. But in the meanwhile, on the evening of 23rd March, 1964, the Speaker had issued the warrants of arrest pursuant to the Resolution passed by the Assembly on 21st March, 1964, and they had been handed over to the Marshal for executing the same. The Marshal was also served with the order of the Court but, before the service of the order, he had handed over the warrants to the Commissioner of Lucknow for execution.

On 25th March, the Legislative Assembly passed another Resolution declaring that by its earlier Resolution, dated 21st March, 1964, it had not intended to deprive the two Judges of the Lucknow Bench of Allahabad High Court, Shri B. Solomon, Advocate, and Shri

Keshav Singh, of an opportunity of giving their explanations before a final decision about the commission of contempt by them was taken by the House and directing that such an opportunity should be given to them.

The warrants of arrest of the two Judges and Shri B. Solomon, Advocate, were, accordingly, withdrawn by the Speaker, and the Resolution passed by the House on 25th March, 1964, was referred by him to the Committee of Privileges for necessary action. The Committee of Privileges decided on 26th March, 1964, to issue notices to the said two Judges and Shri B. Solomon, Advocate, to appear before it on 6th April, 1964, for submitting their explanations.

The two Judges, thereupon, moved fresh petitions before the High Court on 27th March, 1964, for staying the implementation of the Resolution passed by the Assembly on 25th March, 1964. A full Bench of the High Court consisting of 23 Judges passed an interim order restraining the Speaker, the House and the Chairman of the Committee of Privileges from implementing the aforesaid Resolution of the House and also the operation of the aforesaid notices issued to the two Judges by the Committee of Privileges.

Reference to Supreme Court

In the meantime, on 26th March, 1964, the President of India made a Special Reference (No. 1 of 1964) to the Supreme Court, in exercise of the powers conferred upon him by clause (1) of Article 143 of the Constitution of India, for consideration and report to him of its opinion in regard to the "serious conflict between a High Court and a State Legislature, involving important and complicated questions of law regarding the powers and jurisdiction of the High Court and its Judges in relation to the State Legislature and its officers and regarding the powers, privileges and immunities of the State Legislature and its members in relation to the High Court and its Judges in the discharge of their duties".

The following five questions of law were referred to the Supreme Court by the President for its consideration and opinion:

(1) Whether, on the facts and circumstances of the case, it was competent for the Lucknow Bench of the High Court of Uttar Pradesh, consisting of the Hon'ble Mr. Justice N. U. Beg and the Hon'ble Mr. Justice G. D. Sahgal, to entertain and deal with the petition of Mr. Keshav Singh challenging the legality of the sentence of imprisonment imposed upon him by the Legislative Assembly of Uttar Pradesh for its contempt and for infringement of its privileges and to pass orders releasing Mr. Keshav Singh on bail pending the disposal of his said petition;

(2) Whether, on the facts and circumstances of the case, Mr. Keshav Singh by causing the petition to be presented on his behalf to the High Court of Uttar Pradesh as aforesaid, Mr. B. Solomon, Advocate, by presenting the said petition and the said two Hon'ble Judges by entertaining and dealing with the said petition and ordering the release of Mr. Keshav Singh on bail pending disposal of the said petition committed contempt of the Legislative Assemly of Uttar Pradesh;

(3) Whether, on the facts and circumstances of the case, it was competent for the Legislative Assembly of Uttar Pradesh to direct the production of the said two Hon'ble Judges and Mr. B. Solomon, Advocate, before it in custody or to call for their explanation for its contempt;

(4) Whether, on the facts and circumstances of the case, it was competent for the Full Bench of the High Court of Uttar Pradesh to entertain and deal with the petitions of the said two Hon'ble Judges and Mr. B. Solomon, Advocate, and to pass interim orders restraining the Speaker of the Legislative Assembly of Uttar Pradesh and other respondents to the said petitions from implementing the aforesaid direction of the said Legislative Assembly; and

(5) Whether a Judge of a High Court who entertains or deals with a petition challenging any order or decision of a Legislature imposing any penalty on the petitioner or issuing any process against the petitioner for its contempt or for infringement of its privileges and immunities or who passes any order on such petition commits contempt of the said Legislature and whether the said Legislature is competent to take proceedings against such a Judge in the exercise and enforcement of its powers, privileges and immunities.

*Supreme Court's Opinion**

A Constitution Bench of the Supreme Court consisting of seven Judges, presided over by the Chief Justice of India, Shri P. B. Gajendragadkar, considered the Reference made by the President. The proceedings before the Court were opened by the Attorney General of India who stated the relevant facts leading to the Reference and indicated broadly the rival contentions which the House and the High Court sought to raise before the Supreme Court by the statements of the case filed on their behalf. He was followed by the Counsel of the U.P. Legislative Assembly, Shri H. M. Seervai (Advocate-General of Maharashtra) and he was, in turn, followed by the Counsel of the Judges of the Allahabad High Court, Shri M. C. Setalwad (Ex-Attorney General of India).

The Supreme Court delivered its Opinion on 30th September, 1964. The Majority Opinion, delivered by the Chief Justice of India (for himself and five other Judges) made the following points of constitutional and legal import:

(1) . . . *prima facie*, the power conferred on the High Court under Art. 226(1)[1] can, in a proper case, be exercised even against the Legislature. If an application is made to the High Court for the issue of a writ of *habeas corpus*, it would not be competent to the House to raise a preliminary objection that the High Court has no jurisdiction to entertain the application because the detention is by an order of the House. Art. 226(1) read by itself, does not seem to permit such a plea to be raised. Art. 32[2] which deals with the power of this Court puts the matter on a still higher pedestal; the right to move this Court by appropriate proceedings for the enforcement of the fundamental rights is itself a guaranteed fundamental right, and so, what we have said about Art. 226(1) is still more true about Art. 32(1).

* A.I.R. 1965 S.C. 745.

(2) If a citizen moves the High Court on the ground that his fundamental right under Art. 21[3] has been contravened, the High Court would be entitled to examine his claim, and that itself would introduce some limitation on the extent of the powers claimed by the House in the present proceedings. . . . Art. 212(1)[4] seems to make it possible for a citizen to call in question in the appropriate court of law the validity of any proceedings inside the Legislative Chamber if his case is that the said proceedings suffer not from mere irregularity of procedure, but from an illegality. If the impugned procedure is illegal and unconstitutional, it would be open to be scrutinised in a court of law, though such scrutiny is prohibited if the complaint against the procedure is no more than this that the procedure was irregular.

(3) The position is that the conduct of a Judge in relation to the discharge of his duties cannot legitimately be discussed inside the House, though if it is, no remedy lies in a court of law. But such conduct cannot be made the subject matter of any proceedings under the latter part of Art. 194(3).[5] If this were not the true position, Art. 211[6] would amount to a meaningless declaration and that clearly could not have been the intention of the Constitution.

(4) The House, and indeed all the Legislative Assemblies in India, never discharged any judicial functions and their historical and constitutional background does not support the claim that they can be regarded as Courts of Record in any sense. If that be so, the very basis on which the English courts agreed to treat a general warrant issued by the House of Commons on the footing that it was a warrant issued by a superior Court of Record, is absent in the present case, and so, it would be unreasonable to contend that the relevant power to claim a conclusive character for the general warrant which the House of Commons, by agreement, is deemed to possess, is vested in the House. On this view of the matter, the claim made by the House must be rejected.

Assuming, however, that the right claimed by the House can be treated as an integral part of the privileges of the House of Commons, the question to consider would be whether such a right has been conferred on the House by the latter part of Art. 194(3). On this alternative hypothesis, it is necessary to consider whether this part of the privilege is consistent with the material provisions of our Constitution. We have already referred to Articles 32 and 226. Let us take Art. 32 because it emphatically brings out the significance of the fundamental right conferred on the citizens of India to move this Court if their fundamental rights are contravened either by the Legislature or the Executive. Now, Art. 32 makes no exception in regard to any encroachment at all, and it would appear illogical to contend that even if the right claimed by the House may contravene the fundamental rights of the citizen, the aggrieved citizen cannot successfully move this Court under Art. 32. To the absolute constitutional right conferred on the citizens by Art 32 no exception can be made and no exception is intended to be made by the Constitution by reference to any power or privilege vesting in the Legislatures of this country. . . .

The crux of the matter is the construction of the latter part of Art. 194(3), and in the light of the assistance which we must derive from the other relevant and material provisions of the Constitution, it is necessary to hold that the particular power claimed by the House that its general warrants must be held to be conclusive, cannot be deemed to be the subject-matter of the latter part of Art. 194(3).

(5) It may be conceded that in England it appears to be recognised that in regard to *habeas corpus* proceedings commenced against orders of commitment passed by the House of Commons on the ground of con-

tempt, bail is not granted by courts. As a matter of course during the last century and more in such *habeas corpus* proceedings returns are made according to law by the House of Commons but " the general rule is that the parties who stand committed for contempt cannot be admitted to bail ". But it is difficult to accept the argument that in India the position is exactly the same in this matter. If Art. 226 confers jurisdiction on the Court to deal with the validity of the order of commitment even though the commitment has been ordered by the House, how can it be said that the Court has no jurisdiction to make an interim order in such proceedings?

The Majority Opinion gave the following answers to the five questions referred to the Supreme Court by the President:

(1) On the facts and circumstances of the case, it was competent for the Lucknow Bench of the High Court of Uttar Pradesh, consisting of N. U. Beg and G. D. Sahgal, JJ., to entertain and deal with the petition of Keshav Singh challenging the legality of the sentence of imprisonment imposed upon him by the Legislative Assembly of Uttar Pradesh for its contempt and for infringement of its privileges and to pass orders releasing Keshav Singh on bail pending the disposal of his said petition.

(2) On the facts and circumstances of the case, Keshav Singh by causing the petition to be presented on his behalf to the High Court of Uttar Pradesh as aforesaid, Mr. B. Solomon, Advocate, by presenting the said petition, and the said two Hon'ble Judges by entertaining and dealing with the said petition and ordering the release of Keshav Singh on bail pending disposal of the said petition, did not commit contempt of the Legislative Assembly of Uttar Pradesh.

(3) On the facts and circumstances of the case, it was not competent for the Legislative Assembly of Uttar Pradesh to direct the production of the said two Hon'ble Judges and Mr. B. Solomon, Advocate, before it in custody or to call for their explanation for its contempt.

(4) On the facts and circumstances of the case, it was competent for the Full Bench of the High Court of Uttar Pradesh to entertain and deal with the petitions of the said two Hon'ble Judges and Mr. B. Solomon, Advocate, and to pass interim orders restraining the Speaker of the Legislative Assembly of Uttar Pradesh and other respondents to the said petitions from implementing the aforesaid direction of the said Legislative Assembly; and

(5) In rendering our answer to this question which is very broadly worded, we ought to preface our answer with the observation that the answer is confined to cases in relation to contempt alleged to have been committed by a citizen who is not a member of the House outside the four walls of the legislative chamber. A Judge of a High Court who entertains or deals with a petition challenging any order or decision of a Legislature imposing any penalty on the petitioner or issuing any process against the petitioner for its contempt, or for infringement of its privileges and immunities, or who passes any order on such petition, does not commit contempt of the said Legislature; and the said Legislature is not competent to take proceedings against such a Judge in the exercise and enforcement of its powers, privileges and immunities. In this answer, we have deliberately omitted reference to infringement of privileges and immunities of the House which may include privileges and immunities other than those with which we are concerned in the present Reference.

Mr. Justice Sarkar, in his Minority Opinion, *inter alia* made the following important points:

(1) The privilege which I take up first is the power to commit for contempt. It is not disputed that the House of Commons has this power. . . .

The possession of this power by the House of Commons is, therefore, undoubted. . . .

That takes me to the language used in cl. (3) of Art. 194. The words there appearing are " the powers, privileges and immunities of a House . . . shall be those of the House of Commons ". I cannot imagine more plain language than this. That language can only have one meaning and that is that it was intended to confer on the State Legislatures the powers, privileges and immunities which the House of Commons in England had.

. . . It would, therefore, appear that Art. 194(3) conferred on the Assembly the power to commit for contempt and it possessed that power.

(2) The next question is as to the privilege to commit by a general warrant. There is no dispute in England that if the House of Commons commits by a general warrant without stating the facts which constitute the contempt, then the courts will not review that order: See *Burdett* v. *Abbott*; *May*, p. 173. . . .

I find no authority to support the contention that the power to commit by a general warrant with the consequent deprivation of the jurisdiction of the Courts of law in respect of that committal is something which the House of Commons had because it was a superior court. . . . I think in this state of the authorities it would at least be hazardous to hold that the House of Commons was a court of record. If it was not, it cannot be said to have possessed the power to commit for its contempt by a general warrant as a court of record. . . .

I then come to the conclusion that the right to commit for contempt by a general warrant with the consequent deprivation of jurisdiction of the courts of law to enquire into that committal is a privilege of the House of Commons. That privilege is, in my view, for the reasons earlier stated, possessed by the Uttar Pradesh Assembly by reason of Art. 194(3) of the Constitution.

(3) In the present case the conflict is between the privilege of the House to commit a person for contempt without that committal being liable to be examined by a Court of law and the personal liberty of a citizen guaranteed by Art. 21 and the right to move the courts in enforcement of that right under Art. 32 or Art. 226. If the right to move the courts in enforcement of the fundamental right is given precedence, the privilege which provides that if a House commits a person by a general warrant that committal would not be reviewed by courts of law, will lose all its effect and it would be as if that privilege had not been granted to a House by the second part of Art. 194(3). This, in my view, cannot be. That being so, it would follow that when a House commits a person for contempt by a general warrant that person would have no right to approach the courts nor can the courts sit in judgment over such order of committal.

(4) I wish to add that I am not one of those who feel that a Legislative Assembly cannot be trusted with an absolute power of committing for contempt. The Legislatures have by the Constitution been expressly entrusted with much more important things. During the fourteen years that the Constitution has been in operation, the Legislatures have not done anything to justify the view that they do not deserve to be trusted with power. I would point out that though Art. 211 is not enforceable the Legislatures have shown an admirable spirit of restraint and have not even once in all these years discussed the conduct of Judges. We must not lose faith in our people, we must not think that the Legisla-

tures would misuse the powers given to them by the Constitution or that safety lay only in judicial correction. Such correction may produce friction and cause more harm than good. In a modern State it is often necessary for the good of the country that parallel powers should exist in different authorities. It is not inevitable that such powers will clash. It would be defeatism to take the view that in our country men would not be available to work these powers smoothly and in the best interests of the people and without producing friction. I sincerely hope that what has happened will never happen again and our Constitution will be worked by the different organs of the State amicably, wisely, courageously and in the spirit in which the makers of the Constitution expected them to act.

Mr. Justice Sarkar, in his Minority Opinion, gave the following answers to the five questions referred to the Supreme Court by the President:

(1) This question should, in my opinion, be answered in the affirmative. The Lucknow Bench was certainly competent to deal with *habeas* corpus petitions generally. . . . Till the Lucknow Bench was apprised of the fact that the detention complained of was under a general warrant, it had full competence to deal with the petition and make orders on it. . . .

(2) The first thing I observe is that the question whether there is a contempt of the Assembly is for the Assembly to determine. If that determination does not state the facts, courts of law cannot review the legality of it. Having made that observation, I proceed to deal with the question.

The question should be answered in the negative. I suppose for an act to amount to contempt, it has not only to be illegal but also wilfully illegal. Now in the present case it does not appear that any of the persons mentioned had any knowledge that the imprisonment was under a general warrant. That being so, I have no material to say that the presentation of the petition was an illegal act much less a wilfully illegal act. No contempt was, therefore, committed by the Hon'ble Judges or B. Solomon or Keshav Singh for the respective parts taken by them in connection with the petition.

(3) . . . For one thing, it would not be competent for the Assembly to find the Hon'able Judges and B. Solomon to be guilty of contempt without giving them a hearing. Secondly, in the present case I have already shown that they were not so guilty. That being so, it was not competent for the Assembly to direct their production in custody. . . .

As to the competence of the Assembly to ask for explanation from the two Judges and B. Solomon, I think it had. That is one of the privileges of the House. As it has power to commit for contempt, it must have power to ascertain facts concerning contempt.

(4) I would answer the question in the affirmative. The Full Bench had before it petitions by the two Judges and B. Solomon complaining of the resolution of the Assembly finding them guilty of contempt. I have earlier stated that on the facts of this case, they cannot be said to have been so guilty. It would follow that the Full Bench had the power to pass the interim orders that it did.

(5) This is too general a question and is not capable of a single answer; the answers would vary as the circumstances vary, and it is not possible to imagine all the sets of circumstances. Nor do I think we are called upon to do so. As learned advocates for the parties said, this question has to be answered on the facts of this case. On those facts the question has to be answered in the negative.

Speakers' Conference Resolution

The Opinion* of the Supreme Court was discussed by the Conference of Presiding Officers of Legislative Bodies in India held at Bombay on 11th and 12th January, 1965. Speaking at that Conference, the Chairman (Mr. Speaker Hukam Singh) said that "the intention of the Constituent Assembly was to oust the jurisdiction of Courts in contempt of cases". He observed:

If you go to the history of the provisions contained in Articles 105 and 194 of the Constitution, you will find that the intention has all along been that the Legislatures in India should have the same powers and privileges as are enjoyed by the British House of Commons, more particularly the privilege of committing for contempt by a general warrant without the scrutiny of the Courts.

In his speech on these provisions in the Constituent Assembly, Dr. Ambedkar, who sponsored the constitutional provisions, stated as follows:

"Under the House of Commons Powers and Privileges, it is open to Parliament to convict any citizen for contempt of Parliament and when such privilege is exercised, the jurisdiction of the court is ousted. That is an important privilege. . . . There is not the slightest doubt in my mind and I am sure also in the mind of the Drafting Committee that Parliament must have certain privileges, when that Parliament would be so much exposed to calumny, to unjustified criticism that the parliamentary institution in this country might be brought down to utter contempt and may lose all the respect which parliamentary institutions should have from the citizens for whose benefit they operate."

The Presiding Officers' Conference adopted the following resolution unanimously:

(*a*) whereas it is not possible for Legislatures to function successfully without their having the powers to adjudge in case of their own contempt, whether committed by a member or a stranger whether inside the chamber or outside it, and to punish that contempt without interference by Courts under any article of the Constitution or otherwise;

(*b*) whereas such ouster of jurisdiction of courts was intended by the Constitution makers as is clear from the statements of Dr. Ambedkar and Sir Alladi Krishnaswamy Iyer made in the Constituent Assembly when articles 105 and 194 were adopted;

(*c*) whereas the language of these articles is so clear that according to Justice Sarkar the language can only have one meaning and that is that it was intended to confer on the Legislatures the powers, privileges and immunities which the House of Commons in England had at the commencement of the Constitution; and

(*d*) whereas the opinion of the Supreme Court has reduced Legislatures to the status of inferior Courts, and has implications that would deter the Legislatures from discharging their functions efficiently, honestly and with dignity;

NOW THEREFORE, this Conference considers that suitable amendments to articles 105 and 194 should be made in order to make the intention of the Constitution makers clear beyond doubt so that the powers, privileges and immunities of Legislatures, their members and Committees could not, in any case, be construed as being subject or subordinate to any other articles of the Constitution.

* A.I.R. 1965 S.C. 745.

THIS CONFERENCE further authorises the Chairman of the Conference to take all steps necessary to give effect to this Resolution.

Allahabad High Court's Judgment

On 10th March, 1965, the Allahabad High Court delivered its judgment on the writ petition of Shri Keshav Singh which was pending before it since 19th March, 1964. The High Court dismissed the writ petition of Shri Keshav Singh and ordered him to surrender to his bail and serve out the remaining portion of the sentence of imprisonment imposed upon him by the Legislative Assembly of Uttar Pradesh.

In its judgment, the Allahabad High Court stated *inter alia*:

(1) In our opinion, both upon authority and upon a consideration of the relevant provisions of the Constitution, it must be held that the Legislative Assembly has, by virtue of Article 194(3), the same power to commit for its contempt as the House of Commons has.

(2) In our opinion, the provisions of Article 22(2) of the Constitution cannot apply to a detention in pursuance of a conviction and imposition of a sentence of imprisonment by a competent authority. . . .

. . . Article 22(2) is applicable only at a stage when a person has been arrested and is accused of some offence or other act and it can have no application after such person has been adjudged guilty of the offence and is detained in pursuance of such adjudication. . . .

. . . Article 22(2) was not intended to apply to a case of detention following conviction and sentence by the Legislative Assembly.

(3) So far as the question of violation of Article 21 is concerned, the matter is concluded by the decision of the Supreme Court in *Sharma's Case*.[1] . . .

Since we have already held that the Legislative Assembly has the power to commit the petitioner for its contempt and since the Legislative Assembly has framed rules for the procedure and conduct of its business under Article 208(1), the commitment and deprivation of the personal liberty of the petitioner cannot but be held to be according to the procedure laid down by law within the meaning of Article 21 of the Constitution.

(4) Once we come to the conclusion that the Legislative Assembly has the power and jurisdiction to commit for its contempt and to impose the sentence passed on the petitioner, we cannot go into the question of the correctness, propriety or legality of the commitment. This Court cannot, in a petition under Article 226 of the Constitution, sit in appeal over the decision of the Legislative Assembly committing the petitioner for its contempt. The Legislative Assembly is the master of its own procedure and is the sole judge of the question whether its contempt has been committed or not.

(5) Since the House of Commons has the power to commit any one for its contempt and to confine him in one of Her Majesty's prisons, the Legislative Assembly also has a similar power to confine any person, whom it commits for breach of its privilege, in any prison. Since the Legislative Assembly has, under Article 194(3), the Constitutional right to direct that the petitioner, who has been committed for its contempt, be detained in the District Jail, Lucknow, the Superintendent of that Jail was bound to receive the petitioner and to detain him in accordance with the warrant issued by the Speaker.

(6) In our opinion, no question of violation of Article 14 can at all arise in such a case. Every person, who commits contempt of the Legislative Assembly, is subject to the same procedure and to the same punishments.

Shri Keshav Singh was, accordingly, taken into custody subsequently, and he served[8] out the remaining portion (namely one day) of the sentence of imprisonment which had been imposed upon him earlier by the U.P. Legislative Assembly.

[1] *Article 226(1).* Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus, mandamus,* prohibition, *quo warranto* and *certiorari,* or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

[2] *Article 32.* (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed. (2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus, mandamus,* prohibition, *quo warranto* and *certioari,* whichever may be appropriate, for the enforcement of any of the rights conferred by this Part. . . .

[3] *Article 21.* No person shall be deprived of his life or personal liberty except according to procedure established by law.

[4] *Article 212(1).* The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.

[5] *Article 194(3).* In other respects, the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution.

[6] *Article 211.* No discussion shall take place in the Legislature of a State with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

[7] A.I.R. 1959 S.C. 395.

[8] *Statesman,* dt. 21st March, 1965.

IV. AUSTRALIAN HOUSE OF REPRESENTATIVES: ABOLITION OF THE COMMITTEES OF SUPPLY AND WAYS AND MEANS, AND THE MONEY COMMITTEE OF THE WHOLE: NEW FINANCIAL PROCEDURES AND OTHER CHANGES

By A. G. Turner
Clerk of the House

The abolition of the Supply and Ways and Means Committees and the Money Committee of the Whole and the introduction of new procedures for the initiation and consideration of financial measures were the most interesting of the many changes resulting from a complete review of Standing Orders which was undertaken by the Clerk and Clerk Assistant in 1960. New and revised Orders were drafted and the proposed revision, which involved the amendment of 101 of the 403 existing Orders, the omission of 60, and the insertion of 59 new or substitute Orders, was submitted to the Standing Orders Committee later that year.

The broad purposes of the review, the presentation to the House of the Report of the Standing Orders Committee, the adoption of the Report in 1963, and a brief account of the financial changes were the subject of an article in *The Table*, volume XXXI, 1962, p. 85.

Accordingly, it is not the purpose of this article to duplicate the 1962 material but, rather, to deal in greater detail with, firstly, the financial procedure alterations and, secondly, with a few other changes of interest which were made at the same time in 1963.

Further amendments of the Standing Orders agreed to in 1965, including the removal of the prohibition on the reading of speeches, are recounted in a separate article in this volume, *see* pages 163-64.

New Financial Procedures

The simple approach to the introduction of new financial procedures was the abolition of the Supply, Ways and Means, and Money Committees of the Whole as vehicles for the preliminary (and unnecessary) consideration of financial proposals and the adoption of a system which, while preserving the financial initiative of the Crown, would allow financial proposals to be initiated by and considered in a Bill in the same way as a non-financial Bill, i.e., the elimination of a complex form not readily understood by Members in favour of a

procedure, common to parliamentary business and to which Members were accustomed.

Financial procedures in the House of Representatives had, since the commencement of the Federal Parliament in 1901, followed broadly the recognised forms inherited from the United Kingdom House of Commons.

The Committees of Supply and Ways and Means were set up early in each Session for the purpose of the preliminary consideration of expenditure and revenue proposals before related Bills were ordered to be brought in, and Crown recommendations for special appropriations were referred to money committees of the whole House for the consideration of financial resolutions based on the recommendations, either prior to the introduction of the related Bills or after their second reading.

The initiative of the Crown in relation to expenditure is expressed in Section 56 of the Australian Constitution as follows:

> A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

(As Section 53 of the Constitution states that proposed laws appropriating revenue or moneys shall not originate in the Senate, the "House" referred to in Section 56 is for all practical purposes the House of Representatives.)

With the passage of the years it had become obvious that the procedures being followed by the House and its committees, while of some constitutional significance in years gone by, had become, in the changed circumstances of the present-day House of Representatives, in many respects quite meaningless and a repetition of time wasting forms.

Former Procedures

The main Appropriation Bill for the year was initiated by the Governor-General transmitting Estimates of Expenditure which were referred to the Committee of Supply. In this Committee, on the motion that the first item be agreed to, the Treasurer presented his Budget Speech and the Budget debate followed. The Opposition, in expressing its objection to the Budget, could move the only form of amendment permitted—that the amount be reduced by a token sum.

At the conclusion of this debate the Supply Committee then proceeded to consider the remainder of the Estimates, the proceedings as a whole taking some six or seven weeks to complete. Formal consideration of the Ways and Means resolution followed, after which the Bill was ordered to be brought in, usually to be passed formally in a matter of minutes.

In the case of additional Appropriation Bills and Supply Bills for the year, a rather different emphasis had developed in respect of their consideration. It had become usual for the committee proceedings to be passed formally and for the principal debate on the measures to occur on the second readings of the Bills.

In respect of special purpose appropriation Bills, if the appropriation were the main purpose of the Bill, the Crown message was referred to a committee of the Whole and a financial resolution was passed formally, reported, and adopted prior to the introduction of the Bill. If the appropriation were incidental to the main purpose of the Bill, the Crown message was not reported and the financial resolution in committee was not moved until after the second reading of the Bill.

All revenue producing measures were initiated by motion moved by a Minister in the Committee of Ways and Means. It is of interest to note here the terms of Section 55 of the Constitution requiring separate laws for the various forms of tax:

> Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.
>
> Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of exercise shall deal with duties of excise only.

It had become the practice for certain forms of tax, e.g. income tax, customs and excise tariffs, sales tax, to be debated on the resolution in Committee of Ways and Means and for the relevant Bills to be passed formally, but, inconsistently, for other forms, e.g. primary industry levies and charges, it had become usual for these to be dealt with formally in committee and for the main debate to take place on the second reading of the Bill.

Considering the whole extent of this financial procedure, it was obvious that it contained a mass of formal and inconsistent time wasting procedure, involving the moving of a great number of motions, consequent questions from the Chair, and movements in and out of various committees involving particularly the Speaker, the Chairman, Ministers, and the Clerk. The original significance of the preliminary consideration in committee of financial proposals was now of no importance whatever—it presented either unnecessary opportunity for duplication of debate, or alternatively, became mere time wasting form. Provided other opportunities of debate were available to replace those in fact used in the preliminary committees, and this did not appear to present any insurmountable problem, there was no reason why these committees could not be completely eliminated, without in any way sacrificing elements of principle or the rights of Members, with the object of greatly simplifying procedures. (In fact, Members were given greater opportunity to act more effectively in a Parliamentary sense.)

Standing Order Amendments

Fundamental to this idea of reform, however, was the need to express in the Standing Orders—

(*a*) the basic principles of the financial initiative of the Crown from the aspects of both expenditure and revenue;
(*b*) specific requirements regarding the announcement of Crown recommendations received in accordance with Section 56 of the Constitution;
(*c*) the preservation, for the protection of the revenue, of ministerial rights of introduction without notice of certain financial legislation; and
(*d*) provisions respecting private Members' rights of debate and amendment in relation to financial measures.

To this end the following new or revised Standing Orders were proposed and adopted:

" 291. An Appropriation or Supply Bill or a bill or proposal dealing with taxation may be submitted to the House by a Minister without notice.
" 292. No proposal for the appropriation of any public moneys shall be made unless the purpose of the appropriation has in the same session been recommended to the House by message of the Governor-General, but a bill, except an Appropriation or Supply Bill, which requires the Governor-General's recommendation, may be brought in by a Minister and proceeded with before the message is announced. No amendment of such proposal shall be moved which would increase, or extend the objects and purposes or alter the destination of, the appropriation so recommended unless a further message is received.
" 293. A proposal for the imposition, or for the increase, or alleviation, of a tax or duty, or for the alteration of the incidence of such a charge, shall not be made except by a Minister. No Member, other than a Minister, may move an amendment to increase, or extend the incidence of, the charge defined in that proposal unless the charge so increased or the incidence of the charge so extended shall not exceed that already existing by virtue of any Act of the Parliament.
" 294. A message from the Governor-General shall be announced to the House by the Speaker, but not during a debate, or so as to interrupt a Member whilst he is speaking.
" 295. Subject to the provisions of standing orders 296, 297 and 298, a message from the Governor-General recommending an appropriation of revenue or moneys for the purposes of a bill shall be announced before the bill to which it relates is brought in.
" 296. A message from the Governor-General recommending an appropriation of revenue or moneys for the purpose of a bill which, in accordance with the provisions of standing order 292, is brought in by a Minister before a message is announced, shall be announced after the bill has been read a second time.
" 297. Any message from the Governor-General recommending an appropriation of revenue or moneys for the purposes of an amendment to be moved to a bill shall be announced before the amendment is moved.
" 298. Any message from the Governor-General recommending an appropriation of revenue or moneys for the purposes of or in relation to an amend-

ment made or requested by the Senate in a bill which originated in the House shall be announced before that amendment or requested amendment, as the case may be, is considered.

" 81. No Member may digress from the subject matter of any question under discussion: Provided that—

(*a*) on the motion for the adjournment of the House to terminate the sitting moved by a Minister matters irrelevant thereto may be debated, and

(*b*) on the motion for the second reading of an Appropriation or Supply Bill, except an Appropriation or Supply Bill for expenditure that is not expenditure for the ordinary annual services of the Government, matters relating to public affairs may be debated.

" 106. Notwithstanding the preceding standing order (105—*order of government business*), the first order of the day, government business, on each alternate sitting Thursday commencing with the first sitting Thursday after the Address in Reply to the Governor-General's Speech has been adopted shall be a question to be proposed by the Speaker " That grievances be noted " to which question any Member may address the House or move any amendment. If consideration of this question has not been concluded at fifteen minutes to one o'clock p.m., the debate thereon shall be interrupted and the Speaker shall put the question.

" 220. No other amendment may be moved to such question (i.e. *the second reading*) except in the form of an amendment relevant to the bill, which does not anticipate an amendment which may be moved in committee and does not propose the addition of words to the question: Provided that an amendment relating to public affairs may be moved to the question for the second reading of an Appropriation or Supply Bill, except an Appropriation or Supply Bill for expenditure that is not expenditure for the ordinary annual services of the Government.

" 221. Immediately after the second reading—

(*a*) a message recommending an appropriation of revenue or moneys in connexion with the bill may be announced;

(*b*) a motion ' That this bill be referred to a select committee ' may be moved; and

(*c*) an instruction of which notice has been given may be moved.

" 226. The following order shall be observed in considering a bill and its title:

1. Clauses as printed and new clauses, in their numerical order.
2. Schedules as printed and new schedules, in their numerical order.
3. Postponed clauses (not having been specially postponed until after certain other clauses).
4. Preamble.
5. Title.

And in reconsidering the bill upon recommittal the same order shall be followed.

Provided that—

(*a*) in considering an Appropriation or Supply Bill, any schedule expressing the services for which the appropriation is to be made shall be considered before the clauses and, unless the committee otherwise orders, that schedule shall be considered by proposed expenditures in the order in which they are shown, and

(*b*) in considering a bill to impose taxation, any schedule shall be considered before the clauses."

In addition, the speech times allowed under Standing Order 91 were amended to preserve to Members in comparable debates on bills the times previously permitted in the preliminary committee stages on financial measures.

New Procedures

The new procedures, following the abolition of the Committees of Supply and Ways and Means and the Money Committee of the Whole, which now apply to the consideration of the various types of expenditure and revenue bills, are outlined hereunder.

(1) *Main Appropriation Bill for year.*—A Crown message is announced transmitting particulars of proposed expenditure (the Estimates having been eliminated as a formal document) and recommending an appropriation. The Treasurer, without notice, then introduces the Appropriation Bill incorporating proposed expenditures as a schedule to the Bill. When moving the second reading, the Treasurer delivers his Budget Speech. The Budget debate takes place on the motion for the second reading. Amendments may be moved relating to any aspect of public affairs, vide Standing Order 220. An example of the type of amendment which may now be moved to the question "That the Bill be now read a second time" was that proposed in 1964 when the Leader of the Opposition moved to omit all words after "That" and insert "the House is of opinion that the Budget does not adequately grapple with the problems of striking a realistic and fitting balance between the claims on national resources arising from defence, development and social welfare".

What was formerly the debate on the Estimates takes place on the committee stage of the Bill, the order for consideration in the committee being specified in Standing Order 226.

The significant changes are (*a*) the Budget debate is transferred from the Committee of Supply to the second reading stage of the Bill, (*b*) the Estimates consideration is transferred to the Committee of the Whole stage of the Bill, and (*c*) the formal Ways and Means Committee proceedings are eliminated. In the Budget debate the wide scope of discussion has been retained (Standing Order 81) and provision has been made for a more practically expressed form of amendment. Financial initiative principles are applied to the moving of amendments in committee on the Bill (Standing Order 292).

(2) *Additional Appropriation Bills and Supply Bills for year.*—A Crown message is announced transmitting particulars of proposed expenditure (where applicable) and recommending an appropriation. The Bill is brought in by the Treasurer, without notice, and taken through the usual stages. The wide scope of debate on, and amendment of, the second reading allowed on the main appropriation Bill applies excepting those bills not for ordinary annual services of the Government (Standing Orders 81 and 220). The new procedure

eliminates the former preliminary proceedings in the Committees of Supply and Ways and Means which had very largely become entirely formal in the case of these bills.

(3) *Special purpose Appropriation Bill where appropriation is primary purpose of the Bill.*—The Bill is brought in by a Minister, after notice. Upon the second reading being agreed to, a Crown message recommending an appropriation for the purpose of the Bill is announced, but no action is taken to refer this to a committee or move a financial resolution. Consideration of the Bill is continued in the normal way. (In the event of a private Member seeking to introduce a Bill of this nature, Standing Order 292 requires that its introduction must be preceded by the announcement of the Crown recommendation, a most unlikely event. The Standing Order similarly inhibits a private Member in relation to an amendment which would increase or extend the objects, etc., of the appropriation recommended by the Crown.) This new procedure eliminates the preliminary consideration of the financial resolution in committee of the Whole which, except on rare occasions, had become completely formal, and complies with Standing Orders 292, 296 and 221. Committee amendments to the Bill of a financial nature are governed by the financial initiative principles stated in Standing Order 292.

(4) *Special purpose Appropriation Bill where appropriation is incidental to primary purpose ot the Bill.*—The Crown message is announced immediately after the second reading is agreed to; it is not referred to committee and no financial resolution is passed. Bills in categories (3) and (4) are now dealt with under a uniform procedure which is helpful to all concerned.

(5) *Tax or Revenue producing Bills.*—Consequent upon the elimination of the Committee of Ways and Means, provision is made for a Minister to bring in, without notice, a taxing or revenue produring Bill or proposal. The "without notice" provision (under Standing Order 291) is to protect the revenue and the provision that only a Minister may introduce such a Bill (under Standing Order 293) preserves the financial initiative of the Crown. Consideration of the Bill continues in the normal way except that the order for consideration in committee is specified in Standing Order 226 and committee amendments are governed by the financial initiative principles stated in Standing Order 293.

As considerations relating to timing and drafting make a Bill an unsuitable vehicle to initiate the variety and number of tariff proposals which now come before the House, provision is made in Standing Order 291 for the submission of either "a Bill or proposal". Consequently, customs and excise tariff proposals continue to be initiated by motion, but they are now moved in the House instead of the Committee of Ways and Means, and except in special circumstances, the motion is treated as a formal procedure for the purpose of initiating the collection of duty. At some suitable later stage, the

proposals are considered and debated in a Bill which is introduced to replace, and at the same time, comprehend the motions previously moved. On the Bill receiving Royal Assent, the orders of the day for the resumption of the debate on the motions are discharged. Suitable amendments of the Customs and Excise Acts were considered necessary to remove any possibility of doubt as to the legality of this new procedure.

Grievance Debates

Related to the operation of the Committees of Supply and Ways and Means was the former procedure for "grievance" debates. The Standing Orders required that, before the House resolved itself into either of these committees for the first time in a Session, the question was to be proposed "That the Speaker do now leave the Chair". It had, however, become normal practice for this question to be passed formally.

In addition, for the purpose of regular "Grievance Day" debates, the relevant Standing Order provided that the first order of the day under government business on each alternate Thursday after the appointment of the Committees would be either "Supply" or "Ways and Means", when the question would be proposed "That the Speaker do now leave the Chair", to which question any Member could address the House or move any amendment. If consideration of the question had not concluded by 12.45 p.m., the debate was interrupted and the Speaker was required to put the question.

With the elimination of the Committees of Supply and Ways and Means, the continuance of the Grievance Day procedure was provided under Standing Order 106. The order of the day is defined as "Grievance Debate" and a new question "That grievances be noted" is required to be put. Other details of the procedure respecting debate, amendment, and putting the question are unchanged.

Operation of the New Financial Procedures

The revised Standing Orders and the new financial procedures came into operation with the Budget sittings in August 1963. Three Budgets with their accompanying financial legislation have thus since been dealt with by the House. To date the new procedures have operated as smoothly and as effectively as had been hoped, and the simplification and saving of time have been appreciated by both Members and officers of the House. Although theoretical duplicated opportunities for debate on a measure have been reduced materially, no objections have in fact been made by any Members that their rights have been curtailed. Of particular value has been the insertion in the Standing Orders of the Orders specifying clearly and concisely the rules of financial procedure.

The changes made did not affect the relationship between the Senate and the House and, in fact, could not have done so as the financial powers of the two Houses are embedded in the Constitution, the relevant provisions being briefly that Bills imposing taxation or Bills appropriating revenue or moneys shall not originate in the Senate. The Senate may not amend in any ways Bills imposing taxation or Bills appropriating revenue or moneys for the ordinary annual services of the Government, and may not amend other Bills appropriating revenue or moneys in such a way as would increase the proposed appropriation, but the Senate may request the House to make such amendments as the Senate itself is unable to make and the House may, if it thinks fit, then make the amendments.

Motion for Second Reading

It had long been the practice for the House freely to grant leave for the second reading of a Bill to be moved immediately after the first reading instead of setting down the second reading for a future day. The debate was then adjourned to the next sitting.

Accordingly, provision was made in the revised Standing Orders that if, on first reading, copies of the Bill have been circulated in the Chamber (and the exception to this would be rare), the second reading may be moved immediately. It was also provided that if the second reading is so moved, the debate shall then be adjourned to a future day.

The new procedure, which formalised the previous practice, enables the Minister's explanatory speech to be available to Members coincidentally with the Bill at the earliest possible time before the second reading is debated.

The moving of the second reading immediately after the first reading is now universal practice.

Supercession of Committee Stage

Another interesting innovation was the provision (Standing Order 222) that the Committee stage of a Bill could be dispensed with in the many cases of Bills where Members did not wish to debate the clauses. Experience over many years had shown that a high percentage of Bills went through Committee as a whole, by leave, and without debate. Accordingly now, when it is known that Members do not wish to debate the Committee stage, and this is easy to ascertain, the Speaker, after the second reading, asks if the House wishes to proceed to the third reading forthwith and if there is no dissentient voice, the third reading is moved forthwith; this has proved most useful and popular.

It is interesting to note that since the introduction of this standing order in 1963, the percentage of Bills in relation to which the Committee stage has been dispensed with has risen to 76 per cent. The

present factors in this somewhat strange trend are difficult to define, but in the combination would be such things as a preference to discuss general principles rather than detail (and in so doing there is an implied tribute to the Parliamentary Draftsman for the way in which he faithfully sets out in the Bill the purposes expressed by the Minister in his second reading speech), the number of bills which are of a machinery nature (a perhaps natural result in the life of a Parliament in which a Party has been in power uninterruptedly for over sixteen years), and the fact that the Australian House is part of a Federal system and, as such, is not concerned with an amount of legislation of the kind which comes before a legislature in a country with a unitary form of government but which, in Australia, is dealt with by the Parliaments of the States.

Grossly Disorderly Conduct

Some years ago, the power of the Chair to order the immediate withdrawal for the remainder of the sitting of a Member whose conduct was grossly disorderly was written into the Standing Orders but, in contradistinction to the United Kingdom House of Commons, which, it is understood, regards removal in this way as a lesser penalty than naming and suspension, the purpose in the Australian House was not that the power should be used for the more usual and less grave type of disorderly conduct but that it be an emergency power to be used when the conduct of a Member was such that his immediate removal was essential. Positive action by the Chair in all other cases would be taken by naming the offender.

However, this original purpose was not fully observed and there was a tendency to use the power for comparatively minor offences—a use which was not favoured by the majority of Members. As a result, the Order was amended to make it clear (*a*) that its provisions apply only in cases which are so grossly offensive that immediate action is imperative, and (*b*) that the Standing Order must not be used for ordinary offences. As a means of ensuring these limitations, provision was made for the House to judge the matter by requiring the Chair to name the Member immediately after his withdrawal.

The amended Order is as follows:

> " 306. When the conduct of a Member is of such a grossly disorderly nature that the procedure provided in standing order 304 would be inadequate to ensure the urgent protection of the dignity of the House, the Speaker or the Chairman shall order the Member to withdraw immediately from the Chamber and the Serjeant-at-Arms shall act on such orders as he receives from the Chair in pursuance of this standing order. When the Member has withdrawn, he shall forthwith be named by the Speaker or the Chairman, as the case may be, and the proceedings shall then be as provided in standing orders 304 and 305, except that the question for the suspension of the Member shall be put by the Speaker without a motion being necessary.
>
> If the question for the suspension of the Member is resolved in the negative, he may forthwith return to the Chamber."

(Standing Orders 304 and 305 relate to proceedings following naming and to the period of suspension.)

Other Changes

As will have been noted from the statistical data given in the first paragraph of this article, the amendments made in the Standing Orders were numerous. Many were within the category of formal or drafting amendments, but a number were interesting and an essential part of the pattern of complete revision which was undertaken. However, a description of these changes, which are fully explained in the Standing Orders Committee Report,* would make these Notes unbearably long.

* Parl. Paper H. of R. No. 1, 1962-63.

V. HOUSE OF COMMONS: MINISTERS' AND MEMBERS' REMUNERATION

The question of the proper remuneration of Members and Ministers which earlier increases had not resolved, and which from 1960 onwards had become more pressing,* was the subject of inter-party conversations towards the end of 1963 and on 19th December the Prime Minister (Sir Alec Douglas-Home) made the following statement in answer to a Private Notice Question:

The remuneration of Members of the House of Commons and salaries of junior Ministers were raised in 1957, and, at the same time, an expenses allowance was introduced for Members of the House of Lords. The basic salary of a senior Minister has remained unchanged since 1831.

After consultation with the leaders of the main political parties in both Houses, we have decided that the time has now come for a fundamental review of the remuneration of Ministers of the Crown and of Members of the House of Commons and also for the reconsideration of the allowance for Members of the House of Lords.

Her Majesty's Government have, therefore, appointed Sir Geoffrey Lawrence, Mr. H. S. Kirkaldy and Professor W. J. M. Mackenzie to be a Committee with the following terms of reference:

> "To review, and to recommend, what changes are desirable in the remuneration of Mr. Speaker, Ministers of the Crown and Members of the House of Commons and also the allowance for Members of the House of Lords, having regard to their responsibilities, to the place of Parliament in the national life and to the changes which have taken place, since the existing emoluments were fixed, in general standards of remuneration, and to the increase in expenses borne by Members of both Houses in the discharge of their duties."

The Committee will, of course, take evidence from whatever sources it wishes, but in order to assist it in carrying out its task, Her Majesty's Government, in consultation with the other parties, have appointed an Advisory Panel with which the Committee will be able to consult and from which they will be able to obtain advice on parliamentary matters.

The following have agreed to serve on the Advisory Panel: Lord Tweedsmuir, Chairman, Lord Champion, the hon. Member for Bebington (Sir H. Oakshott), the hon. Member for Bradford, West (Mr. Tiley), the hon. and learned Member for Ilkeston (Mr. Oliver), the hon. Member for Ashton-under-Lyne (Mr. Rhodes), and the hon. Member for Huddersfield, West (Mr. Wade).

The Government consider that the Committee should be asked to report as soon as possible after the General Election and that whatever action seems appropriate in the light of its report should then be taken without delay. (*Hansard*, Vol. 686, cols. 1441-2.)

* See THE TABLE, Vol. XXXI, pp. 127-31.

The question whether pensions provisions fell within their terms of reference arose in the course of discussions between the Committee and the Advisory Panel, and on application to the Prime Minister, they were informed:

> The Prime Minister takes the view that it would be desirable if the Committee were prepared so to interpret their terms of reference as to enable them to consider the question of pensions for Members of the House of Commons and arrangements for the Members' Fund.
>
> The Prime Minister has consulted Mr. Harold Wilson and Mr. Grimond (leaders of the opposition parties) and they concur in this view. (*Com. Hans.*, Vol. 682, cols. 1441-3.)

This Committee—the "Lawrence Committee"—reported to the Prime Minister on 20th October, 1964.* After reviewing the history of Members' salaries they considered the basic principles on which these salaries should be determined. Lloyd George, when commending the first payment for Members in 1911 had said—

> . . . The only principle of payment in the public service is that you should make an allowance to a man to enable him to maintain himself comfortably and honourably, but not luxuriously, during the time he is rendering service to the State. That is the only principle, and it is the principle on which we have proceeded." (*Hansard*, 10th August 1911, col. 1382.)

The Committee came to the general conclusion that this was still the only practical working basis on which to proceed (s. 30).

The application of the principle was difficult. Some Members could and did have other occupations and others did not. Members with large and remote constituencies had greater expenses than those who normally lived in London and represented nearby constituencies. The Committee rejected differential payment, however, and came to the conclusion that

> the salary for all Members, whatever the type of their constituency, should be such as will enable those Members who are without private means or the opportunity to earn income outside the House efficiently to discharge the duties of the service without undue financial worry and to live and maintain themselves and their families at a modest but honourable level. (S. 35.)

At the same time, they rejected any linkage between Members' salaries and those of any civil service grade, and left them as hitherto for the periodic decision of the House.

When considering what salary to recommend the Committee reviewed the present practice of the Inland Revenue in determining on what expenses Members could claim relief from Income Tax. They set them out as follows:

> The Inland Revenue allows the deduction of expenses under the following main heads:
>
> (1) the additional cost of living away from home when engaged in parliamentary duties either at Westminster or in the constituency but not in both (applicable only to Members who have constituencies outside the London area);

* Cmnd. 2516.

(2) the cost of stationery, postage, telephone, telegrams and similar items incurred for parliamentary duties;
(3) the cost of secretarial and clerical assistance for parliamentary duties;
(4) travelling expenses on parliamentary duties
  (a) within the constituency and
  (b) between Westminster and the constituency.

being the excess over the cash allowance made to Members in respect of travel by car;

(5) other necessary expenses incurred for parliamentary duties such as, for example, the cost of hiring rooms to meet constituents, of pamphlets etc. informing constituents of the Member's parliamentary activities, and subscriptions to a local agent or party association in return for which the Member obtains help in his parliamentary work.

On the other hand the same principles of assessment have resulted in the following heads of expenses not being allowed:

(1) literature issued for canvassing purposes;
(2) election expenses;
(3) periodicals, books, newspaper cuttings, etc.;
(4) charitable subscriptions or donations;
(5) entertaining;
(6) extra costs arising out of late night sittings;
(7) expenses incurred by wives of Members, e.g. in deputising for or accompanying Members;
(8) payments to political organisations for political purposes;
(9) generally, expenses which the Member incurs not as a Member of Parliament but as a member of a political party.

(SS. 44-45.)

They also reviewed the facilities at present at the disposal of Members. Except for two small matters—an increase in the car mileage allowance and free postage for letters from Members to local authorities which they recommended—they felt that any large increase in facilities would be very costly; was not a matter on which there was general agreement; nor was it within their terms of reference (S. 66). The salary they recommended presupposed only the existing facilities. It was an increase from £1,750 a year to £3,250 (S. 53).

In proposing a salary of £3,250 p.a. the Committee had regard not only to the facilities available to Members but also to the proposals relating the pensions which they proceeded to commend, summarising them as follows:

(1) The scheme should begin during the first session of the new Parliament of 1964 and from the same date as that from which Members' salaries are increased.
(2) Membership of the scheme should be compulsory. All persons who are or become Members of the House of Commons on or after the date of the beginning of the scheme should participate in it.
(3) Contributions at the rate of £150 per year should be paid by all members of the scheme so long as they remain Members of the House of Commons and a like sum in respect of each Member should be paid out of public funds to the scheme. There should also be paid out of public funds the amount referred to in sub-paragraph (8) and paragraph 79 below in

respect of the credit which we propose for past service of members of the scheme.

(4) Benefits should be paid to all persons who qualify for such benefits under the regulations of the scheme in addition to any other pension to which they may be entitled and whether or not such other pension is derived in whole or in part from public funds.

(5) Pension should be payable from the age of 65, or the date of his ceasing to be a Member of the House if later, to a person who has ceased to be a Member of the House after not less than 10 years' service. Pension should accrue at the rate of £60 a year for the first 15 years of service and thereafter at the rate of £24 a year.

(6) Pensions should be payable to the widow, incapacitated widower and orphan or orphans of a Member or ex-Member who had had not less than 10 years' service in the House.

(7) The following table shows examples of the rate of pensions recommended for the Member (in accordance with his length of service) and for the widow (or widower):

Pension					
After 10 years		After 15 years		After 40 years	
Member	Widow	Member	Widow	Member	Widow
£600	£300	£900	£450	£1,500	£750

(8) Full credit for past service before the beginning of the scheme should be granted up to a maximum of 10 years, any years of past service in excess of 10 being ignored. The cost of crediting past service should be borne out of public funds.

(9) Any person ceasing to be a Member of the House without having qualified for a pension should be able to obtain a refund of his own contributions with interest. If he is subsequently re-elected to the House he should be permitted to repay with interest any such refund and to count his previous service for purposes of the scheme.

(S. 78.)

The present Members' Fund would continue to provide for former Members, and for Members who required assistance but had not completed the qualifying ten years' service under the proposed scheme.

Turning to the Speaker and Ministers, the Committee recommended:

(1) Mr. Speaker's salary should be increased from £5,000 and a parliamentary allowance of £750 to the amount recommended for the most senior departmental Ministers together with the same parliamentary allowance of £1,250 (85).

(2) The allowance to Mr. Speaker of a flat rate deduction of expenses in the sum of £4,000 a year should be reconsidered and any appropriate action taken (84).

(3) Mr. Speaker's pension should be attached to his office as a matter of right and the amount should be £6,000 (86).

(4) The Prime Minister's salary should be increased from £10,000 and a parliamentary allowance of £750 to £18,000 together with the parliamentary allowance of £1,250 recommended for other Ministers in the House of Commons (96).

(5) The pension attaching to the office of Prime Minister should be increased from £2,000 to £6,000 (96).

(6) The allowance to the Prime Minister of £4,000 a year as a deduction for tax purposes should be reconsidered and any appropriate action taken (97).

(7) The salaries of Ministers other than the Prime Minister, the Lord Chancellor and the Law Officers, should be increased as follows:

Present salary	*Recommended salary*
£	£
5,000	12,000
4,500	10,750
3,750	7,500
3,000	6,000
2,500	5,000
2,200	4,400
2,000	4,000

(118).

(8) Ministers in the House of Commons should continue to be entitled to draw part of their parliamentary salary and this allowance should be increased to £1,250 to meet their non-ministerial parliamentary expenses (120).

(9) The total salary of the Lord Chancellor should be increased from £12,000 to £17,000 (137).

(10) The Lord Chancellor's pension should be increased from £5,000 to £7,500 (138).

(11) The salaries of the Law Officers should be increased as follows:

The Attorney-General from £10,000 to £16,000
The Solicitor-General from £7,000 to £11,000
The Lord Advocate from £5,000 to £11,000
The Solicitor-General for Scotland from £3,750 to £7,500

and as Members of the House of Commons they should receive the parliamentary allowance of £1,250 recommended for other Ministers (145 and 147).

(12) The allowance for Members of the House of Lords should be increased to four and a half guineas (165).

They made no recommendations relating to the Chairman of Ways and Means and his Deputy, nor for Opposition Whips, all of which they considered to be outside their terms of reference.

Finally, for Members of the House of Lords, the Committee were doubtful of their competence to consider the question of salary. They limited themselves to the question of a daily attendance allowance and recommended that henceforward it should be four and a half guineas a day (S. 165).

On 16th November, 1964, in the new Parliament, the Prime Minister (Mr. Harold Wilson) made a statement to the House on the Lawrence Report:

It was understood between the parties that the Report would provide a basis for immediate action, as soon as the Government and Parliament had had time to study the recommendations.

As announced in the Gracious Speech, we have received the Report of the Committee. A copy has been sent to the right hon. Gentleman the Leader of the Opposition, and the text is being made available as a Command Paper today. I am sure that the whole House will join me in thanking Sir Geoffrey Lawrence and his colleagues for the thoroughness with which they have carried out their task.

The Government accept the recommendations of the Report as they affect the salaries and allowances of Members of both Houses, and will take appropriate steps to implement them. In outline these recommendations are: that the gross payments of members of this House should be increased to £3,250 a year, inclusive of what the Committee called the "exceptionally heavy expenses" which Members incur in the discharge of their duties and which the Committee put at £1,250 a year. The whole amount of course will be subject to tax, allowance only being made for proved parliamentary expenses.

We further accept the Committee's recommendation that the car allowance for members of both Houses should be 4½d. a mile; and that the allowance for members of the House of Lords should be 4½ guineas for each day's attendance. The Resolution of this House to give effect to increases in remuneration for Members and to provide for the increased attendance allowances for the other House will propose, as was envisaged last year, that they should be made retrospective to the first day of this Parliament.

The Government also accept that there should be a contributory pensions scheme for Members of this House, requiring an annual contribution by each Member assessed by the Committee at £150, and are studying the Report's detailed recommendations.

With regard to the salaries of Ministers and others, while the Government do not dissent from the Committee's approach to the problem of recognising suitably the responsibilities that fall on Ministers, many of whose salaries have remained unaltered since 1831, they do not consider that in present economic circumstances it would be appropriate for ministerial salaries to be raised to the level recommended by the Committee. They propose that the increases should be reduced by half the amount of the increases proposed by the Committee, and that the new salaries should not take effect until 1st April, 1965. The decision to take only half of the recommended increases would apply right through the range of Ministers, and would affect equally the right hon. Gentleman the Leader of the Opposition.

The Government further consider that with the extremely onerous duties falling in any modern Parliament on the Opposition Chief Whip, he, too, should receive a salary from public funds.

Legislation will be introduced in due course to deal with a pensions scheme for Members, revised ministerial salaries, the payment to the Opposition Chief Whip and changes in the remuneration of Mr. Speaker. (*Hansard*, Vol. 702, cols. 37-38.)

The Leaders of the other parties gave the proposals general approval.

The Ministerial Salaries and Members' Pensions Bill was duly presented to the House on 9th December. It provided that the salaries

payable to Ministers should be determined by the Prime Minister, not exceeding in any case the sums named on the following Schedule:

Minister	*Salary* £
Prime Minister and First Lord of the Treasury	14,000
Chancellor of the Exchequer	8,500
Secretary of State	8,500
Minister of Agriculture, Fisheries and Food	8,500
Minister of Aviation	8,500
Minister of Health	8,500
Minister of Housing and Local Government	8,500
Minister of Labour	8,500
Minister of Land and Natural Resources	8,500
Minister of Overseas Development	8,500
Minister of Pensions and National Insurance	8,500
Postmaster General	8,500
Minister of Power	8,500
Minister of Public Building and Works	8,500
President of the Board of Trade	8,500
Minister of Technology	8,500
Minister of Transport	8,500
Lord President of the Council	8,500
Lord Privy Seal	8,500
Chancellor of the Duchy of Lancaster	8,500
Minister of State	8,500
Chief Secretary to the Treasury	8,500
Attorney General	13,000
Solicitor General	9,000
Lord Advocate	8,000
Solicitor General for Scotland	5,625
Parliamentary Secretary to the Treasury	5,625
Financial Secretary to the Treasury	5,625
Secretary for Technical Co-operation	5,625
Captain of the Honourable Corps of Gentlemen-at-Arms	4,500
Parliamentary Under-Secretary of State	3,750
Parliamentary Secretaries—	
Ministry of Agriculture, Fisheries and Food	3,750
Ministry of Aviation	3,750
Ministry of Health	3,750
Ministry of Housing and Local Government	3,750
Ministry of Labour	3,750
Ministry of Land of Natural Resources	3,750
Ministry of Overseas Development	3,750
Ministry of Pensions and National Insurance	3,750
Ministry of Power	3,750
Ministry of Public Building and Works	3,750
Ministry of Technology	3,750
Board of Trade	3,750
Ministry of Transport	3,750

Minister	*Salary* £
Assistant Postmaster General	3,750
Captain of the Queen's Bodyguard of the Yeomen of the Guard ...	3,300
Treasurer of Her Majesty's Household	3,300
Comptroller of Her Majesty's Household	3,000
Vice-Chamberlain of Her Majesty's Household	3,000
Junior Lord of the Treasury	3,000
Assistant Whip, House of Commons	3,000
Lord-in-Waiting	3,000

All the ministerial salary increases were to be effective from 1st April, 1965.

It next provided for a salary of £4,500 for the Leader of the Opposition in the Commons, and £2,000 for the Leader of the Opposition in the Lords. The Chief Opposition Whip in the Commons was to receive a salary of £3,750, and in the Lords £1,500. These Opposition Whips' salaries were not included in the recommendations of the Lawrence Committee. The Speaker's salary was to be £8,500. All these salaries were to be charged to the Consolidated Fund, and were to be paid from 1st April, 1965.

The Bill next set forth provisions for the Members' Pensions Scheme in consonance with the Prime Minister's statement. This part was deemed to be operative from 16th October, 1964.

The Bill was read a second time, on 18th December, 1964, and although there was some criticism that the proposal for Members' salaries was excessive, it was not pressed to a division. At the same sitting, the House also passed the following resolution which fixed Members' salaries and the Peers' attendance allowance at the accepted levels, both back-dated to 16th October, 1964:

Resolved,

That, in the opinion of this House, it is expedient that provision should be made as from 16th October 1964 (in lieu of the provision made by the Resolution of this House of 9th July 1957)—

(*a*) for the payment to Members of this House of the following salary, that is to say—

(i) in the case of all Members other than those described in the subparagraph (ii) below, a salary at the rate of £3,250 a year;

(ii) in the case of Members who are officers of this House and Members for the time being in receipt of a salary as holders of Ministerial office within the meaning of section 2 of the House of Commons Disqualification Act 1957 (as amended by or under any enactment including any enactment passed after the date hereof) or of any other salary or any pension payable under the Ministers of the Crown Act 1937 (as so amended), a salary at the rate of £1,250 a year,

subject, in each case, to the deduction from any payment made before the commencement of any Act of the present Session making provision for a

contribution pensions scheme for Members of this House (or, in the case of salary not drawn, to the setting aside out of moneys available for making any such payment) of sums at the rate of £150 a year to be applied as directed by that Act;

(*b*) for enabling members of the House of Lords (except the Lord Chancellor, the Lord Chairman of Committees and any Member in receipt of a salary as the holder of a Ministerial office within the meaning of section 2 of the said Act of 1957 or of a salary payable out of moneys provided by Parliament under the Ministerial Salaries Act 1946 or payable to him as Leader or Chief Whip of the Opposition in that House by virtue of any provision in that behalf of an Act of the present Session) to recover out of sums voted for the expenses of that House (in addition to the costs of travel for which provision is made pursuant to any Resolution of this House) any expenses certified by them as incurred for either of the following purposes—

(i) in the case of all such Members, attendance at sittings of that House or of Committees of that House, other than sittings for judicial business; and

(ii) in the case of Members who are Lords of Appeal within the meaning of the Appellate Jurisdiction Act 1876 but are not Lords of Appeal in Ordinary or holders of high judicial office within the meaning of that Act, attendance at sittings of that House or of Committees of that House, being sittings for judicial business, and at sittings of Lords of Appeal under section 9 of that Act;

within a maximum of £4 14s. 6d. for each day of such attendance;

and that the limit on the amount of the allowances which under the Resolution of this House of 18th May 1961 are payable to Members of this House or are recoverable by Members of the House of Lords in respect of the cost of travel by road should be 4½d. a mile for journeys commenced after the date of this Resolution instead of the amount of the fare by rail.—[*Mr. Bowden.*] (*Hansard*, Vol. 704, cols. 819-20.)

In winding up the debate the Chief Secretary to the Treasury had said—

I have been asked about the salaries of you, Mr. Deputy-Speaker, and the Deputy Chairman of Ways and Means. The Lawrence Committee made no specific recommendation on this. Indeed, those salaries fall to be determined by the Commission for regulating the Offices of this House, under Mr. Speaker's chairmanship.

I understand that the present salary of the Chairman of Ways and Means is £3,250 and of the Deputy-Chairman, £2,500. If this Commission were to come to the view that the salaries should be increased in the same proportion as we propose to increase Ministerial salaries under the Bill, the Chairman's salary would be increased to £4,875 and the Deputy-Chairman's to £3,750. (*Ibid.*, col. 1812.)

The Commissioners duly approved the salaries for the Chairman and Deputy Chairman of Ways and Means which Mr. Diamond had foreshadowed. The Bill itself received the Royal Assent on 29th March, 1965.

Finally in the Judges Remuneration Bill, which was introduced on 1st July, 1965, and which received the Royal Assent on 5th August, the Lord Chancellor's salary was increased to £14,500 a year and his pension to £6,250.

VI. THE UNION OF TANGANYIKA WITH ZANZIBAR

By P. Msekwa
Clerk of the National Assembly, Tanzania

"Tanganyika and Zanzibar One Sovereign Union." This was the heading of a news item which appeared on the morning of 23rd April, 1964, in a local newspaper circulating in Dar es Salaam. It was "news" in the real sense. Nobody, apart from perhaps two or three people in Tanganyika and two or three people in Zanzibar, knew that there had been negotiations going on for such a Union. The Union had been achieved in a remarkably unique way. It was not preceded by Constitutional Conferences or meetings of "experts" or working Parties. It was a Union discussed between the leader of the then Republic of Tanganyika and the leader of the then People's Republic of Zanzibar. The two leaders agreed that it was in the best interests both of their countries and of their people, for this union to come about, and accordingly caused the Articles of Union to be drawn up which they signed at Zanzibar on 22nd April, 1964. They had done their job and they now waited to see how their decision would be received by the people. The enthusiasm with which the population received this news was probably more than the two leaders had expected.

The National Assembly of Tanganyika was summoned at once to discuss a Bill for the Act of Union. When Members arrived in Dar es Salaam they were in a high degree of excitement. The National Assembly was summoned to meet on Saturday, 25th April, and the hour of 5 o'clock p.m. was settled upon as the time of commencement of business. At the same time it was announced that the President of the Republic, Mwalimu Julius Nyerere would come to address the House. The Clerk's Office was inundated with applications for seats in the Strangers' Gallery, and those who were not successful in obtaining Admission Cards, for lack of space, decided they would turn up anyhow and listen to the proceedings from the gardens, the corridors, the empty rooms in the building—indeed, from any available space within close proximity of the Assembly Chamber. Arrangements were also made by the Tanganyika Broadcasting Corporation to make a "live" broadcast of the proceedings.

Fifteen minutes before 5 o'clock the Speaker made his ceremonial entry into the House, and after Prayers he rose formally to acquaint

Hon. Members that the President was coming to address them. He said in the Swahili language:

Hon. Members, I have been informed that the President of the Republic wishes to address this Assembly today, and that it will be convenient for him to come to the House for this purpose at 5 p.m. Accordingly, I now suspend the proceedings of this Assembly in order to await the arrival of the President.

Whereupon the Speaker left the Chamber in procession and took his position at the outside entrance. Then there followed moments of tension. The President was scheduled to arrive at approximately 7 minutes before five o'clock. He would then inspect a Guard of Honour and receive the Presidential Salute before entering the Chamber to begin his speech at five o'clock. Seven minutes to five there was no President to be seen. Five minutes to five, five o'clock, quarter past five, half past five, and still the President had not arrived! Members now began to show a certain amount of restlessness and anxiety. It is difficult for me to guess what was going on in the minds of the majority of the Members, but in conversation with some of them later they revealed that they were beginning to get a horrible feeling that the President might have changed his mind about the Union. It was this secret fear which made them restless. There was a little ray of hope when the Vice-President arrived to take his place in the Assembly at a quarter to six, but the Assembly had to wait another 15 minutes before the President finally appeared.

After inspecting a Guard of Honour he entered the Chamber, and, introduced by the Speaker, he began his Speech. The President spoke in Swahili, and he was at his very best. Said the President:

I have summoned you to this extraordinary Meeting in order to ask you to ratify the Articles of Union between Tanganyika and Zanzibar. This Parliament is the Supreme Authority of the people of this Country, and no important Constitutional measures or Agreements or Laws, can be affected by any person or body of persons unless such measure is agreed to by this Hon. Assembly. All such matters must be brought before you and it is open to you to accept them or reject them. Today I am laying before you Constitutional Proposals for uniting Tanganyika and Zanzibar into one Sovereign Country.

Tanganyika and Zanzibar (including Pemba) are neighbouring countries—indeed, it is said that Zanzibar and Pemba are further apart from each other than either of them is from Tanganyika. Tanganyika and Zanzibar are sister countries—we share the same history, language, culture, customs and politics. . . .

Today there is an intense desire for the Unity of Africa. . . . The hearts of all African peoples are burning with the desire to unite . . . so in view of all that, I, on your behalf, and President Karume, on behalf of our brothers in Zanzibar and Pemba, met in Zanzibar on 22nd of this month and signed the Articles of Union between our two countries. The Articles of Union are in your hands and you will be debating them, just as the Revolutionary Council of Zanzibar will be debating them. If both this Assembly and the Revolutionary Council of Zanzibar accept these Proposals, our two countries will be united into one. . . .

It is not my intention to explain the provisions of the Articles of Union—these will be explained to you in the cause of your debate on the Bill which is before you, but my intention is to ask you to accept this Union. . . .

Mr. Speaker, and Hon. Members, I ask you to accept this Union. I dare not say that we will have no problems after this, because, if we are successful, the enemies of African Unity will be disappointed. They will be disappointed because they will realise, as they have never done before, that African Unity *is* a possibility. They will therefore do all they can to make us fail. It is our duty to be on guard. It is our duty to protect this Unity. Let us ask for God's guidance in the fulfilment of this duty.

The President had concluded his Speech; there was a standing ovation for him as he resumed his seat and until he rose again to leave the Chamber. He was escorted by the Speaker to the outside entrance, where he received another Salute before he entered his car to return to State House, his Official Residence.

The Speaker returned to the Chamber and proceedings resumed. "The Union of Tanganyika and Zanzibar Bill" was carried nem. con. through all its stages in just over two hours. There was much applauding and clapping of hands when Clause 4 of the Bill was called during the Committee Stage. Clause 4 read as follows:

The Republic of Tanganyika and the People's Republic of Zanzibar shall, upon Union Day and ever after, be united into one Sovereign Republic by the name of the United Republic of Tanganyika and Zanzibar.

(*Postscript*. This name has since been changed, by another Act of Parliament, into the United Republic of Tanzania.

Dar es Salaam is the seat of Government of the Union and what was formerly the Parliament of Tanganyika, has been enlarged by the appointment of Members from Zanzibar, and it is now the Parliament of the United Republic of Tanzania.)

VII. REDRAWING OF ELECTORAL BOUNDARIES IN CANADA

By J. Gordon Dubroy
Second Clerk Assistant, House of Commons of Canada

By virtue of the constitution of Canada, as enacted in 1867, it is provided that on the completion of a census in 1871, and of each subsequent decennial census, the representation in the House of Commons shall be readjusted subject and according to certain rules.

Between 1871 and 1891, redistribution of seats was carried out directly by the Government in office, and it so happened that in each case the work was undertaken by the same Government. "Hiving the Grits" was the expression cheerfully used by our first Prime Minister as he lumped them together in areas where they would probably win anyway, and cut them out of constituencies of better prospects where their presence might be inconvenient.

In 1903, the then Government introduced a measure to provide that the redistribution of seats would be carried out by a committee of the House of Commons. Under this revised procedure, the minority party or parties always complained that "where there could be a little carving", the Government majority on such committees took steps to ensure that the carving was not done at their expense.

Finally, in 1964, legislation was enacted to provide that the redistribution of seats be undertaken by Electoral Boundaries Commissions.

Briefly and in general terms, the Electoral Boundaries Readjustment Act provides:

(1) That for the decennial census taken in 1961, and for each decennial census taken thereafter, the Governor-in-Council, within sixty days after the receipt of the results thereof, shall establish ten boundary commissions, one for each province, to consider and report upon the readjustment of the representation of the provinces in the House of Commons, and

(2) That each provincial commission shall consist of four members. The chairman of each commission is appointed by the Chief Justice of the province from among the judges of the court over which he presides; two other residents of each province are appointed to the commission by the Speaker of

the House of Commons. The Representation Commissioner, an officer of Parliament, is the fourth member of all commissions.

The membership of the House of Commons, by virtue of the constitution, is presently fixed at 262. The electoral quota for a province is obtained by dividing the total population of Canada by 262, and, in turn, applying the quotient thus obtained into the population of each province.

In preparing its report each commission is governed by the following rules:

(*a*) the division of the province into electoral districts and the description of the boundaries thereof shall proceed on the basis that the population of each electoral district in the province shall correspond as nearly as may be to the electoral quota for the province;

(*b*) where provision was made for any electoral district in the province to be represented by two members of the House of Commons, the commission may, if it sees fit to do so, recommend the continuation of such representation, in which case the division of the province into electoral districts and the description of the boundaries thereof in accordance with rule (*a*) shall proceed subject to such adjustments as are necessary in order to give effect to the continuation of such representation; and

(*c*) the commission may depart from the strict application of rules (*a*) and (*b*) in any case where

(i) special geographic considerations, including in particular the sparsity, density or relative rate of growth of population of various regions of the province, the accessibility of such regions or the size or shape thereof, appear to the commission to render such a departure necessary or desirable, or

(ii) any special community or diversity of interests of the inhabitants of various regions of the province appears to the commission to render such a departure necessary or desirable, but in no case, except as may be necessary in order to give effect to rule (*b*), shall the population of any electoral district in the province as a result thereof depart from the electoral quota for that province to a greater extent than twenty-five per cent more or twenty-five per cent less.

A commission may, in the performance of its duties, sit at such times and places in the province for which it is established as it deems

necessary, except that before completing its report it shall hold at least one sitting in that province for the hearing of representations by interested persons.

Notice of the time and place fixed by the commission for any sittings to be held by it for the hearing of representations from interested persons shall be given by advertisement published in leading newspapers in each province, at least thirty days before the commencement of such sittings.

Included in the advertisements referred to above, there must be a map or drawing showing the proposed division of the province into electoral districts and indicating the representation and name proposed to be given to each such district, together with a schedule setting forth the proposed boundaries of each such district.

Each commission must complete its report not later than one year after undertaking its work and send a copy thereof to the Speaker of the House of Commons for tabling in the House.

If within thirty days from the day the copy of the report of any commission for a province is laid before the House of Commons, an objection in writing, in the form of a motion for consideration by the House of Commons of the matter of the objection, signed by not less than ten members of the House of Commons, is filed with the Speaker specifying the provisions of the report objected to and the reasons for the objection, the House of Commons shall, within the first fifteen sitting days next after the expiration of that period, take up the motion and consider the matter of the objection. Thereafter the report shall be referred back to the Representation Commissioner, together with a copy of the objection and of the House of Commons Debates with respect thereto, for reconsideration by the commission.

Within thirty days from the day the report of any commission is referred back to the Representation Commissioner, the commission must consider the matter of the objection and dispose of the objection, and forthwith upon the disposition thereof a certified copy of the report of the commission, with or without amendment accordingly as the disposition or the objection requires, shall be returned to the Speaker. It will be noted that the commission is not bound to make any change by reason only of an objection having been raised in the House.

Upon receiving the said report, the Speaker shall cause it to be laid before the House of Commons and have the same published in the *Canada Gazette*.

When no objection has been raised in the House with regard to such a report within a specified time, or when objection has been raised and disposed of as noted above, a "representation order" is promulgated within a period of about ten days by the Governor-in-Council. When promulgated, a "representation order" has the force of law at the election consequent upon a subsequent dissolution of a parliament.

The Electoral Boundaries Commissions, as did their predecessors, face an enormous task in redrawing electoral boundaries in a country so vast and varied as Canada. The new measure continues, to a considerable extent, the traditional considerations of geography, ethnic groupings, the industrial or agricultural interests and the sparsity or density of population in an area. It is anticipated that the final reports of the Electoral Boundaries Commissions will become effective late in April 1966.

VIII. "OPERATION EXCHANGE" PART II

By John Taylor
Senior Clerk in the House of Commons

Conscientious readers of the last volume of The Table who were able to detach their attention from the thrilling repercussions of the Profumo affair and the stormy scenes in the Lok Sabha will have noted an article by Gordon Combe, Clerk of the House of Assembly, South Australia, describing his visit to Westminster in 1963. This was in fact the first part of an exchange of Clerks between Westminster and South Australia of which the writer had the extreme good fortune to form the second part.

Gordon Combe's visit had been made in what he was charitable enough to describe as "the spring" of 1963—one of the coldest in Britain this century—and my visit was timed to coincide with the Southern Hemisphere spring of 1964, and with the long summer recess at Westminster.

On the way (or perhaps slightly off it), I took the opportunity to visit Ceylon, principally in order to see again Nihal Seneviratne, Second Clerk Assistant of the House of Representatives, with whom I had established friendly relations during his attachment at the House of Commons the previous year. I was most hospitably received at Colombo, not only by him but by the Clerk and other officers of the House of Representatives and by the Ceylon branch of the Commonwealth Parliamentary Association. During my short stay I was able to attend a sitting of the House of Representatives and to observe the difficulties of conducting proceedings in more than one language and the competent way in which problems of interpretation and documentation are overcome at Colombo.

My visit coincided with that of a delegation from the Assembly of the People's Republic of North Korea. During their stay in Colombo they suggested that a Ceylon Parliamentary delegation should return with them to Korea, and this was hurriedly arranged (although, owing to the severe currency restrictions then in force in Ceylon their Members were only able to take a very small cash allowance with them for the visit). Both delegations, including Nihal Seneviratne, travelled on the same aeroplane as myself on the first leg of their journey which took us both to Singapore.

I had hoped while in Singapore to meet again the Clerk and Clerk Assistant of the Legislative Assembly. The previous autumn a sub-

committee of the House of Commons Estimates Committee had visited British military bases on the Island, and Loke Weng Chee and 'Bill' Lopez had been kind enough to sacrifice a Sunday to showing myself and the other Clerk accompanying the sub-committee (David Millar) round Singapore. On this occasion, however, a curfew was in force and everyone was confined indoors except between the hours of 5 a.m. and 9 a.m.—not perhaps the most popular time for paying social calls. I therefore left for Australia the next day, after saying goodbye to the Ceylon Parliamentary delegation. By one of the vagaries of airline procedure they were woken up without warning in the middle of the night and told to prepare for immediate departure. (By what I suppose was a pardonable error I was included in this routine.)

My aeroplane arrived at Sydney at 6.30 in the morning. Most nobly, Mr. Vidler, Clerk Assistant of the Legislative Assembly of New South Wales, was at the airport to meet me, and in the few hours before I was due to take off again for Adelaide, succeeded, skilfully, in showing me a great deal of Sydney, including Parliament House. This was a very pleasant surprise, and enabled me also to meet Allan Pickering and other officers of the Legislative Assembly. (For their part they were able to explain, in terms indicating friendly rivalry, some differences between the Parliaments of New South Wales and South Australia.)

I arrived at Adelaide in brilliant sunshine and in the middle of a short Parliamentary recess for the Royal Agricultural Show, an annual and very colourful spectacle which I was grateful for the opportunity to see. The recess afforded me a chance to settle in and appreciate all the careful and very painstaking staff work undertaken in advance by Gordon Combe to make my visit both enjoyable and useful. He had spared no effort to ensure these ends both inside and outside Parliament, and I feel wholly unable to express adequately my gratitude to him, not only for all the arrangements but for the very many occasions on which I enjoyed his hospitality and that of his delightful family.

One of the first parliamentary functions I attended was a luncheon kindly given to welcome me by the Speaker of the House of Assembly, Hon. T. C. Stott, C.B.E., M.P. He explained the delicate balance he had to hold in the House where the Members were equally divided between Government and Opposition, and had been in this situation since the General Election about three years previously. When the House met for the first time after the recess, on 15th September, Mr. Speaker made a short statement during the proceedings welcoming me on behalf of the House, and his words were echoed by the Member who spoke next, who happened to be the Leader of the Opposition. I was grateful for these kind words and for the welcome I received from all the Members of the House of Assembly.

It may perhaps be thought that an Assembly with only thirty-nine

Members and possessing powers inevitably circumscribed by the federal constitution of Australia would differ so fundamentally from the House of Commons as to enable little of value to one House to be learned by a study of the procedure of the other. I am sure that in fact this was far from being the case. As Gordon Combe indicated in his article, the codes of procedure and practice of the two Assemblies—and to them I would add also the spirit animating them—have a great deal in common, and I felt very much "at home" as I watched from my seat in the gallery reserved for Officers of the House, the proceedings unfolding, day by day.

Clearly, however, it was the differences between Adelaide and Westminster that were most instructive, and here I observed several which were both thought-provoking and, in my humble opinion, relevant to the problems faced by many Parliamentary Assemblies based on the Westminster model. One of the most important of these (and incidentally one which perhaps is not readily apparent from a study of the works of reference on the procedures of the two institutions) is in the relationship of Ministers and Parliament. The doctrine of ministerial responsibility applies, of course, in both Assemblies, but in Adelaide it appears in many ways to be more of a living reality. Ministers, including the Premier himself, used to spend most of their working day in Parliament House and were both available to and in frequent contact with Members. This seemed, incidentally, to be the case also in other Australian Parliaments which I was able to visit briefly. At Westminster, on the other hand, it has been for some time the subject of comment that attendance by Ministers at the House, apart, of course, when their presence is required for the business under discussion, has been declining.* Indeed, it has been suggested as one of the arguments against introducing the system of electronic voting (which would cut down the time a division takes in the House of Commons from about twelve minutes to perhaps one minute), that it would seriously impinge upon time available for consultations between backbenchers and Ministers. It is not uncommon in the House of Commons to see backbenchers forming an informal queue in the Division Lobby to have a word with a particular Minister.

Other consequences seemed to follow from this simple distinction. For instance, details of legislation were discussed between Ministers and Members before bills were published, probably to a greater extent than happens at Westminster, and this in turn seemed to be reflected in the comparatively small number of amendments moved in Committee of the whole House on a bill in South Australia.

More fundamentally, the close relationship between Ministers and Members affected the relative powers of the Executive and the Legis-

* In this respect it has been argued that the British Parliament may be moving towards the American system, but without the safeguards built into United States procedure.

lature; a Minister in South Australia tends to appear less as a chief of a large Department and more as a Member of Parliament with special responsibilities for a particular branch of Government. One indication of this difference in outlook was apparent in the membership of Committees. It was common for a Minister to take the Chair of a Select Committee examining a bill or project sponsored by his Department or in which they had an interest.

During my stay at Parliament House I had many contacts with the other branch of the legislature, the Legislative Council. The President and officers of the Council were most generous in enabling me to observe fully the workings of the Council. Although, of course, not modelled precisely on the House of Lords, its debates in many ways reminded me surprisingly strongly of the latter.

One of the intentions in planning the exchange was that the officers taking part should participate to the fullest extent possible in the work of the Parliament they were visiting. In pursuance of this I attended meetings of all the committees which sat during the period of my stay. Some of these dealt with local matters and corresponded closely to the private or hybrid bill committees at Westminster, or perhaps more closely still to the local enquiries carried out by Government Departments in Britain. Another committee dealt with subordinate legislation, but more exhaustively than our own Select Committee on Statutory Instruments. There was also a Select Committee on a topic, controversial in both northern and southern hemispheres, namely the fluoridation of water supplies.

A most important committee in South Australia, but one which has no precise parallel at the House of Commons, is the Public Works Committee which scrutinises proposals for capital expenditure. I was most impressed by the authoritative and non-partisan way in which this and other committees worked.

In connection with the preparation of legislation I had interesting discussions with parliamentary draftsmen at Adelaide, particularly Mr. Edward Ludovici, and with other parliamentary officers, including the Librarian and his assistants and the *Hansard* Staff. Throughout my stay, everyone I came in contact with at Parliament House spared no effort to ensure that I obtained all the information that I asked for, and at the same time I was able to discuss with them, as also with Members of the Assembly, many aspects of procedure in the House of Commons.

Shortly after my arrival at Adelaide the Governor of South Australia, His Excellency Sir Edric Bastyan, K.C.M.G., K.C.V.O., K.B.E., C.B., had been kind enough to receive me at Government House, a building pleasantly situated close to the centre of the city —and to the famous Adelaide Oval. Sir Edric expressed great enthusiasm for South Australia but enjoined on Gordon Combe to remember that Adelaide was not representative of the whole of the State and that he should make sure that I should see as much of the area

outside the city as possible. Thanks to Gordon's excellent staff work and his own generous hospitality and that of Members of the House of Assembly and Legislative Council, I was able to do this at weekends and to see something of both the pastoral areas and the rich agricultural country in the south east. Perhaps my most dramatic moment came when attending a rodeo with an Opposition Member in his constituency. Anxiety to ensure that I should have the best possible view had led us both to the very hub of the scene of operations when a competitor, preoccupied with a marked difference of opinion with his mount on the procedure to be followed, bore down upon us at high speed. Only two exceptionally rapid leaps for the rails prevented a sudden bye-election in the Parliament of South Australia and a vacancy in the Department of the Clerk of the House at Westminster.

The Parliamentary Session ended on 21st October and during the closing speeches kind references were made to the success of the exchange by the Speaker, the Premier, the Leader of the Opposition and other Members. For my part I am convinced that I learnt a very great deal which will be of inestimable value in my work at Westminster.

On my return journey I called briefly at the State Parliaments of Victoria and Sydney and the Commonwealth Parliament at Canberra and was received by officers of these Parliaments with great courtesy. A long list of names of those I met would be meaningless, but I must thank particularly Bruce McDonnell at Melbourne, Norman Parkes and Jim Odgers at Canberra, and again, "Snow" Vidler at Sydney. My visit to Canberra coincided with an extremely busy part of their session, but great pains were taken to ensure that I was shown as much as was possible in the time available of the workings of the Commonwealth Parliament. During my visit, the Speaker of the House of Representatives, Sir John McLeay, gave a small reception to welcome me and expressed keen interest in furthering the exchange scheme. The Commonwealth Parliament had taken the initiative in this matter some years previously in arranging for a visit to Westminster by Allan Tregear who many of us at Westminster remember with great affection. It had always been intended that his visit should be reciprocated, but this has still to take place.

At the Conference of Commonwealth Speakers held in the Palace of Westminster in June this year Sir John McLeay again raised the question of future exchanges of Clerks and read a paper on the subject to the Conference. His views found very general support among the Speakers, and I would like to close by respectfully submitting my own hope that the scheme will be given every possible support in the future.

IX. THE 1964 MINISTERS OF THE CROWN ACT AND MINISTERIAL REPRESENTATION IN THE HOUSE OF LORDS

By R. M. Punnett

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One of the first pieces of legislation introduced by the new Labour Government in November 1964 was the Machinery of Government Bill, which sought to increase the number of Ministers allowed to sit and vote in the House of Commons. The Bill was the fourth to be introduced in the new Parliament and was given a First Reading on 5th November, the sixth day of the session. Its short title was changed to the Ministers of the Crown Bill in the Committee stage in the Lords and it received the Royal Assent before the Christmas recess. New legislation was necessary because the new Ministries and posts created in the Wilson Government increased the number of Ministers serving in the Commons beyond the maximum number that was permitted by existing legislation. For the past three hundred years the House of Commons has been faced with the problem of trying to balance the growth in the size and power of the Government within the House with the desire to preserve its independence from executive domination. The 1964 Act is merely the latest in a long series of measures designed to regulate the number of Ministers allowed to serve in the House of Commons at any one time.

In the eighteenth century limitations were placed upon the right of Members of the House of Commons to hold Ministerial office in order to prevent the Crown exercising too much influence over the Commons through the power of patronage. Erskine May[1] says: "The reaction of the House [to the danger that the Monarch might control the Commons through his Ministers] was to seek to make the holding of paid crown office incompatible with membership of the House of Commons." Thus the 1701 Act of Settlement[2] included a clause that excluded entirely from the House of Commons anyone who held an office of profit under the Crown.

Had this rigid separation of the executive from the legislature been implemented to the full, the nature of British constitutional development would have been fundamentally altered. The exclusion of Ministers from the House of Commons might limit executive control over the legislature, but by the same token it would limit the

capability of the legislature to influence the executive. However, before the 1701 Act could be brought into operation the attitude of the Commons softened and the 1705 Succession to the Crown Act[3] drew a distinction between some posts which members of the Commons could not hold, and others to which Members of the Commons could be appointed, subject to the provision that any such Ministers had to resign their House of Commons seats and seek re-election in by-elections.

This system operated throughout the eighteenth and nineteenth centuries, though some junior posts were excluded from the re-election requirement, and the list of posts that Commoners could not hold was gradually whittled away. The 1867 and 1868 Reform Acts also modified things slightly by allowing Ministers to change from one post to another without involving their re-election. In the main, however, the appointment of a Member of the House of Commons to a Ministerial post was automatically followed by a by-election to re-establish his place in the House. This inevitably led to administrative inconvenience with the work of the Minister's Department being interrupted during the by-election period. There must undoubtedly have been a tendency for Members holding marginal seats to be overlooked in the distribution of Ministerial posts, while if a post was allocated to a Member of the Lords rather than the Commons, the by-election problem did not arise at all.

Legislation in 1919 and 1926 finally got rid of the re-election requirement, though it is remarkable that the system lasted as long as it did. The 1919 Re-election of Ministers Act[4] declared that re-election was not necessary in the case of Ministers who were appointed in the first nine months of any Parliament, while an amending Act in 1926[5] abolished the requirement entirely.

Thus a major disadvantage attached to Ministerial membership of the House of Commons was removed, and a relic of the days of parliamentary fear of royal domination was finally swept away. However, in the modern constitution there is an equally strong (and perhaps equally justified) fear of executive domination of the legislature, and one expression of this fear has been the desire of present Members of the Government forming too high a portion of the House of Commons. Thus in more recent years legislation has placed a limit on the number of Ministers allowed to serve in the Commons at any one time, though the steady growth in the size of Governments over the past fifty years has led to periodic increases in this maximum figure.

The 1937 Ministers of the Crown Act[6] laid down that only eighteen out of twenty-one senior Ministers could sit in the Commons at any one time, so that if all twenty-one posts were filled at least three must be held by Members of the Lords. The twenty-one senior posts were listed in the Act and were those posts which normally would carry Cabinet status. In addition it was stipulated that no more than

twenty junior Ministers could sit in the Commons at any one time. During the war under the provisions of the emergency legislation, these figures were exceeded, while many of the new Ministerial posts created after the war were specifically excluded from the restrictions of the 1937 Act. In 1941 the Select Committee on Offices and Places of Profit Under the Crown[7] recommended that only sixty Ministers in all should sit in the Commons. Taking account of this recommendation and the changes that had taken place since then, the 1957 House of Commons Disqualification Act[8] (which superseded all previous legislation) declared that not more than twenty-seven out of twenty-nine senior Ministers listed by the Act, and not more than seventy Ministers in all could sit in the Commons at any one time. These numbers were not exceeded by Macmillan or Home despite the increase in the size of the Conservative Governments between 1957 and 1964.[9] However, when the Labour Government came to power the number of new Ministerial posts created and allocated to Members of the Commons meant that new legislation became necessary. The limits imposed by the 1957 Act were not technically infringed by the new Government because the Act referred to Ministers who *received a salary*, and some Ministers agreed to serve without salary until new legislation could be brought into operation.

The 1964 Ministers of the Crown Act provided the usual Ministerial structure for the new Ministries of Land and Natural Resources, Overseas Development, and Technology. It increased from seventy to ninety-one the number of Ministers allowed to serve in the House of Commons at any one time, and abolished the limit of twenty-seven on the number of senior Ministers allowed to serve in the Commons. The Opposition was critical of " the lust for Ministerial procreation " and its consequences, and it was argued that ninety-one Ministers in the Commons was too high a figure because it made the executive too big a proportion of the House and left the Government back benches thin in numbers and in talent. Thus the spectre of excessive executive power over the House was presented as the main criticism of the principles underlying the Bill.[10]

The 1964 Act, while increasing the number of Ministers allowed to sit in the Commons at any one time, still fixes the maximum figure below the total number of Ministerial posts at present in existence. Though the Act allows ninety-one Ministers to sit in the Commons, there are more than one hundred posts in the present Government if the junior Whips and appointments to the Royal Household are included.[11] Thus the Act accepts the principle that at least some posts must be filled by Members of the House of Lords.

However, the desirability of limiting the number of Ministers in the Commons is only one reason for allocating some posts to Peers. There are more positive reasons why even in the modern Constitution some Government offices should be held by Members of the Lords. As long as a second chamber exists the Government must be repre-

sented there. Modern parliamentary practice demands that the Government's view must be expressed on any topic raised in either House, and it is desirable that there be a number of Ministers in the Lords to give voice to Government attitudes.

Membership of the Lords does confer a number of practical advantages upon Ministers. A Peer has no constituency duties. Debates and divisions in the Lords are less urgent than they are in the Commons, and in many ways Ministers in the Lords have more time to devote to Ministerial duties. Thus Ministers whose departmental work involves being away from London for long periods could find the Lords a much more convenient base than the House of Commons. This is a particularly important factor for a Government that has only a small majority, when Ministerial attendance at debates in the Commons becomes more urgent.

Any non-political figure who is called upon to serve in the Government but who does not wish to enter the party political fray of the House of Commons can be raised to a Peerage and thereby made eligible for Ministerial office. Thus Sir Percy Mills was given a peerage in 1957 to enable him to take up the post of Minister of Power in Macmillan's Government, while in the present Government Lords Bowden, Caradon, Chalfont and Gardiner (who might all be classed as "non-party" figures) were given their life peerages in 1963 and 1964 to make them eligible for Ministerial office. On the whole, however, not a great deal of use has been made of this possible means of recruiting non-party men into Government posts, despite the fact that the life peerages introduced by the 1958 Act and the disclaiming of titles allowed by the 1963 Peerage Act have made elevation to the House of Lords more acceptable to those who might be unwilling to inflict an hereditary title upon their heirs.

However, in spite of the escape route from the Lords provided by the 1963 Peerage Act, it may be safely assumed that the peerage will not be stripped bare of all talent. The Act allowed existing Peers twelve months in which to disclaim their titles, but in fact only six Peers chose to do so. Future heirs to titles are also allowed twelve months (or one month if they are Members of the House of Commons) to disclaim, but to date only two have done so. It may be assumed that the second chamber will still contain Peers of Ministerial calibre who, for one reason or another, choose not to disclaim their titles. As long as this is the case it is another reason for allocating some Ministerial posts to the House of Lords.

A comparison may be made between the present Government and past Governments in the allocation of Ministerial posts to the House of Lords. Table I shows the number of Peers in Governments since 1865. In this period the actual number of Peers holding Ministerial posts has not been reduced, and in fact since 1945 it has tended to increase. The Home Government contained more peers than any other peacetime Government, and even in the present Labour Govern-

ment there are more Members of the House of Lords in office than there were in most Governments between 1865 and 1951.

However, this is largely the result of the marked increase that has taken place in this century in the number of Ministerial posts in existence, and while there are more Peers in office today than there were a hundred years ago, the proportion of Peers in office in relation to the number of posts in existence is today lower than at any time in the past. Before 1914 when the total number of Ministerial posts did not exceed fifty, Peers generally held about a quarter of the posts,

TABLE I. NUMBER OF PEERS IN GOVERNMENTS 1865 TO 1964

Date	*Prime Minister*	*Number in the Cabinet*	*Number of Peers in the Cabinet*	*Total number in the Government*[1]	*Total number of Peers in the Government*[1]
1865-66	Russell	15	8	41	10
1866-68	Derby	15	5 to 7	42	10 to 12
1868	Disraeli	14	5	39	10
1868-74	Gladstone	15 to 16	6	40	9 to 11
1874-80	Disraeli	12 to 13	6	39 to 41	8
1880-85	Gladstone	14 to 16	6 to 8	40 to 41	9 to 10
1885-86	Salisbury	16	8	41	13
1886	Gladstone	13 to 14	6	40 to 41	10 to 11
1886-92	Salisbury	14 to 18	7 to 8	41 to 42	11 to 13
1892-94	Gladstone	17	5	43	7
1894-95	Rosebery	17	6	44	9
1895-1902	Salisbury	19 to 20	9 to 10	44 to 45	13 to 15
1902-05	Balfour	17 to 20	7 to 9	42 to 46	12 to 13
1905-08	Campbell-Bannerman	19 to 20	6	44 to 46	9
1908-15	Asquith	19 to 20	4 to 7	44 to 46	8 to 11
1915-16	Asquith	22 to 24	5 to 6	50	9 to 11
1916-18	Lloyd George ..	6	1 to 2	64	9 to 10
1919-22	Lloyd George ..	18 to 20	4 to 6	57 to 58	9 to 13
1922-23	Bonar Law ..	16	7	57	11
1923-24	Baldwin	19	8	56	12
1924	Macdonald	20	5	53	6
1924-29	Baldwin	21	6	56 to 57	9 to 11
1929-31	Macdonald	19 to 20	4	57	7 to 9
1931	Macdonald	10	2	50	8
1931-35	Macdonald	20	4 to 5	58	8 to 10
1935-37	Baldwin	22	4 to 5	58 to 60	9 to 10
1937-39	Chamberlain ..	21 to 23	6 to 7	60 to 62	10 to 12
1939-40	Chamberlain ..	9	3	64	12
1940-45	Churchill	8 to 9	0 to 2	71 to 88	10 to 15
1945	Churchill	16	4	82	16
1945-51	Attlee	17 to 20	2 to 4	72 to 75	7 to 11
1951-55	Churchill	16 to 19	4 to 7	74 to 76	13 to 14
1955-57	Eden	18 to 19	3 to 4	74 to 75	12 to 13
1957-63	Macmillan	17 to 21	3 to 4	72 to 82	10 to 15
1963-64	Home	23	3	83	16
1964	Wilson	23	2	97	14

[1] Excluding junior Whips and appointments to Her Majesty's Household.

and between the wars when Governments contained fifty to sixty posts the proportion held by Peers was about one-fifth.

Since 1945, as the number of Government posts has risen steadily into the seventies, eighties and nineties, the proportion of Peers in office has fallen even further. In Conservative Governments since 1945 Peers have held about one-sixth of all posts. In the Attlee Labour Government the proportion was one-seventh, while in the present Labour Government it is between a seventh and an eighth.

To refer specifically to Cabinet posts, it may be noted that in the nineteenth century it was common for Peers to hold half or more than half of the Cabinet seats. Russell in his 1865-66 Government had eight Peers in a Cabinet of fifteen, while Disraeli, Gladstone and Salisbury formed Cabinets with half of the posts filled by Peers.

In this century, however, the number of Peers in the Cabinet has been gradually reduced, and since 1945, though the Cabinet has tended to increase in size, there have usually only been three or four Peers in the Cabinet. Churchill, with six Peers in a Cabinet of sixteen from 1951 to 1953, forms an exception to this rule, while at the other extreme the only Cabinet to contain no representation from the Lords was Churchill's small wartime Cabinet during the period from February 1942 to November 1943. The peacetime Cabinets with the smallest representation from the Lords are the Macdonald Cabinet of 1931 with two Peers out of nine Cabinet Members, the Attlee Cabinet from 1948 to 1950 with two out of sixteen, and the present Cabinet with two out of twenty-three.

Table II shows the different classifications of Peers that have held office in Governments since 1945. The present Government is the only one to contain a large number of Life Peers, thirteen of the fourteen Peers in the Government being Life Peers. Attlee gave most posts in the Lords to hereditary Peers of the first creation, though it may be assumed that if life peerages had been in existence in 1945 the Labour ranks in the Lords would have been strengthened, as in 1963-64, through life peerages rather than by new hereditary titles.

All four Conservative Prime Ministers chose primarily Peers who had inherited their titles, though Churchill did appoint a total of eight Peers of first creation. Lord Craigton (Minister of State for Scotland 1959-64) was the only Life Peer to hold office under Macmillan or Home.

The majority of Peers in the Attlee and Wilson Governments served previously in the Commons, some having had Ministerial experience there. Most of the Conservative Peers on the other hand had not previously sat in the Commons. This might suggest that as far as a Labour Prime Minister is concerned the need to place some Ministers in the Lords can be something of a nuisance, necessitating the elevation to the Peerage of some Members of Parliament who would otherwise have continued their careers in the Commons.

TABLE II. CLASSIFICATION OF PEERS HOLDING POSTS IN GOVERNMENTS 1945–64

Column *A* Life Peers
B Hereditary Peers of the first creation
C Hereditary Peers not of the first creation
D Total
E Previous ministerial experience as a Commoner
F Previously a Member of the Commons but with no previous ministerial experience.

		A	*B*	*C*	*D*[1]	*E*	*F*
1945-51	Attlee		13	5	18	7	4
1964	Wilson..	13	0	1	14	4	4
1951-55	Churchill		8	11	19	5	0
1955-57	Eden		4	12	16	7	0
1957-63	Macmillan	1	5	22	28	9	0
1963-64	Home	1	4	11	16	6	0
All Conservative [2]Governments 1951-64		1	15	27	43	14	0

[1] These figures do not necessarily coincide with those given in the final column of Table I: the figures in Table II are for the total number of Peers who served severally during the Government's period of office, while the figures in Table I are the maximum and minimum numbers of Peers that served *at any one time* during the period of office.
[2] Some Peers served more than one Prime Minister, Lord Carrington, for example, holding office under Churchill, Eden, Macmillan and Home.

The posts that were held by Peers in the twenty years 1945 to 1964 are shown in Table III, while Table IV lists the Peers holding office in the present government. Of the posts at present held by Peers the Parliamentary Secretary to the Ministry of Land and Natural Resources, and the Minister of Defence for the Royal Air Force, are new posts, though the latter can be seen as the successor to the Secretary of State for Air. All the others, however, are positions that in the past have been occupied by Members of the Lords. The Lord Chancellor is always a Peer and in peacetime is always in the Cabinet. As has been usual in recent years, the Foreign Office,[12] Colonial Office and Scottish Office are represented in the Lords by junior Ministers, though the Ministers of State for Scotland and Wales sit in the Commons rather than the Lords for the first time since the posts were created in 1951 and 1958.[13] As was often the case in the past Peers hold the posts of Lord Privy Seal and Minister without Portfolio, while, as in recent years, junior Ministers from the Home Office,

Board of Trade, Ministry of Transport and Ministry of Education also sit in the Lords. The Ministry of Agriculture, however, is unrepresented in the Lords for the first time since 1921 although Lord Champion, deputy leader of the House and Minister without Portfolio, acts as the Ministry spokesman.

TABLE III. POSTS HELD BY PEERS 1945–64

Column *A* Government Post

B Total number of years that the post was held by a Peer

C Total number of years that the post was held by a Peer in the Cabinet

A	*B*	*C*
Lord Chancellor	20	20
Ministry of Agriculture: Junior Minister	20	0
First Lord of the Admiralty	19	0
Foreign Office: Junior Minister	16	0
Lord President of the Council	13	13
Colonial Office: Junior Minister	13	0
Scotland: Junior Minister	13	0
Secretary of State for Commonwealth Affairs	11	11
Paymaster General	10	4
Postmaster General	10	0
Minister without Portfolio	9	6
Home Office: Junior Minister	8	0
Chancellor of the Duchy of Lancaster	7	4
Lord Privy Seal	6	6
Minister of Civil Aviation	6	0
Wales: Junior Minister	6	0
Minister for Science	5	5
Commonwealth Office: Junior Minister	5	0
Secretary of State for Air	5	0
Ministry of Transport: Junior Minister	5	0
Secretary of State for Foreign Affairs	3	3
Secretary of State for India (post abolished 1948)	3	3
Secretary of State for Colonial Affairs	3	0
Ministry of Defence: Junior Minister	3	0
Ministry of Public Buildings and Works: Junior Minister	3	0
Minister of Defence	2	2
Minister of Materials (post abolished 1953)	2	2
Minister of Power	2	2
War Office: Junior Minister	2	0
Minister of Trade: Junior Minister	2	0
Ministry of Health: Junior Minister	2	0
Ministry of Housing: Junior Minister	2	0
Minister of Education	1	1
Minister of State for Science	1	0

"Junior Minister" includes Minister of State, Parliamentary Secretary and Parliamentary Under-Secretary.

Thus in the present Government there are fourteen Peers in office, more than in any previous Labour Government and roughly as many as in recent Conservative Governments. However, because the present Government is much bigger than any other peacetime Government the proportion of Peers in office (less than one-seventh) is lower than in any previous Government, Conservative or Labour. Two Peers in a Cabinet of twenty-three is also the lowest number of Peers in any peacetime Cabinet. The other significant features are that all

TABLE IV. PEERS IN THE WILSON GOVERNMENT

Column *A* Formerly an M.P. with ministerial experience
B Formerly an M.P., but no previous ministerial experience
C Formerly as unsuccessful Labour candidate for the Commons
D Date of the creation of the life peerage.

		A	*B*	*C*	*D*
Lord Chancellor	Lord Gardiner ..				1963
Lord Privy Seal	Earl of Longford ..			*	—
Min. of Defence, Air Force ..	Lord Shackleton ..		*		1958
Min. without Portfolio ..	Lord Champion ..	*			1962
Min. of State, Education ..	Lord Bowden ..				1963
Min. of State, Foreign ..	Lord Cadogan ..				1964
Min. of State, Foreign ..	Lord Chalfont ..				1964
Parl. Sec., Colonies	Lord Taylor ..		*		1958
Parl. Sec., Foreign	Lord Walston ..			*	1961
Parl. Sec., Home	Lord Stonham ..		*		1958
Parl. Sec., Scotland	Lord Hughes ..			*	1961
Parl. Sec., Transport	Lord Lindgren ..	*			1961
Parl. Sec., Board of Trade ..	Lord Rhodes ..	*			1964
Parl. Sec., Land	Lord Mitchison ..		*		1964

the Peers except one (the Earl of Longford) are Life Peers, while eight of the fourteen served previously in the Commons, four of them having had Ministerial experience there.

It is unfortunate that the Labour Party is so thinly represented in the Lords and is so critical of the second chamber in its present form when it is precisely the present Labour Government, because of its size and the consequent difficulties encountered over the restrictions on the number of Ministers allowed to serve in the Commons, that

could most usefully use the Lords as a seat for Government Ministers. A reformed House of Lords, made more acceptable to the Labour Party by the abolition of the hereditary principle as the basis for membership, or by a further reduction in the power to oppose, could perhaps help to solve the problem created by the growing size of modern Governments and the dangers inherent in placing too many Ministers in the House of Commons.

Editor's Note: The appointment by Mr. Wilson of more Ministers in the Commons than the limit of 70 apparently set by the House of Commons Disqualification Act 1957 drew attention to certain loopholes in that Act.

The numerical limits applied only to the holders of the Ministerial Offices specified in the Second Schedule to that Act. This Schedule listed the existing Departments of State. A Minister could, therefore, be appointed in charge of a new Department without coming into the reckoning. Again, " Ministers of State " were included in the limitation and defined as

> a member of Her Majesty's Government in the United Kingdom *appointed at a salary*, who neither has charge of any public department nor holds any other of the offices specified in the Second Schedule to this Act. (S. 13(1).)

In the result, there were, until the Ministers of the Crown Bill had received the Royal Assent, and other necessary Transfer of Functions Orders had been approved, twenty unpaid Ministers in the Commons. They comprised, firstly, the Secretary of State for Wales. He was the ninth Secretary of State and the Ministers of the Crown Act, 1937, allowed payment to no more than eight Secretaries of State. Secondly there were the Ministers and Parliamentary Secretaries of the new Departments of Overseas Development and of Land and Natural Resources, for whom there was no authority to pay a salary; and thirdly, fifteen Ministers or Junior Ministers, some specifically designated " Ministers of State ".

It was arguable that a Minister of State was, by definition, in receipt of a salary, whether he actually drew one or not, in the same way that a Member who took the Chiltern Hundreds was deemed to hold an office of profit, without actually profiting therefrom. The Government, however, took the view that since these Ministers did not receive a salary, they were not Ministers of State within the meaning of section 13 (1) of the House of Commons Disqualification Act, 1957, and this view was not seriously challenged in the Commons.

In the Lords, on second reading of the Ministers of the Crown Bill, Lord Dilhorne (until recently the Conservative Lord Chancellor) brought out very clearly the objections which could be made to the number of ministerial appointments in the House of Commons:

> I think it is true to say that in 1957 no one contemplated that any Prime Minister would adopt the device of securing appointments without salary immediately payable, in order to avoid the clear intention of Parliament that

the limits laid down in the 1957 Act should be observed. I think it is true that before 1957 this device could not have worked, because then we were concerned with offices of profit under the Crown. It was, as your Lordships will remember, because of the difficulty in defining "offices of profit" that we tried to alter the system and to specify them in a different Schedule to the 1957 Act. But I should have thought that there could be no doubt that, holding the office of Minister under the Crown was an office of profit whether or not a salary was payable, for it is quite clearly established that you can be the holder of an office of profit without being in receipt of a salary. The noble Earl, I think, drew attention to the fact that in Section 13(1) of that Act "Minister of State" is, among other things, defined as someone "appointed at a salary". I think I am right in saying that that is probably the first statutory authority for the payment of salaries to Ministers of State. But, however that may be, I draw the attention of the House to the fact that the words are "appointed at a salary".

The Chancellor of the Duchy of Lancaster has agreed that when the Ministers of State to whom the Bill relates were appointed they were told the salaries they would receive in future. Reference to that can be found in *Hansard* of December 10. If that is so—and the authority of the Chancellor of the Duchy is there for saying it was—were they not appointed at a salary? Do you cease to be appointed at a salary if you are told that the salary will not be paid for a month, for two months, three months or six months? Surely, if they were appointed at a salary, then indeed there has been a clear breach of the law. If the law applied, a number of Members should come under Section 2(2) of the 1957 Act and be excluded from voting in another place. That is a matter of law. I shall be interested to hear what the Lord Chancellor has to say about this. (*Lords Hans.*, Vol. 292, cols. 398-402.)

The Lord Chancellor (Lord Gardiner) in his reply said that

the Government have throughout acted in accordance with the law, in accordance with precedent and in accordance with the requirements of Parliament. (Col. 431.)

but made no attempt to rebut the arguments of Lord Dilhorne.

The loopholes disclosed in the 1957 Act were dealt with in the Bill in the following way. The words "appointed at a salary" were deleted from the definition of Minister of State and the number of such Ministers was limited to nineteen. The device of appointing unpaid Ministers of State was thus put at an end. The Government, however, retained the right to create new Departments, whose chief Minister would not be reckonable in calculating the permitted number. Before such a Department could exercise powers, or its Ministers receive a salary, Parliament must, of course, approve the requisite Orders.

[1] Sir T. E. May, *The Laws, Privileges, Proceedings and Usage of Parliament*, London, 1957 (16th Edition), p. 201.
[2] 12 & 13 Will. III, c. 2.
[3] 4 & 5 Anne, c. 20. Re-enacted after the union with Scotland as the 1707 Regency Act, 6 Anne, c. 41.
[4] 9 & 10 Geo. V, c. 2.
[5] The Re-election of Ministers (1919) Amending Act 1926, 16 & 17 Geo. V, c. 19.
[6] 1 Geo. VI, c. 38.
[7] The Herbert Committee Report, H.C. 120 of 1941.
[8] 5 & 6 Eliz. II, c. 20.

[9] See Table One.

[10] For the main debates see: 702 H.C. Deb. 5s. 642 to 757; 703 H.C. Deb. 5s. 1553 to 1786; 703 H.C. Deb. 5s. 1839 to 1925; 262 H.L. Deb. 5s. 383 to 434; 262 H.L. Deb. 5s. 640 to 657.

[11] These posts are classed as full Government posts by the 1937, 1957 and 1964 Acts, but they are not included in the figures quoted in the four Tables below.

[12] Of the six Ministers attached to the Foreign Office three are Peers, while the Secretary of State himself did not have a seat in either House for the first few months of the session.

[13]The Scottish Office is represented in the Lords by a Parliamentary Under-Secretary rather than a Minister of State. This has led to some criticism, Lord Craigton describing it as " a grave and deliberate affront to the Scottish people ". 261 H.L. Deb. 5s. 830.

X. THE CAYMAN ISLANDS AND ITS LEGISLATURE

By Mrs. Sybil McLaughlin
Clerk of the Legislative Assembly and Executive Council

The Cayman Islands consist of three small Islands lying about 200 miles to the north-west of Jamaica, and approximately midway between Jamaica and the south-west coast of Cuba. The estimated population of the three Islands at 1965 is approximately 9,000.

The islands were discovered by Columbus in the year 1503, but were not occupied by the Spaniards. There was no permanent settlement until the eighteenth century, the first record of a grant of land being made in Grand Cayman in the year 1734. While the first settlers came from Jamaica, a large number of the present inhabitants bear the surnames of wrecked British seamen.

In the early days of settlement, public affairs were administered by Justices of the Peace appointed by the Governor of Jamaica. The Justices functioned under the direction of one of their number whom they elected and who was styled "Governor". In 1852 the principle of representative government was accepted and elected members known as Vestrymen were added to the administrative body. At the same time the title "Custos" was substituted for that of "Governor".

An Act of Parliament, passed in 1863, provided for the ratification of all prior acts of the local body which received the assent of the Governor of Jamaica. This assent was given in 1865. It was further provided in the Act that the Justices and Vestry should continue to exercise legislative powers, their enactments being subject to the assent of the Governor of Jamaica. Under the same authority the Legislature of Jamaica could make laws for the peace, order and good government of the then Dependency, and it could also amend or repeal any of the laws enacted in the Cayman Islands.

In 1898 the powers of the Custos were vested in a Commissioner who, until 1957, combined administrative duties with those of a Judge of the Grand Court. He was selected by the Secretary of State for the Colonies and appointed by the Governor of Jamaica. The seat of Government was at George Town, where the Commissioner resided. In 1957 the post of Stipendary Magistrate was created and the Commissioner's judicial functions transferred to the incumbent who, when sitting as a Judge, had legal jurisdiction in the trial of all matters except capital offences.

The Legislative Assembly of Justices and Vestry consisted of the Commissioner as President, 28 Justices of the Peace, and 27 Vestrymen. The Justices of the Peace were commissioned in a General Commission of the Peace, by the Governor of Jamaica.

The election of Vestry was held every two years, and their election was governed by an Act of 1832 which provided that " upon requisition of the Custos or Senior Magistrate, the Magistrates in the district shall call the people together and proceed to elect Vestrymen to serve for two years ". It became the practice for male taxpayers only to vote. In December, 1958, the Sex Disqualification (Removal) Law, 1958, was passed by the Justices and Vestry to remove disqualification of voters on the grounds of sex or marriage.

In July, 1959, a new constitution provided for an Administrator, a Legislative Assembly and an Executive Council. The Governor of Jamaica was, until Jamaica's Independence, in 1962, also Governor of the Cayman Islands. In July, 1962, an amended Constitution transferred all the powers vested in the Governor to the Administrator, who now assents to the bills enacted by the Legislature. The Administrator remains the President of the Legislature. The Legislative Assembly consists of the Administrator, not less than two nor more than three Nominated Members, not less than two nor more than three Official Members and twelve Elected Members. The Executive Council consists of the Administrator, two Official Members appointed by the Administrator from among the Official Members of the Assembly, one Nominated Member appointed by the Administrator from among the Nominated Members of the Assembly and two Elected Members, elected by the non-official Members of the Assembly from among the Elected Members of the Assembly. The normal life of the Assembly is three years.

In 1961 two political parties were formed, the National Democratic Party and the Christian Democratic Party. In the 1962 General Elections, the National Democratic Party gained 7 seats in the Legislature and the Christian Democratic Party gained 5 seats.

Laws passed by the Legislature of Jamaica which are in express terms made applicable to the Cayman Islands take effect there. The Court of Appeal for Jamaica has power to hear and determine appeals from the Grand Court of the Islands except in those matters in which the laws of the Islands provide that the decision of the Grand Court of the Islands shall be final.

The seat of a nominated or elected member of the Legislative Assembly becomes vacant if, *inter alia*, he is absent from three consecutive meetings of the Assembly, without the written permission of the Assembly. Other salient points in its procedure are:

(a) *Notice of meetings.* Not less than twenty-one days before the date of the first meeting of any Session or of any meeting convened to pass the Islands estimates, and not less than seven days before any other meeting.

(b) *Minutes of the Proceedings.* At present, minutes consist of particulars of the proceedings and record the names of all members present, members taking their seats subsequently at such meeting or leaving the Assembly before its rising, and all decisions of the Assembly.

Two Government employees are, at present, taking a one-year course in stenotypy organised by the Government of Jamaica and, on their return, *Hansard* recordings of the Assembly's proceedings will be instituted.

(c) *The Order of Business is as follows:*

(i) Confirmation of Minutes.
(ii) Oath of Allegiance to New Members.
(iii) President's Address and Announcements made by direction of the President.
(iv) Presentation of Papers.
(v) Reports of Committees.
(vi) Petitions.
(vii) Government Notices of Motions, Bills and other papers to be presented at a subsequent sitting or meeting.
(viii) Unofficial notices of Questions, Motions or Private Members' Bills to be presented at a subsequent sitting or meeting.
(ix) Questions.
(x) Motions.
(xi) Other Business

(1) Government Business.
(*a*) Estimates.
(*b*) Bills.
(2) Private Members' Bills.
(3) Other Orders of the Day.

(d) *Practice of Parliament.* Rules as to debates, etc., follow the practice and procedure of the Commons House of Parliaments of Great Britain and Northern Ireland.

(e) *Responsibility for Order.* It is the duty of the President, of his own motion, to preserve order and to enforce all Standing Orders.

(f) *Progress of Bills.* All bills, whether public or private, are generally passed by the Legislature at the sitting on which they are first introduced, unless it is thought desirable that detailed consideration be given and a Select Committee appointed. The procedure adopted is that Suspension of Standing Orders is sought so that bills may be carried through all their stages at a meeting. All bills are published by Government Notice, at least 7 clear days before being considered by the Legislature.

(g) *Standing Finance Committee.* This committee, appointed for the consideration of the Islands estimates and financial bills and other business referred to it by the Assembly or by the Administrator, consists of the Treasurer as Chairman, and all the unofficial Members of the Assembly: ten Members forming a quorum.

(h) *Meetings.* Meetings of the Assembly are held once a quarter and continue for from one to four or five days. The Finance Committee, when considering the Islands' Estimates, meets from three to seven days and this is followed by the Budget Session of the Legislature which gives formal approval to the Estimates of Revenue and Expenditure and Supplementary and Appropriation Bills. There are also special meetings of the Legislature called to consider urgent matters.

(i) *Dissolution of Assembly.* The Constitution provides for the Administrator to dissolve the Assembly at the expiration of three years from the date when the Assembly first meets after any general election unless it has been sooner dissolved. A general election must be held at such time within two months after every dissolution of the Assembly as the Administrator shall by Proclamation appoint.

The Stipendary Magistrate, and Judge of the Grand Court is an officer on contract from the United Kingdom. He is the Legal Adviser to the Government, and is the Second Official Member of the Legislature and a Member of the Executive Council. The Assistant Administrator is the First Official Member of the Legislature and a Member of the Executive Council. The Treasurer is the Third Official Member of the Legislature.

Meetings of the Legislature are held in the Town Hall, a building erected in 1919 which is also used for public meetings, entertainments and by the Grand Court. The building is most unsuitable for the Legislative Assembly as it is adjacent to the public road and meetings have to be adjourned whenever there is a heavy shower of rain due to the noise from the roof.

The Office of the Clerk of the Legislature is a spacious one, on the second floor of the Administrator's Offices, which was formerly the private residence of Administrators. The Assistant Clerk occupies the adjacent room, formerly the kitchen of the old residence. These rooms were recently redecorated and they make attractive offices, although the building is an old wooden structure built in 1907.

It is hoped that a new Legislative Assembly building will be constructed in the not too distant future as the need for this is very great.

XI. THE OATH OF ALLEGIANCE

By R. W. Perceval
Clerk Assistant of the Parliaments

and P. D. G. Hayter
A Clerk in the House of Lords

In medieval times an Oath of Allegiance was required of the magnates of the realm, and at the present day peers take an Oath of Allegiance at the beginning of each Parliament. Since the House of Lords traces its descent from the "feudal" councillor court of the Norman Kings of England, it would seem natural to assume some association between the Oaths. It appears, however, that not only are the two Oaths historically unconnected but that the present Oath was not originally one of allegiance at all, and that its predecessor disappeared at some point between the fifteenth and seventeenth centuries. A new "Oath of Allegiance" grew up from origins which were not "feudal" in any respect.

In the feudal court of the Kings of England, as in all other feudal courts, the induction of a new baron consisted of three elements. The first was his undertaking of his feudal duties such as military service and suit of court, and his entering into the relation of man to his lord. Those were symbolised and signified by doing homage to the lord, which involved entering into allegiance and swearing an Oath accordingly. For the heir entering into his father's inheritance, that Oath followed the form set out in Scrogg's *Practice of Courts Leet and Courts Baron* (1728), p. 61: "I, A.B. do swear that I will be faithfull and fealty bear to the Lord of this Manor for the lands and tenements I hold of him, so help me God." Secondly, the lord granted land in return for which the new tenant was to perform feudal services and enter into the feudal relation with his lord. That grant was signified at different times by different forms and ceremonies, of which the most ancient consisted of words and acts uttered in full and open court, so that the rest of the peers could be witnesses to their validity. Later, of course, those grants were commonly recorded in writing, and finally, in the King's Court at least, the role of the record grew so that the grant itself came to consist of nothing but the record. In the King's Court and in honorial courts, the record of the grant was by letters patent; in manorial courts its was the court roll, of which a copy was given to

the tenant (hence "copyhold"). The grant was mentioned in the Oath of Homage, so that both sides of the bargain were sealed and sanctioned by the Oath.[1] In the third place, there was the actual ceremony of introduction, and the seating of the new peer in the court. That had the purely practical purpose of making the new tenant known to the other peers of the court and showing him his place.

That homage was done and the Oath of Allegiance taken on three occasions:

(i) on the first grant of a new tenement, and the first entry of a new tenant into the court;
(ii) on the succession of a new Lord (*e.g.*, at the Coronation);
(iii) on the succession of the heir to a tenement.

The last did not ensue at the death of the last tenant unless or until the heir was twenty-one and had paid one year's income from the tenement to the lord. He was then granted "seisin", did homage, entered into his estate and took up his feudal rights and duties.

Certain of these practices remain in the House of Lords: the Oath is taken by newly created peers, is taken when a new Sovereign succeeds, and is taken when an heir succeeds to a peerage. The Oath is taken in the full House, and the newly created peer is shown to his seat in the House at his Introduction. The fact that the Oath is taken as the first business after the reading of Prayers reveals another similarity to "feudal" practice, as for example in the court at Laxton: "Following the appointment and swearing of the officers, the next business of the court was the admission of new freeholders and tenants. Every heir succeeding to a freehold, every purchaser of a freehold, and every tenant entering upon a holding under the lord, had to attend at the next court to do fealty."[2]

The Rolls of Parliament reveal that on a number of occasions special Oaths of Allegiance also were exacted by the King in his court. For example, on two or three occasions at the beginning of his reign (at Worcester and at Westminster) Henry IV exacted from "the Lords and other lieges of the King then present" an Oath of Allegiance by which "they acknowledged the said Lord the King as their Sovereign liege Lord and (swore) to obey him as the King; and acknowledged my Right Honourable Lord the Prince his eldest son as heir apparent to the Crown of England . . . according to the Law of England, to live and die against all manner of folk".[3]

Again, Henry VI in 1455 and 1459[4] exacted from the peers and bishops in Parliament assembled a renewal of the Oath of Allegiance in the most full and solemn form. On the former occasion "it was also ordained and avised that all other Lords being not present should at their coming make the said Oath and promise which the King would and commanded should be enacted in the Parliament roll and

be written and incorporated in the Book of the Council, there to remain of record among other acts and ordinances".

It is possible that the last glimpse we catch of this true Oath of Allegiance is in the roll of the Standing Orders of 1621,[5] where Standing Order No. 8 ("Beginning the Parliament") ends with the words "after that they fall to the administering of the Oath of Allegiance to such noble men as have not sitten in the House before".

The breach with Rome meanwhile introduced another Oath of a different, religious, nature. It was set out in the Act of Supremacy 1558 and acknowledged that "the Queen's Highness is the only supreme governor of this realm . . . as well in all spiritual or ecclesiastical things or causes as temporal, and that no foreign Prince, person, Prelate, state or potentate hath or ought to have any jurisdiction, power, superiority, pre-eminence or authority, ecclesiastical or spiritual, within this realm".[6] By the Act of Supremacy the Oath had to be taken only by clergy, justices, mayors and other lay officers, but by the Supremacy of the Crown Act, 1562,[7] it was required to be taken by every new Member of the House of Commons "before he shall enter into the Parliament House or have any voice there". The Oath was to be administered openly to the Members by the Lord Steward or his deputy, and any Member who entered the House without taking the Oath was to forfeit his membership. But "for as much as the Queen's Majesty is otherwise sufficiently assured of the faith and loyalty of the temporal Lords of her High Court of Parliament",[8] the temporal lords were exempt from the obligation to take this Oath. The archbishops and bishops had been required to take the Oath by the Act of Supremacy five years before.

After the Gunpowder Plot, James I set forth in the Popish Recusants Act 1605[9] a form of Oath by which "I A.B. do truly and sincerely acknowledge, profess, testify and declare in my conscience before God and the world that our Sovereign Lord King James is lawful and rightful King of this realm". There are four more paragraphs renouncing the Pope and his claims. This Oath was to be administered to anyone "other than noblemen or noblewomen" convicted or indicted of any recusancy. By the Oath of Allegiance Act 1609[10] the obligation to take this Oath was specifically extended to lords spiritual and temporal, but it was made clear that this was not a parliamentary obligation, because the bishops were required to take the Oath before the Lord Chancellor and the peers were to take it before commissioners in the area where they lived.

The scope of the religious Oath, however, was extended to resemble a parliamentary Oath more closely when on 7th June, 1610,[11] the Lord Chancellor in the House of Lords "in a very grave speech, declared . . . that His Majesty's pleasure is, that all the residue of the Lords of this House do likewise take the same Oath.[12] . . . This done, the court was adjourned . . . and afterwards the Lords spiritual and temporal did freely and voluntarily take the said Oath

kneeling in the House, in presence of a competent number of Lords of His Majesty's Privy Council". In his speech, the Lord Chancellor used the phrase "to minister the Oath of Allegiance according to the law". Yet, on this and subsequent occasions in 1610, 1614, 1621 and 1628,[13] the Oath was always taken when the House was adjourned, which reduces the significance of a Standing Order passed by the House on 16th February, 1626 (N.S.),[14] though it is the basis of modern practice. It ordered that "all the Lords shall once every Parliament take the Oath of Allegiance"; at the beginning of the next Parliament on 20th March, 1628, "after the House was adjourned these Lords named did take the Oath of Allegiance kneeling at the Lord Keeper's Woolsack", and there follow 63 names.[15]

During the reign of James I, therefore, a new Oath appears, which is called the Oath of Allegiance, though it is not an Oath of Allegiance in the old strict sense of the term. It is rather a Declaration and recognition that James I is lawful King and an abjuration of the claims of the Pope—in other words, it is a political rather than a "feudal" Oath. Moreover, it is an extra-parliamentary Oath, and though the Standing Order of 1626 may refer to it, yet it is not taken in Parliament nor has the failure to take it any parliamentary consequence for the lords.

After the Restoration, as the campaign against popery and the Duke of York warmed up, the Oaths of Supremacy and Allegiance were imposed upon the peers as Members of the House of Lords, and the Declaration against Transubstantiation was added for good measure. By the Popish Recusants Act 1672,[16] peers who were office holders were required to take the two Oaths and the Declaration, but refusal was not to prevent them from sitting in the House. On 30th April, 1675, the House passed a Standing Order[17] to drive this point home: "No Oath shall be imposed by any bill or otherwise upon the Peers with a penalty in case of refusal to lose their places and votes in Parliament or liberty of debates therein." But three years later by the Parliament Act of 1678[18] exactly such a penalty was enacted—that no peer should sit or vote in person or by proxy until he had taken the Oaths and made, subscribed and audibly repeated a fuller Declaration against Transubstantiation and all Roman doctrines. A Standing Order[19] prescribed that the Oaths and Declaration should be taken at the beginning of the sitting, and if any peer was late, he must "withdraw from the debates of the House of Peers for that day".

Essentially the provisions made up to 1678 remain effective now, but their religious content has been so purged that the name "Oath of Allegiance" is a more apt description of the modern Oath than of the seventeenth-century Oaths to which it was first applied (first, that is, on the understanding that the feudal Oath was defunct). The first important change was in 1689. By the Act of 1 Will. & Mar., s. 1, c. 1, which legitimised the revolutionary settlement, the religious

content of the Oath of Allegiance was restricted to the Oath of Supremacy. Since both had to be taken together, the effect on those taking the Oaths was small, but the Oath of Allegiance was brought almost to its modern form: "I A.B. do sincerely promise and swear, That I will be faithful, and bear true Allegiance to Their Majesties King William and Queen Mary: So help me God."

When the Act of Succession[20] was passed in 1701, the Oath of Allegiance was substantially extended and changed to fit the demands of the Hanoverian succession and the exclusion of the Stuarts. The Oath included the condition that the Crown should devolve to named persons "being Protestants" and the anti-Catholic nature of the Oaths remained firm until the nineteenth century, even though their purpose was largely secular and to secure allegiance. The swift secularisation of the Oath of Allegiance really began in 1829 when the Catholic Emancipation Act[21] created an alternative form of Oath for the Catholic who had been unable to take the previous anti-Papal oaths. The intention, therefore, was clearly to secure the allegiance of the subject for the Crown, regardless of his faith, not to require of him particular religious beliefs. In 1858 relief was extended to the Quakers[22] and Jews[23] and one Oath was substituted[22] for the Oaths of Allegiance, Supremacy and Abjuration. The new Oath retained the feature of its predecessors whereby a declaration was made "that no foreign prince, person, prelate, state or potentate hath or ought to have any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within this realm". But in the Parliamentary Oaths Act 1866[24] that sentence vanished, and the Oath was restricted to a declaration of allegiance and a promise to maintain the succession as laid down by the Act of Succession. Two years later in the Promissory Oaths Act,[25] a further and final curtailment was made and the Oath read: "I, A.B. do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors according to law. So help me God." Apart from the divine sanction, the religious content of the Oath had totally disappeared; and after the case of Charles Bradlaugh, the atheist Member of Parliament, the Oaths Act of 1888[26] permitted affirmation to all those who had conscientious objections to swearing an oath.

The modern wording of the Oath, as settled by the Promissory Oaths Act 1868, and of the affirmation permitted by the Oaths Act 1888, now conforms fairly closely to the medieval Oath of Allegiance. The circle is therefore complete: the old Oath of Allegiance which had disappeared was replaced by a series of religious Oaths; but the religious content of those Oaths has been steadily purged away until nothing remains but an Oath of Allegiance very nearly in the ancient form. Only two permanent changes have resulted from this cycle: first, the Commons are required to take the Oath every Parliament, and second, the lords must take it every Parlia-

ment instead of on taking their seats or on the accession of a new Sovereign.

[1] *E.g.*, Selden Soc. 1890, *The Court Baron* (St. Albans Formulary), ed. F. W. Maitland, Vol. IV, p. 104: "Hear this my Lord! I Roger will be faithful and loyal to thee, and faith to thee will bear of the tenement that I hold of thee . . . so help me God and his Saints."

[2] *The Open Field*—C.S. & C.S. Orwin (1938).

[3] *Rot. Parl.* III, p. 525.

[4] 24 July 1455; taken by 60 peers (Spiritual and Temporal): *Rot. Parl.* V, p. 282-3. 11 Dec. 1459; taken by 66 peers (Spiritual and Temporal): *Rot. Parl.* V, p. 351-2.

[5] *House of Lords MSS.*, Vol. X (1712-14).

[6] 1 Eliz. I, c. 1, s. 19.

[7] 5 Eliz. I, c. 1, s. 16.

[8] 5 Eliz. I, c. 1, s. 17.

[9] 3 Jac. I, c. 4.

[10] 7 Jac. I, c. 6.

[11] *L.J.* II, p. 608.

[12] i.e. the Oath contained in 3 Jac. I, c. 4.

[13] *L.J.* II, 609-10, 612, 615, 691; *L.J.* III, 10, 15-16, 692.

[14] *H. of L. MSS.*, Vol. X (1712-14).

[15] *L.J.* III, 692.

[16] First Test Act, 25 Car. II, c. 2.

[17] *H. of L. MSS.*, Vol. X (1712-14).

[18] Second Test Act, 30 Car. II, st. 2.

[19] 19 March 1679 (N.S.), *H. of L. MSS.*, Vol. X (1712-14).

[20] 13 & 14 Will. III, c. 6.

[21] 10 Geo. IV, c. 7.

[22] 21 & 22 Vic., c. 48.

[23] 21 & 22 Vic., c. 48, 49.

[24] 29 & 30 Vic., c. 19.

[25] 31 & 32 Vic., c. 72.

[26] 51 & 52 Vic., c. 46.

XII. CONSTITUTIONAL CHANGES IN GIBRALTAR, 1964

By J. L. Pitaluga
Clerk of the Legislative Council

A new constitution for Gibraltar came into force in August 1964. This was the result of talks held in Gibraltar in April of that year between Lord Lansdowne, then Minister of State for Colonial Affairs, and the unofficial members of the Legislative Council.

The purpose behind the changes in the Constitution was to enable the people of Gibraltar to enjoy fuller control of internal affairs, and this was achieved by making changes in the structure of both the Legislature and the Executive. In the Legislature, the number of elected Members was increased from 7 to 11; the system of nominated Members was abolished; the Permanent Secretary ceased to be a Member of the Council; and the Chief Minister became the Leader of the House and was vested with the direction of Government business.

The Executive Council was re-named "the Gibraltar Council" and now consists of four *ex officio* Members—the Deputy Fortress Commander, the Permanent Secretary, the Attorney-General and the Financial Secretary—and five other Members. Of these five Members, one is the Chief Minister—who is the elected Member of Legislative Council who, in the judgment of the Governor, is most likely to command the greatest measure of confidence among the other elected Members—and the remaining four are appointed by the Governor, after consultation with the Chief Minister, from among the elected Members. The Constitution requires that the Governor shall, so far as is practicable, attend and preside at all meetings of the Council.

Before the enactment of the New Constitution elected Members had been "associated" with Government Departments for some years under an unofficial but very useful arrangement. This system of "association" enabled Members and civil servants to become accustomed to working together. Under the new Constitution the system was formally recognised and Members became Ministers actually responsible for Government Departments. The previous "Council of Members", again an unofficial arrangement providing a convenient forum for the discussion by unofficial members of domestic issues prior to consideration and ratification in full Execu-

tive Council, was converted formally into a Council of Ministers presided over by the Chief Minister. While the Council of Members dealt only with such matters as were referred to it by the Governor, matters now falling within the responsibility of Ministers normally go direct to the Council without such reference and the Council's recommendations on matters of purely domestic concern are as a general rule simply endorsed by the Governor-in-Council.

The Council of Ministers consists of those Ministers who are members of the Gibraltar Council together with such other Ministers as may be designated by the Chief Minister. While Ministers are collectively responsible to the Legislative Council with respect to any matters with which they are charged the general direction and control of the Government are vested in the Gibraltar Council. Thus, when the term "government" is used in relation to the Legislative Council, it denotes, in effect, the elected Members who, in the Legislature, pursue the policies agreed upon in the Gibraltar Council.

In the Legislature the practical effect of the arrangements brought about by the new Constitution has been to create a system of government and opposition from among the elected Members. In the early days of the Legislature "government" consisted, to a large extent, of the official Members, with the elected Members in the minority, acting virtually in the role of opposition. Later, when Members began to be associated with Departments, "government" was a combination of official Members and elected Members, although this did not preclude the Member associated with, say, Education asking the Government a question about housing and then being himself asked a question, as a Member of the Government, by, say, the Member associated with the Medical Services. As a result of the first elections held under the new Constitution, however, six of the elected Members formed a government and the remaining five became the opposition. The two remaining official Members in the Legislature—the Attorney-General and the Financial Secretary—naturally also form part of the government.

The new arrangements in the House have, of course, led to much more lively debates and to more searching and persistent questioning. The consideration of estimates and other financial measures is also, from the point of view of the public, more realistic and interesting than in the days when these matters were thrashed out in a Standing Finance Committee consisting of all the unofficial Members of the Council, which used to meet in private. Generally speaking, the new procedures and the alignment of Members into two distinct groups have led to a very significant increase in the interest shown by the public in the proceedings of the Legislature and a crowded public gallery is now a regular feature at all meetings.

On the whole the new constitutional arrangements have been welcomed by most people in Gibraltar. Not only do they represent the fulfilment of local aspirations towards self-government but they

have increased the importance and interest of the Legislature in the public eye. From the point of view of the machinery of government, a larger measure of efficiency and rationalisation has been achieved by having a Council of Ministers with collective responsibility in the place of the former Council of Members, which gave perhaps too great a scope for individualism, not only in politics generally but also within the "cabinet" itself.

Perhaps the most surprising result of the new constitutional arrangements has been the effect they have produced on the Spanish Government. In 1963 the Committee of twenty-four of the United Nations—the body charged with applying the declaration on the granting of independence to colonial countries—turned its attention to Gibraltar. Spain took the opportunity to raise once again its claim for the return of Gibraltar. This was vigorously opposed by two elected Members from Gibraltar who appeared before the Committee and informed them that the people of Gibraltar were not being oppressed by colonial rule, that they had achieved a very large measure of internal self-government and that proposals for further constitutional advance were under consideration. They suggested that there was no need for the Committee to concern itself any further with Gibraltar and added that, much as they liked the Spanish people and wished to remain on friendly terms with them, they would rather continue being British subjects running their own internal affairs. The debate on Gibraltar was then adjourned until 1964.

When the new constitutional arrangements were announced in 1964, representing a significant—indeed probably the final—advance towards internal self-government in Gibraltar (Britain remaining responsible for foreign affairs and defence) the Chairman of the Committee received a letter from the Spanish Government—a remarkable letter in the circumstances—objecting to the constitutional changes which had been made. When the debate was resumed in September the Spaniards reiterated that they objected to the grant of wider powers to the local politicians because, they said, the Spanish Government, as an interested party, had not been consulted, although they had, in fact, been given, even before the Lansdowne talks were held in Gibraltar, an indication of the changes that were likely to be made. They went on to say that if any further constitutional developments took place in Gibraltar they would regard them as a breach of the Treaty of Utrecht, would no longer consider themselves bound by its provisions and would cut off all communications with Gibraltar if the British did not at once leave the Rock. (The treaty provides that if Britain at any time wishes to "alienate the propriety of the town of Gibraltar" then Spain should have the first choice to take over.)

No further constitutional changes have taken place in Gibraltar since then, nor are any such changes likely, in the sense of seeking a greater devolution of power to the local government, since political

aspirations in regard to internal self-government are generally satisfied with the present arrangements. Any further constitutional developments that may take place in the future will probably have as their objective only the further strengthening and clarification of the relationship between Britain and Gibraltar.

It has been stated quite clearly that Britain—and not the local population—will retain sovereignty over Gibraltar, and that therefore the " propriety " of the town will not be " alienated ". Nevertheless, the Spanish Government has already gone a long way towards cutting off communications with Gibraltar by causing excessive and unreasonable delays to vehicular traffic crossing the frontier. The restrictions on this traffic, which formerly included thousands of tourist cars, are affecting Gibraltar's tourist and trading economy and remedial measures are being taken for reorientating and developing the economy in other ways.

At a meeting of the Legislature held in February the Opposition tabled a motion calling upon the House to resolve that the public interest demanded the formation of a coalition government. The Government would not go as far as this, but proposed an amendment suggesting that discussions be held as to the ways in which a coalition might be formed. This was unanimously accepted and after a number of discussions a coalition was formed early in July.

It is perhaps appropriate that the most serious manifestation of the Spanish claim for the return of Gibraltar for many years should have arisen from a constitutional issue—for it is precisely on the differences between a free constitution based on the system of parliamentary democracy and the totalitarian regime of Spain that the Gibraltarians' refusal to have any political association whatsoever with Spain is based.

XIII. THE INDEPENDENT STATE OF MALTA

By J. Said Pullicino
Clerk of the House of Representatives

Malta became an independent State and a full Member of the Commonwealth on 21st September, 1964.

The Constitutional development of Malta has been very irregular and Constitutions were granted or withdrawn by the British Government whenever the Secretary of State considered it advisable to do so. Since 1921 Malta has had no fewer than five Constitutions all made to suit the Government of the day. None of them was accepted by the Maltese without protest and the claim of the people had always been for complete self-government. It is true that at one time there was a move, which almost succeeded, to integrate Malta with Britain, but this move met with considerable opposition from the Maltese and it was finally dropped.

Following protracted negotiations, voluminous correspondence and conferences, the British Government finally announced that Malta would become independent not later than 31st May, 1964. It was later found that this target date could not be met. On 21st July, 1964, Mr. Duncan Sandys, the Secretary of State for Commonwealth Relations and for the Colonies, stated in the House of Commons (*Hansard*, Vol. 699, c. 277-81) that he had reached agreement with the Malta Government on the form of Malta's future Constitution and that agreements on financial aid and defence were initialled that day.

The new Constitution proposed by the Government was made the object of a referendum which resulted in the approval of the text as proposed.

The Constitutional instruments were handed to the Prime Minister, the Hon. Dr. Giorgio Borg Olivier, by His Royal Highness the Duke of Edinburgh, at a special ceremony in the independence arena on the morning of 22nd September, 1964.

The Malta Independence Act was enacted by the Queen on 31st July, 1964, and the Malta Independence Order, which is the instrument actually incorporating the Constitution of Malta, was made by the Queen on 2nd September, 1964. Both these instruments came into operation on 21st September, 1964.

After defining the territories comprising the State of Malta, the

Constitution establishes the Roman Catholic Apostolic Religion as the religion of the land. The Maltese language, which is the language of the Courts, is the national language.

The Constitution provides for a Governor-General appointed by the Queen and a House of Representatives of fifty Members elected under the system of proportional representation by means of a single transferable vote. The Speaker may be elected either from among Members of the House or from among persons who are not Members of the House and are qualified for election as Members thereof. Elections on the basis of universal suffrage are to be held at intervals of not more than five years. A Cabinet headed by the Prime Minister controls and directs the Maltese Government and is collectively responsible to Parliament. The executive authority of Malta is vested in the British Crown. This Constitution provides for Maltese citizenship and a Bill of Rights which is enforceable by a Constitutional Court. It sets up certain independent bodies such as an Electoral Commission, a Public Service Commission, and a Broadcasting Authority. It secures the independence of the judiciary and of certain officers and authorities requiring freedom from political control for the proper discharge of their duties.

In virtue of s. 7 of the Malta Independence Order, 1964, "the Legislative Assembly established under the 1961 Order shall be the House of Representatives of Malta during the period beginning on the appointed day (21st September, 1964) and ending with the first dissolution of Parliament . . ." Because of this provision no elections were held under the new Constitution but, unless sooner dissolved, Parliament shall stand dissolved on 26th April, 1966.

The Duke of Edinburgh, as the Queen's Special Representative, formally opened the first Parliament of Malta on 23rd September, 1964. This ceremony, which was attended by fifty delegations from Commonwealth and foreign countries, was held in the historic Hall of St. Michael and St. George with the splendour and solemnity befitting such an occasion.

Since then Malta has become a Member of the United Nations and a Member of the Council of Europe and Mr. Philip Pullicino, ex-Clerk of the National Assembly, Uganda, and a Member of the Society, has been appointed Permanent Representative of Malta to the Council of Europe.

XIV. REVISION OF PROCEDURE AND STANDING ORDERS

Answers to Questionnaire

The questionnaire for Volume XXXIII asked the following questions:

(*a*) What permanent machinery exists for reviewing procedure and Standing Orders? How does it operate? (Please give full details and cite recent examples.)

(*b*) If there is no permanent machinery, how is revision set in motion? Please cite recent successful or unsuccessful examples.

The answers can be divided into two categories. The first is where a legislature has a committee set up each session which is charged with the duty of keeping the Standing Orders up to date and examining matters of procedure from time to time as the need arises. The second category is that in which there is no permanent committee but a select committee or some other body is set up from time to time when a specific (major) need arises, or which is convened *ad-hoc* purely for the purpose of re-examining and bringing up to date the Standing Orders and rules of procedure of that legislature.

This division begins in England where the two Houses of Parliament fall into two different categories (even though recently in the House of Commons, although their Committee on Procedure is not a sessional one, the pressures for reform have been such that it has tended to meet most sessions) and continues throughout the Commonwealth, although the most common reply indicates a kind of Standing Orders Committee; often in abeyance. The answers were as follows:

United Kingdom: House of Lords

Early in each session a Select Committee of the House of Lords is set up "to consider any proposals for alterations in the procedure of this House which may arise from time to time, and whether the Standing Orders do or do not require to be altered, to effect such alterations: to whom leave was given to report from time to time to the House". This was not the practice until the Second World War, but since 1940 this Select Committee has been set up each

year and has issued reports as necessary. In recent years they have met more frequently, and in 1964 for example, they issued four reports. (H.L., 1963-4, 83, 137, 188, H.L., 1964-5, 16.)

In practice, when some procedural point emerges, either in debate or upon consideration of some bill in the House, or in discussions between the "usual channels", it is referred to the Procedure Committee. It also has referred to it any matter on which the Clerk of the Parliaments feels he needs directions. A recent example of this was when a new edition of *The Companion to the Standing Orders and Guide to the Proceedings of the House of Lords 1963* was being considered in proof. The Procedure Committee at this time considered the whole book and made a number of alterations in cases in which they felt that either current practice had been incompletely described, or where they felt that some indication was needed on matters which the Clerk Assistant (who had been in charge of the compilation) had overlooked. (See First Report from the Select Committee on Procedure, H.L., 1963-4, 20.)

The reference of any matter to the Procedure Committee by no means always leads to some change of procedure; nor for that matter, does the House always accept their Committees' reports. A recent example of this concerned Hybrid Special Orders, on which the House, on a division, referred the matter back to the Committee. (*Lords Hans.*, Vol. 268, cc. 249-294.) In some cases when a group of peers, or even one particular peer, have strong views on some matter and this is referred to the Procedure Committee, it is thrashed out (sometimes at more than one meeting), and the majority view is reported to the House. An example of this latterly was a movement amongst some peers of "modernising" bent to shorten the historic ceremony of Introduction of a new peer, dating back unaltered to the reign of James I, which takes some twelve minutes in the case of each new peer. This proposal was considered by the Procedure Committee but did not find favour with a majority there. No action was taken to alter this ceremony (see H.L. Paper, 1964-5, 16).

United Kingdom: House of Commons

When it appears that the procedure of the House, or some aspects of it, may require amending, it is usual for a select Committee to be appointed to examine the matter. The recent practice of appointing a sort of "standing" select Committee on Procedure was discussed on pages 35-8 of Volume XXXII of THE TABLE. Major changes in the Standing Orders occur only at intervals of several years. Minor changes are made fairly frequently—in session 1959-60, for example, the Standing Orders were amended on four occasions.

If such a Committee makes positive recommendations, time is usually found for the House to consider them; and if they are agreed to, in whole or in part by the House, the House resolves the appropriate alterations in the Standing Order. The last instance was on

1st August, 1963, when the House ordered " That the Amendments to the Standing Orders of this House relating to Public Business and the new Standing Order recommended by the Select Committee [on Standing Orders (Revision)] in their Report and stated in the Appendix thereto be made, subject to the following modifications. . . ." These particular amendments did no more than bring the Standing Orders into conformity with the existing practice of the House. More usually, perhaps, the Government put forward in a motion such of a Committee's recommendations as they are happy to accept, without direct reference in the motion to the Committee's report.

While Resolutions making or amending Standing Orders are, therefore, usually founded on the recommendations of Select Committees, it is always open to any Member to move the House to amend Standing Orders without any preliminary Committee enquiry, and to the House to agree to such a motion. It also is possible for the House to modify its procedure by passing Resolutions, which do not enter into its Standing Orders.

Northern Ireland

No permanent machinery exists to review procedure or standing orders. When some change is considered necessary, an *ad hoc* Select Committee is appointed.

Isle of Man

Tynwald: The Standing Orders Committee of Tynwald undertakes a review as occasion demands in terms of Standing Order 4 (2) (b). Examples are the introduction about ten years ago of the Standing Orders relating to Petitions for Redress (Standing Orders 137-45) determining procedure in the exercise of an ancient right of the freemen of Man at Tynwald Hill and the revision in 1961 leading to the current issue.

House of Keys: Standing Order 39 establishes the duty of the Standing Orders Committee to review the Standing Orders from time to time and to make recommendations to the House for any amendment thereof. A comprehensive revision by this Committee was carried out in 1963.

The Legislature considers changes which are submitted by the Committees and which are not operative until sanctioned by Tynwald or the Keys as the case may be.

Jersey

No permanent machinery exists for revising procedure and Standing Orders and, at the present time, as the need for a Standing Order, or the revision of an existing Order, becomes apparent, the draft Order is submitted to the States by the Committee directly concerned or, if the matter is of a general character, by the Legislation Committee.

Canada: Senate

No permanent machinery exists to review procedure and Rules of the Senate. The last revision was undertaken by a Special Committee appointed to consider and revise and, if necessary, to add to the Rules, Orders, and Forms of Proceedings of the Senate. (*Senate Journals*, Vol. XL, p. 32, 18th January, 1905.) The revision was completed and adopted in 1906. The Rules have been edited from time to time but never revised since that date. The Forms of Proceedings are presently being edited.

Canada: Ontario Legislative Assembly

No revision of procedure has been undertaken in recent years.

British Columbia

There is no permanent standing body charged with the oversight of Standing Orders, but they can be amended by motion in the House at any time.

Nova Scotia

There is no permanent committee to review procedure. An *ad hoc* committee was set up in 1955 to revise the rules and reported.

New Brunswick

The Standing Orders were revised in 1962-3 by a Select Committee. There is no permanent committee charged with this duty.

Saskatchewan

Revisions and amendments to Standing Orders are made by a committee appointed for the purpose. The last revision, which took place in 1957, was initiated by the following motion:

> "That a Select Special Committee be appointed to consider with Mr. Speaker the Standing Orders and Procedures of this Assembly for the purpose of suggesting any changes therein which may be desirable to assure the more expeditious dispatch of public business, with instructions that it have power to send for persons and papers and to report from time to time its findings and recommendations to the Assembly. . . ."

The report of this committee was considered in a Committee of the Whole in which a concurrence resolution was adopted, reported to the Assembly, and agreed to.

A similar procedure was followed in 1963 in order to effect an amendment to a specific Standing Order with the exception that the committee's report was not referred to a Committee of the Whole, but concurred in by the Assembly on presentation. (See *The Table*, Volume XXXII, 1963, page 151.)

Australia: Senate

Senate Standing Order No. 33 provides:

A Standing Orders Committee, to consist of the President and Chairman of Committees and seven Senators, shall be appointed at the commencement of each Session, with power to act during Recess and to confer with a similar Committee of the House of Representatives.

This Committee meets as required and may report any recommendations for amendment of the Standing Orders to the Senate. Any alterations must be agreed to by the Senate.

Australia: House of Representatives

The permanent machinery for reviewing procedure and standing orders is provided by standing order 25 in the following terms:

A Standing Orders Committee, to consist of the Speaker, the Chairman of Committees, the Leader of the House, the Deputy Leader of the Opposition, and seven other Members, shall be appointed at the commencement of each Parliament, and such Committee shall have power to act during recess, and to confer with a similar committee of the Senate.

Prior to 1960, meetings of this Committee had been rather spasmodic, despite the efforts of some Members to obtain more frequent meetings.

During the debate in 1963 when the House adopted the major alterations to the Standing Orders* recommended by the Committee in a Report which was presented in 1962 and which gave effect to its deliberations commencing in 1960, the Leader of the House (Rt. Hon. A. E. Holt) suggested that it would be desirable for the Committee to meet every year to consider (*a*) changes which events of the preceding year had shown to be necessary and (*b*) proposals placed before the Committee by honourable Members.

The suggestion proved to be a popular one and the Committee met later in 1963 and again in September 1964. A further Report was submitted to the House on 21st October, 1964† and adopted after debate, on 31st March, 1965.‡

New South Wales: Legislative Council

The review and amendment of procedure and Standing Rules and Orders of the House is the province of the Standing Orders Committee (a Sessional Committee), appointed each Session under Standing Order No. 280 by Motion pursuant to Notice, which reads:

That the Standing Orders Committee for the present Session consist of the following Members, viz.: . . . with leave to sit during any adjournment and authority to confer upon subjects of mutual concernment with any Committee appointed for similar purposes by the Legislative Assembly.

* THE TABLE, Vol. XXXI for 1962, pp. 85-7, and Vol. XXXII for 1963, pp. 151-2.

† *V. & P.* No. 54, 21st October, 1964, p. 191. Parl. Paper No. 129 of 1964.

‡ *V. & P.* No. 73, 31st March, 1965, p. 266. *Hans. H. of R.* 31st March, 1965, pp. 477-500.

The Committee usually consists of ten members including a Minister and the President who is Chairman *ex officio*.

The power to make standing orders is contained in Sec. 15 of the Constitution Act, 1902:

(1) The Legislative Council and Legislative Assembly shall, as there may be occasion, prepare and adopt respectively Standing Rules and Orders regulating—

(*a*) the orderly conduct of such Council and Assembly respectively; and
(*b*) the manner in which such Council and Assembly shall be presided over in case of the absence of the President or the Speaker; and
(*c*) the mode in which such Council and Assembly shall confer, correspond, and communicate with each other relatively to Votes or Bills passed by, or pending in, such Council and Assembly respectively; and
(*d*) the manner in which Notices of Bills, Resolutions, and other business intended to be submitted to such Council and Assembly respectively at any Session thereof may be published for general information; and
(*e*) the proper passing, entitling, and numbering of the Bills to be introduced into and passed by the said Council and Assembly; and
(*f*) the proper presentation of the same to the Governor for His Majesty's assent.

(2) Such Rules and Orders shall by such Council and Assembly respectively be laid before the Governor, and being by him approved shall become binding and of force.

It was expressly stated in Clayton *v.* The Attorney-General for New South Wales (*A.L.J.*, Vol. 34, No. 8, Dec. 29, 1960, p. 383) that (the Act) does not make them part of the general law, and Barton *v.* Taylor (1886), *11 A.C.* 197, and other cases have established that "the *lex et consuetudo parliamenti* was not inhererited by Colonial Legislatures and that the powers incident to or inherent to such legislatures were those necessary to its existence and proper functioning as a legislature. These incidental or inherent powers lie in implied grant founded on necessity" (*ibid.*, p. 203). The Standing Orders are accordingly limited in application.

When it is desired to review or amend Standing Orders the procedure is by Motion, pursuant to Notice, That (the question) be referred to the Standing Orders Committee for consideration and report (*Legislative Council Journal*, 1895, Vol. 54, p. 92). The complete review of Standing Rules and Orders of 1895 was initiated by the following Motion:

That it be referred to the Standing Orders Committee to consider the desirability of revising the Standing Rules and Orders of this House and, if necessary, to frame a new code for submission to the Council. (*Leg. Council Journal*, 1894-95, Vol. 53, p. 141.)

The Committee then meet and finally report their findings to the House and the report is printed. The next step is to refer the report for consideration to the Committee of the Whole. This may be done immediately *by consent* (*L.C.J.*, 1909, Vol. 74, p. 102), or Notice of Motion may be given for a subsequent day (*L.C.J.*, 1922 (2), Vol. 94, p. 36). The Committee of the Whole makes its report and the

amended or new Standing Order may be agreed to and adopted by the House and, if so, the President authorised to present it to the Governor for approval (*L.C.J.*, 1927, Vol. 103, p. 41). When the Governor's approval has been reported (*ibid.*, p. 56), the amended or new Standing Order becomes " binding and of force " within the meaning of the Act.

In the case of Standing Orders that affect dealings between this House and the Legislative Assembly, it is customary after an amendment has been made or a new Standing Order adopted to send a message to the other House inviting it to adopt a similar Standing Order. In 1912 such a message was sent to the Assembly in reference to the new Council Standing Order No. 281 (*L.C.J.*, 1912, Vol. 79, p. 41), and in 1938 a similar message was received from the Assembly in reference to the further amendment of the same Standing Order (*L.C.J.*, 1938-39-40, Vol. 118, p. 54). Consideration of the Assembly's message in Committee of the Whole was made an Order of the Day and Council Standing Order No. 281 amended accordingly, a message sent to that effect to the Assembly and the amended Standing Order presented to the Governor for his approval.

However, such a message from one House to the other is an invitation only.

In 1964 a message was received from the Assembly forwarding a copy of their amended Standing Order No. 57 and inviting the Council to adopt a similar amendment. The message was reported and read by the President (*L.C.J.*, 1962-63-64, Vol. 149, p. 494), but so far (April 1965) no further action has been taken.

More recently in the amendment of Standing Orders, the Standing Orders Committee has been by-passed and the entire matter dealt with by the House. This method was used in 1931 when Standing Order No. 264 was amended in the House without reference either to the Standing Orders Committee or to the Committee of the Whole. This procedure has been followed consistently ever since (*L.C.J.*, 1930-31-32, Vol. 107, pp. 416-7; 1934-35, Vol. 112, pp. 15-16, 26, 94, 210, 353; 1945-46, Vol. 126, p. 142; 1950-51-52, Vol. 133, p. 81). In some of these cases the consideration of the proposed amendment by the Standing Orders Committee or by the Committee of the Whole has been replaced by the submission of the suggested alterations to various members before the Motion came before the House, as was done in 1946 when the Minister, in proposing the amendment of Standing Order No. 7 and new Standing Order No. 8A, said:

> The matter has received very careful consideration at the hands of the Government and of you, yourself, Mr. President. The Hon. Sir Henry Manning (Principal Representative of those Members who are not supporters of the Government) has also had an opportunity of considering the proposed amendment. (*Parliamentary Debates*, Vol. 180, p. 3085.)

Though appointed every Session, the Standing Orders Committee has not met since 1927.

New South Wales: Legislative Assembly

The Standing Orders Committee is appointed at the beginning of each Session. Any consideration or amendments of the Standing Orders are referred normally to the Committee, although amendments to the Standing Orders have on occasions been agreed to on a motion moved in the House.

The whole of the Standing Orders were referred last to the Committee in September 1962, and its Report to the House was presented in February 1964. Although the Committee carefully considered all the Standing Orders, most of those recommendations which were eventually made (all of which were agreed to by the House) were of a minor nature.

Probably the two amendments most interesting to Members were firstly, to Standing Order No. 57, which now provides that Papers tabled may be inspected by Members and by any other person "unless otherwise ordered by the Speaker". Previously, papers tabled could be inspected by any person so desiring. Secondly, the amendment to Standing Order No. 79, which now has had added to it "Provided further that no supplementary questions may be asked". The reason for this was that too often questions were asked which were ruled out of order as not being a true supplementary one, and resulted in considerable waste of time in the forty-five minutes of time allotted to questions without notice.

South Australia: Legislative Council

A Standing Orders Committee is appointed each Session to which any matter concerning procedure and Standing Orders can be referred as requested. A recent example was when, on 24th October, 1957, the Attorney-General asked the President to call the Committee together to consider difficulties being experienced in respect of Instructions to the Committee of the House on Bills (*Hansard*, 1957, p. 1286).

On 12th November, 1958, the President brought up the report of the Standing Orders Committee (*Minutes of Proceedings*, 1958, p. 125, and *Hansard*, p. 1661).

On 2nd December, 1959, the Hon. K. E. J. Bardolph asked a question of the President as under:

> During the recess will you, Mr. President, call the Standing Orders Committee together for the purpose of reviewing Standing Orders with a view to consolidating them?

The President replied (*Hansard*, p. 1973):

> Certainly there are Standing Orders that require looking into and I propose to call the committee together during the recess to see what alterations, if any, should be made.

The President tabled the Report of the Standing Orders Committee on 24th October, 1961 (*Hansard*, p. 1428), together with a schedule of suggested amendments to the Standing Orders. The Report was ordered to be printed and is Parliamentary Paper No. 82 of 1961.

The Report of the Standing Orders Committee was adopted on 31st October, 1961 (*Hansard*, pp. 1616 and 1617), and the Governor approved the alterations on 16th November, 1961.

South Australia: House of Assembly

In pursuance of House of Assembly Standing Order No. 404, on the first day of each Session, a Standing Orders Committee is appointed consisting of the Speaker and three Members. The members of the Committee, apart from the Speaker, are nominated by the mover in the House, but if any one Member so demand they shall be elected by ballot. The Committee has power to act during the recess and when necessary to confer or sit as a Joint Committee with a similar committee of the Legislative Council; and may report to the House from time to time. The quorum of the Committee, unless otherwise ordered by the House, is three members.

In practice, the Committee operates on the authority of a resolution of the House or on its own initiative. On occasions, matters of a procedural character raised in the House by way of question or in the course of debate are subsequently considered by the Standing Orders Committee.

Without any direction from the House, comprehensive reviews of the Standing Orders were undertaken by the Standing Orders Committee in 1939 and 1963. As a result of the 1939 report, extensive alterations to the Standing Orders were effected by the House.

In 1963 the Speaker tabled a report made by the Clerk of the House of Assembly on some aspects of House of Commons (Westminster) procedure, together with certain recommendations in relation to the procedure of the House of Assembly, South Australia. The Standing Orders Committee gave careful consideration to the Clerk's report and recommendations, and in 1964 submitted a report (based largely on the Clerk's report) to the House, suggesting a number of variations to Standing Orders.

The 1964 Report recommended 26 amendments, 18 new standing orders and the repeal of 15 existing standing orders. In the setting up of the printed report, the words to be retained in any standing order which it was proposed to amend were in ordinary type, words proposed to be omitted were shown in italic type, and words proposed to be inserted were indicated in bold type. A feature of this report which was novel for South Australia was the brief explanation shown opposite each proposed amendment to assist in a ready understanding of the implications of the changes. The adoption of this Report of the Standing Orders Committee was under consideration by the House of Assembly on 27th July, 1965, and in view of the com-

position of the Standing Orders Committee, and the unanimity of this report, it is anticipated the House will agree to the proposed amendments to the Standing Orders.

Recommendations made by the Standing Orders Committee during the last quarter of a century, apart from those contained in the major reports of 1939 and 1964, have dealt with certain oral answers to questions, and factual tables referred to in debate being inserted in the Official Report (*Hansard*) without being read (1952), Parliament opened by the Sovereign (1954) and the Mace (1957). Each of these recommendations was adopted by the House.

The power of the House to prepare and adopt such Standing Rules and Orders as appear to the Assembly best adapted for the regulation of its proceedings and the dispatch of business therein is expressly conferred by section 55 of the Constitution Act. The same section provides also that such rules and orders must be laid before the Governor and "being by him approved, shall become binding and of force".

Queensland: Legislative Assembly

Section 8 of the Constitution Acts provides that the Legislative Assembly from time to time hereafter as there may be occasion shall prepare and adopt such standing rules and orders as shall appear to the said Assembly best adapted—

for the orderly conduct of such Assembly and
for the manner in which such Assembly shall be presided over in case of the absence of the Speaker and
for the manner in which notices of Bills resolutions and other business intended to be submitted to such assembly at any session thereof may be published for general information and
for the proper passing, entitling and numbering of the Bills to be introduced into and passed by the said Assembly and
for the proper presentation of the same to the Governor for Her Majesty's assent.

All of which rules and orders shall by such Assembly be laid before the Governor and being by him approved shall become binding and of force.

Standing Order No. 22 provides that a Committee consisting of six members, in addition to Mr. Speaker, who shall be a member *ex officio*, to be called the Standing Orders Committee, shall be appointed at the commencement of every Parliament, and the functions of such Committee shall not cease until their successors are appointed. Four members including Mr. Speaker shall form a quorum. A vacancy in the Committee shall be filled whenever Parliament is apprised thereof. The Standing Orders Committee shall prescribe the arrangements for the opening of Parliament,

which arrangements it shall be the duty of the Sergeant-at-Arms to carry into effect under the direction of Mr. Speaker.

At any time Mr. Speaker can call a meeting of the Committee to consider a review of the Standing Orders or any suggested amendments or new rules or Standing Orders.

Mr. Speaker is Chairman of the Standing Orders Committee.

The Clerk of the Parliament acts as Secretary to the Committee.

If the Amendments are agreed to by the Committee a Report is prepared embodying the amendments and the Premier, on behalf of the Chairman, presents the Report to Parliament and it is ordered to be printed.

After allowing Members a reasonable time to study the Report, the Premier gives notice that he will move the following Motion:

That the House will, this day, resolve itself into a Committee of the Whole to consider the proposed Amendments to the Standing Orders as recommended by the Standing Orders Committee.

On the day appointed the House resolves itself into a Committee of the Whole to consider the Amendments. The Amendments having been agreed to, the Chairman makes his report to the House. The report is adopted by the House. On the motion of the Premier the House agrees that the Amendments to the Standing Orders be presented to His Excellency the Governor, by Mr. Speaker, for His Excellency's approval.

Mr. Speaker informs the House that he has presented the Amendments to the Governor and that His Excellency was pleased, in his presence, to approve the same.

Victoria: Legislative Council

A Sessional Committee entitled the Standing Orders Committee exists to review procedure, but there have been no recent examples of it at work.

Western Australia: Legislative Council and Assembly

The Western Australian Constitution Act, 1889, passed just prior to the establishment of Responsible Government in 1890, provided in section 34:

The Legislative Council and Legislative Assembly, in their first session, and from time to time afterwards, as there shall be occasion, shall each adopt Standing Rules and Orders, joint as well as otherwise, for the regulation and orderly conduct of their proceedings and the despatch of business, and for the manner in which the said Council and Assembly shall be presided over in the absence of the President or Speaker, and for the mode in which the said Council and Assembly shall confer, correspond and communicate with each other, and for the passing, intituling, and numbering of Bills, and for the presentation of the same to the Governor for Her Majesty's assent; and all such Rules and Orders shall by the said Council and Assembly respectively be laid before the Governor, and being by him approved shall become binding and of force.

The original Standing Orders of each House, and the Joint Standing Orders relating to procedure on Private Bills, and those relating to the presentation of Bills passed, were approved by the Governor in February 1891.

At the commencement of each session of Parliament, each House appoints its own Standing Orders Committee, consisting of five members, including its Presiding Officer and its Chairman of Committees.

Whenever it is felt necessary that the Standing Orders of either House need amendment, the Standing Orders Committee of the House concerned meets and drafts the necessary amendments for recommendation to its House.

Should amendments to the Joint Standing Orders be necessary, the two Committees, sitting as a joint body would submit their recommendations to both Houses for approval. The last occasion this occurred was in 1930.

Recommendations from a Standing Orders Committee are presented to the House concerned by its Chairman of Committees. They are received, ordered to be printed, and considered at a later sitting. Upon consideration, the proposed amendments can be passed, amended, or rejected by the House. In the Council the proposals are considered in Committee of the Whole House, and the final report is adopted by the Council. In the Assembly the proposals are considered in the House, with the Speaker in the chair, and the Chairman of Committees in charge of the amendments.

All amendments passed by either House to its Standing Orders, or by both Houses to the Joint Standing Orders, must first be approved by the Governor before coming into force.

The last occasion on which the Standing Orders of the Legislative Council were amended was on 8th November, 1961 (see Minutes of that date, p. 173). The Legislative Assembly Standing Orders have not been amended since 3rd December, 1954 (see *Votes & Proceedings* of that date, p. 416).

Tasmania: Legislative Council

The Standing Orders Committee of the Legislative Council reviews procedure and Standing Orders under S.O. 227. It meets only when necessary. The Council appoints this Committee at the beginning of each Parliament. It consists of the President, the Chairman and two Deputy Chairmen of Committees, the Leader and Deputy Leader for the Government in the Council, and one other member, seven in all.

The Report of this Committee is submitted to the Council, which considers it and decides whether to adopt any recommendations which may have been made.

There are no recent examples of the operation of this Committee.

Standing Orders as a whole were revised and extensively amended in 1957 for the first time since 1926.

On 18th November, 1964, the Council resolved that the Standing Orders Committee should meet to consider the granting of "pairs" for divisions of the Council, in what circumstances these should be allowed, and how they are to be arranged. No such meeting has so far been held and as in the Council of nineteen members there are fourteen Independents, it seems impracticable to arrange formal "pairing".

New Zealand

No permanent procedure exists for reviewing procedure and Standing Orders, but whenever the need for an amendment or change in the procedure arises the problem is met in one of two ways. If the amendment is a minor one, a Notice of Motion is given by the Prime Minister after consultation with the Leader of the Opposition and the Motion is agreed to by the House and the change incorporated in the Standing Orders. If a general revision is contemplated, as was the case in 1962, a Select Committee is set up known as the Standing Orders Committee and empowered to sit during the recess and report back to the House during the next session. In 1962 the present Government incorporated a plank in its platform indicating that if returned to power they would streamline the procedure of Parliament, enlarge the rights of Private Members, reduce the speaking times, and generally make such changes as might facilitate the business of Parliament.

Ceylon: Senate

At the commencement of each Session, a Committee, designated the Standing Orders Committee consisting of the President as Chairman, the Deputy President, and three other Senators nominated by the Senate, is elected. It is the duty of the Committee to consider from time to time and to report on all matters relating to the Standing Orders which may be referred to them by the Senate (Standing Order 114).

Revision of Standing Orders is set about by notice of a motion for the amendment of Standing Orders. The notice is accompanied by a draft of the proposed amendments and the motion when proposed and seconded will stand referred without any question being proposed thereon to the Standing Orders Committee and no further proceedings are taken on such motion until the Standing Orders Committee has reported thereon (Standing Order 116).

The report of the Committee when presented to the House is considered and accepted with or without amendment or rejected.

In 1960 Standing Order No. 12 was amended consequent on the passing of the Official Language Act, No. 33 of 1956, declaring

Sinhala to be the Official Language. The original Standing Order and the amended Standing Order are as follows:

Original:

The business of the Senate shall be conducted in English but any member, the consent of the President first being obtained, may address the Senate in Sinhalese or Tamil and any such speech shall be recorded in *Hansard* in the language in which it was spoken.

Amended:

The business of the Senate shall be conducted in English but any member may address the Senate in English or Tamil and any such speech shall be recorded in *Hansard* in the language in which it was spoken. It shall be the duty of the President to make suitable arrangements for those members who do not understand Sinhala.

The arrangements referred to in the amended Standing Order is the simultaneous interpretation of all speeches from the floor language to the other two languages.

India: Rajya Sabha

Rule 216 of the Rules of Procedure and Conduct of Business in the Rajya Sabha provides for the constitution of a Committee on Rules to consider matters of procedure and conduct of business in the Rajya Sabha and to recommend any amendments or additions to these rules that may be deemed necessary. The Committee, consisting of fifteen members, is nominated by the Chairman of the Rajya Sabha and holds office until a new Committee is nominated. The report of the Committee containing its recommendations is laid on the Table of the Rajya Sabha and thereafter a motion for its consideration is moved by a member of the Committee designated by the Chairman of the Rajya Sabha. Any member may give notice of amendment to the motion for consideration of the report. After the motion for consideration of the report has been carried, any member of the Committee designated by the Chairman may move that the Rajya Sabha agree, or agree with the amendment, with the recommendations contained in the report. The amendments to the rules as approved by the Rajya Sabha shall come into force on such date as the Chairman of the Rajya Sabha may appoint.

India: Lok Sabha

There is a Rules Committee in Lok Sabha to consider matters of procedure and conduct of business in the House and to recommend any amendments or additions to the Rules that may be deemed necessary (Rule 329 of Rules of Procedure).

There has been no recent instance of a review of the Rules of Procedure.

India: Andhra Pradesh

No permanent machinery exists to review procedure or standing orders.

India: Maharashtra

Rules 208 to 210 of the Maharashtra Legislative Assembly Rules and Rules 198 to 200 of the Maharashtra Legislative Council Rules provide for a permanent machinery for amending the Rules. A Rules committee for each House is constituted and it scrutinises all suggestions and amendments to Rules received from the Members and the Legislature Secretariat. The process is a continuous one and the Committee works throughout the year.

Suggestions for amendment of Rules are generally received from Members and sometimes such suggestions are also made by the Legislature Secretariat. All such suggestions are placed before the Rules Committee for its consideration.

The Committee, thereafter, makes a report containing its recommendations on the suggestions so made. The Members of the House may, thereafter, give notices of amendments to such recommendations within seven days of the presentation of the Report of the Committee. The Committee considers such amendments and makes such changes in its original recommendations as it deems fit. Thereafter, the final report of the Committee is laid on the table of the House. After the House agrees with the amendments recommended by the Committee, on a motion made by a member of the Committee, they are published in the official *Gazette*, under the direction of the Speaker.

If, however, no notices of amendments to the original recommendations of the Committee are received within seven days, the recommendations of the Committee are deemed to have been approved by the House. Thereafter, the amendments recommended by the Committee are published in the official *Gazette*.

If the amendments or suggestions involve matters of dispute or difficulty, they are generally sought to be resolved by informal discussions with the Leader of the House and the Leaders of the political parties. Already the rules committee is seized of a number of suggestions or amendments, some of which were discussed informally with the Leader of the House.

India: Rajasthan

Under the Rules of Procedure and Conduct of Business in the Rajasthan Legislative Assembly, the Committee of Rules is nominated by the Speaker consisting of ten members including Chairman of the Committee. The Speaker is the *ex-officio* Chairman of this Committee. The functions of the Committee are to consider matters of procedure and conduct of business in the House and to recommend

any amendments or additions to the rules that may be deemed necessary.

India: Madras: Legislative Council

Though there is no permanent machinery for revising the procedure or Standing Orders, there is provision in the rules of procedure for revising the rules. Chapter XX of the Madras Legislative Council Rules provides that any Member can give notice of a motion for leave to amend the rules and the notice shall be accompanied by a draft of the proposed amendments. This notice should be given at least ten days in advance. When the motion is included in the Agenda for the day, the Chairman shall read the draft amendments and ask whether the Member has the leave of the House. If objection is taken, if at least ten Members of the House support the motion, leave of the Council will be granted. If leave is granted, then the draft amendments will be referred to the Select Committee, the composition of which will be in accordance with the rules. After the Select Committee submits its Report then the rule or amendment of a rule should be approved by the Council.

When it is approved, the rules will come into force on the day on which it is signed by the Chairman and announced by him to the Council to that effect.

India: Madras: Legislative Assembly

The Madras Legislative Assembly Rules contain provisions for the nomination by the Speaker every year of a Committee called the Committee on Rules. The Committee shall consist of fifteen members including the Chairman of the Committee. The Speaker is the *ex-officio* Chairman of the Committee. The Secretary to the Legislative Assembly is the Secretary to the Committee.

Any Member desirous of moving any amendment to the rules shall give notice of his intention to the Secretary, accompanied by a draft of the proposed amendments. The amendments will be placed before the Committee for its consideration and recommendation. The recommendations of the Committee shall be laid on the table and within a period of seven days beginning with the date on which they are so laid, any Member may give notice of any amendment to such recommendations. Any notice given by a Member of any amendment to the recommendations of the Committee shall stand referred to the Committee who shall consider it and make such changes in their recommendations as the Committee may consider fit. The final report of the Committee after taking into consideration the amendments suggested by the members shall be laid on the table. Thereafter, on the House agreeing to the report on a motion made by a member of the Committee, the amendments to the rules as approved by the House shall be promulgated by the Speaker in the Gazette/Information Sheet. If notice of such amendment has not

been given within seven days, the recommendations of the Committee shall be deemed to have been approved by the House and on the expiry of the said period the Speaker shall promulgate in the Gazette/Information Sheet the amendments to the rules as recommended by the Committee. Any amendments given notice of to the final report of the Committee shall not be referred again to the Committee, unless otherwise decided by the House, but shall be disposed of by the House while considering the final report of the Committee. The amendment to the rules shall come into force on their publication in the Gazette/Information Sheet unless otherwise specified.

India: Madhya Pradesh Vidhan Sabha

According to Article 208 (1) of the Constitution of India a House of the Legislature of a State may make rules for regulating, subject to the provisions of the Constitution, the procedure and the conduct of its business. In pursuance of this provision the Madhya Pradesh Legislative Assembly has framed its own Rules of Procedure and Conduct of Business in the Madhya Pradesh Vidhan Sabha. Rule 231 of the rules provides for the constitution and working of a Committee on Rules to consider matters of procedure and conduct of business in the House and to recommend any amendments or additions to the rules that may be deemed necessary. The rule is reproduced below:

(1) There shall be a Committee on Rules to consider matters of procedure and conduct of business in the House and to recommend any amendments or additions to these rules that may be deemed necessary.

(2) The Committee shall be nominated by the Speaker and shall consist of not more than fifteen members. The Speaker shall be the ex-officio Chairman of the Committee.

(3) The recommendations of the Committee shall be laid on the Table of the House and within a period of seven days, beginning with the day on which they are so laid, any member may give notice of any amendment to such recommendations.

(4) Any notice given by a member of any amendment to the recommendations of the Committee shall stand referred to the Committee who shall consider it and make such changes in their recommendations as the Committee may consider fit. The final report of the Committee after taking into consideration the amendments suggested by the members shall be laid on the Table of the House. Thereafter, on the House agreeing to the report on a motion made by a member of the Committee, the amendments to the rules as approved by the House, shall be promulgated by the Speaker in the Patrak and shall be published in the Gazette.

(5) If notice of such amendment has not been given within seven days, the recommendations of the Committee shall be deemed to have been approved by the House and on the expiry of the said period the Speaker shall promulgate in the Patrak the amendments to the rules as recommended by the Committee.

(6) The amendments to the rules shall come into force on their publication in the Patrak unless otherwise specified.

According to rule 178, *ibid.*, the term of office of members of this Committee shall be one year from the date of the constitution of the Committee:

Provided that the outgoing members shall continue in office until their successors have been nominated.

India: Gujarat

Under rule 198 of the Gujarat Legislative Assembly Rules, a Committee on Rules is constituted to consider, either of its own motion or on a notice given by a Member, matters of procedure and conduct of business in the House and to recommend any amendments or addition to the Rules that may be deemed necessary. The Committee is nominated by the Speaker. It consists of ten members, including the Chairman of the Committee. The Speaker is the *ex-officio* Chairman of the Committee. During the year 1964 some Members had given notices of amendments to the Rules. These amendments were referred to the Committee for consideration. At the end of the year, the Committee had not completed its deliberations on these amendments.

India: Punjab Legislative Council

Under Rule 164 of the Rules of Procedure, there shall be a Committee on Rules to consider matters of procedure and conduct of business in the House and to recommend any amendments or additions to these rules that may be deemed necessary.

Rule 165 states that the Committee on Rules shall be nominated by the Chairman and shall consist of not more than (eight) members including the Chairman of the Committee. The Chairman shall be the ex-officio Chairman of the Committee.

Rule 169 states that the recommendations of the Committee shall be laid on the Table and within a period of three days beginning with the day on which they are so laid, any member may give notice of any amendment to such recommendations.

Any notice given by a member of any amendment to the recommendations of the Committee shall stand referred to the Committee who shall consider it and make such changes in their recommendations as the Committee may consider fit. The final report of the Committee after taking into consideration the amendments suggested by the members shall be laid on the Table. Thereafter, on the House agreeing to the report on a motion made by a member of the Committee, the amendments to the rules as approved by the House shall be notified under orders of the Chairman in the Punjab Government Gazette.

If notice of such amendments has not been given within three days the recommendations of the Committee shall be deemed to have been approved by the House and on the expiry of the said period the amendments to the rules as recommended by the Committee shall be notified under orders of the Chairman in the Punjab Government Gazette.

The amendments to the rules shall come into force on their publication in the Punjab Government Gazette, unless otherwise specified.

India: Uttar Pradesh: Legislative Council

Under clause (*a*) of sub-rule (1) of Rule 75 of the Rules of Procedure and Conduct of Business of the Uttar Pradesh Legislative Council at the commencement of the first session of every calendar year, the Chairman, U.P. Legislative Council nominates Rules Revision Committee, with himself as its Chairman, to consider amendments to the Rules of Procedure and Conduct of Business of the Uttar Pradesh Legislative Council proposed by a Member and referred to it by the Council or referred to it by the Chairman under his discretion. A Member who desires to propose amendments to the rules under Rule 219 has to give notice of a motion for leave to amend the Rules and the notice is to be accompanied by a draft of the proposed amendments. After leave of the House is granted under Rule 220, the amendments are referred to the Committee which after considering the same submits its report to the House. The Report of the Committee is considered by the House in the same way as a bill originating in the House. The amendments which are accepted by the House are later on notified in the Gazette and incorporated in the Rules of Procedure and Conduct of Business.

India: Uttar Pradesh: Legislative Assembly

Under Rule 248 read with Rule 201 of the Rules of Procedure and Conduct of Business of the U.P. Legislative Assembly the Rules Committee of not more than fifteen members, including the Speaker and the Deputy Speaker, is nominated by the Speaker, at the commencement of the first session after each general election and thereafter before the commencement of each financial year or from time to time when the occasion otherwise arises.

This Committee is a sort of permanent machinery for reviewing procedure and Standing Orders. The Committee recommends amendments or additions considered necessary to the said Rules. The recommendations of the Committee are laid on the table of the House and any Member may give notice of any amendment to such recommendations within a period of seven days. Upon such notice, the amendments shall stand referred to the Committee who shall consider it and may make such changes in their recommendations as considered necessary. The final report shall again be laid on the table of the House. Thereafter on a motion made by a member of the Committee the House may adopt the report and the amendment to the Rules as approved by the House shall be incorporated in the Rules.

As a recent example, the recommendations of the Rules Committee (1964-65), in the form of its report, were presented to the House on

7th April, 1965. Further action on this Report has, however, been postponed till its copies have been printed and distributed to all the Members of the House.

Pakistan

There is a Standing Committee on Rules of Procedure and Privileges. (Rule 100 of the Rules of Procedure.) A Special Committee on Rules of Procedure has been set up by the Assembly to prepare Rules of Procedure for the Assembly as required under Article 110 of the Constitution. The motion to set up the Special Committee in the name of the Minister for Law and Parliamentary Affairs, tabled on 10th July, 1965, was as follows:

> " That a Special Committee be appointed to prepare a draft of the Rules of Procedure of the National Assembly to be made under Article 110 of the Constitution and that the said Committee shall consist of the Speaker as its Chairman and such number of members as the Speaker may nominate, and the quorum for its Meetings be six, and the Committee be instructed to submit its report at its earliest."

West Pakistan: Provincial Assembly

The Provincial Assembly has not so far made its Rules of Procedure as required by Article 110 of the Constitution of the Islamic Republic of Pakistan. The National Assembly Rules of Procedure have been adopted by the Governor of West Pakistan for regulation of the procedure of the Provincial Assembly of West Pakistan under Article 231 of the Constitution. Until the Assembly frames its own Rules of Procedure the existing Rules of Procedure can be amended by the Governor of West Pakistan. The existing Rules of Procedure can also be amended by the Assembly. The Procedure for amendment of Rules is contained in Chapter 18 of the existing rules.

Malawi

The Standing Orders Committee is a permanent body which reviews the Standing Orders of the Parliament of Malawi. It consists of Mr. Speaker as Chairman and five Members appointed by Mr. Speaker at the commencement of every Session. In addition to any other duties placed upon it by any Standing or other Order of Parliament, the duty of the Committee on Standing Orders is to consider proposals for the amendment of Standing Orders and to report the same to the House.

However, in all cases where there is any doubt concerning the procedure in the House the Speaker decides, taking for his guide the relevant usage and practice of the Commons House of the United Kingdom of Great Britain and Northern Ireland in force for the time being, so far as can be applied to the proceedings of the Parliament of Malawi.

Malta

No permanent machinery exists for reviewing the procedure and the Standing Orders of the House. Whenever revision is found necessary and desirable it is usual for a Select Committee to be appointed to report to the House on what changes should be made. The Report of the Committee is examined and debated by the House. The amendments incorporating additions and/or alterations as finally approved are then published in the Government *Gazette* in the form of a Legal Notice. Changes can also be made following a Resolution of the House without any reference to a Select Committee.

St. Vincent

The only machinery which exists is set out in S.O. 77 which reads as follows:

(1) Unless the Speaker shall otherwise direct, not less than seven days' notice of a motion to amend the Standing Orders shall be given, and the notice shall be accompanied by a draft of the proposed amendments.

(2) The motion shall be set down for the earliest sitting after the expiration of the notice.

(3) When the motion is reached, the mover shall move the motion, and after it has, if necessary, been seconded, the motion shall be referred forthwith, without any question being put thereon, to a Select Committee on Standing Order, and no further proceedings shall be taken on any such motion until the Committee has reported thereon.

Nigeria

The Standing Orders Committee serves as the permanent machinery for reviewing procedure and Standing Orders.

The House refers to the Standing Orders Committee any proposal for the review of procedure and Standing Orders. The Committee considers the proposal and if it is acceptable the Committee brings the proposal before the House in the form of a motion. If the motion is carried by the House then the proposal becomes part and parcel of procedure and either forms a new Standing Order or replaces an old one.

Western Nigeria

A Standing Orders Committee is appointed at the beginning of every Session under Sec. 58 of Standing Orders.

In 1964 amendments were made to the S.O.s to reflect the new Republican Constitution of Nigeria.

Northern Nigeria

There is a Standing Orders Committee consisting of the Attorney-General as Chairman and three unofficial Members, other than Members of the Executive Council, nominated by the Committee of Selection.

If a notice of motion before the House involves any proposal for the amendment of Standing Orders the notice is accompanied by a draft of the proposed amendments, and the motion when proposed and seconded, is referred without any question being proposed to the Standing Orders Committee and no further proceedings are taken on any such motion until the Standing Orders Committee has reported on the desirability of such proposals and has recommended that they be considered by the House.

Eastern Nigeria

Standing Order 64 provides for a Standing Orders Committee and reads as follows:

"If a notice of motion involves any proposal for the amendment of Standing Orders the notice shall be accompanied by a draft of the proposed amendments and the motion when moved and seconded shall stand referred without any question being proposed thereon to the Standing Orders Committee and no further proceedings shall be taken on any such motion until the Standing Orders Committee has reported on the merits of such proposals and recommended that they be considered by the House."

Gibraltar

There is a Standing Rules Committee which consists of two members nominated by the Chief Minister, two members nominated by the Leader of the Opposition and the Attorney General *ex officio* (Standing Order 45). Revision of procedure and Standing Orders is carried out by the Committee at the request of the Speaker and any amendments agreed by the Committee are reported to the Legislative Council for decision in accordance with Section 38 of the Gibraltar (Constitution) Order, 1964.

On 6th February, 1965, the Speaker asked the Committee to review the procedure and Standing Orders relating to Motions and Questions. The matter is still under consideration by the Committee.

Kenya

At the commencement of every Session, a Select Committee designated Sessional Committee is nominated by each of the two Houses constituting the National Assembly. The main function of such a Committee is to consider all matters affecting procedure and business of the House. In 1964 in view of constitutional changes these Committees played a major role in revising the Standing Orders. Their recommendations with regard to amendments were issued in the form of Sessional Papers. In the Senate a Sub-Committee on Senate Standing Orders consisting of five Senators was appointed. In the House of Representatives, the Speaker and the Clerk worked in conjunction with the Sessional Committee to propose the necessary amendments.

Southern Rhodesia

The Standing Rules and Orders Committee, consisting of the Speaker as chairman, the Prime Minister, the Minister of External Affairs (Deputy Prime Minister), the Leader of the Opposition, the Deputy Speaker, the Government chief whip and an independent member, considers from time to time as necessity arises proposals for alterations to Standing Orders submitted to it by the Clerk of the House, who is clerk to the Committee.

The Committee reports its decisions regarding alterations to Standing Orders to the House, and when its report has been adopted by the House, the necessary alterations take effect

Mauritius

Standing Order 93 states:

(1) There shall be a Committee to be known as the Standing Orders Committee to consist of Mr. Speaker as Chairman, the Deputy Speaker and four other Members to be nominated by the Committee of Selection after the beginning of each session. It shall be the duty of the Committee to consider from time to time and report on all matters relating to the Standing Orders which may be referred to them by the Assembly.

(2) If a notice of motion involves any proposal for the amendment of Standing Orders, the notice shall be accompanied by a draft of the proposed amendments and the motion when proposed and seconded shall stand referred to the Standing Orders Committee and no further proceedings shall be taken on any such motion until the Standing Orders Committee have reported thereon.

Bermuda: House of Assembly

No permanent machinery exists, but when need arises procedural changes are effected either by way of notice of motion on the floor of the House; or by notice for the appointment of a select or joint select committee to consider the matter.

Trinidad and Tobago: House of Representatives

Procedure is fixed by discussion between two Leaders and the Speaker. Unanimous agreement is necessary. The Standing Orders Committee deals with amendments to the Standing Orders.

Trinidad and Tobago: Senate

There is no Committee on procedure. There is a Standing Orders Committee to which proposed amendments can be referred by the Senate. The President has the power to regulate the conduct of business on all matters not provided for in these Standing Orders.

British Guiana

Provision has been made in the present Standing Orders for the appointment of a Standing Orders Committee. It is a Sessional Select Committee.

The relevant Standing Order (No. 71(3) reads as follows:

Standing Orders Committee

(3) (*a*) There shall be a Committee to be known as the Standing Orders Committee to consist of the Speaker as Chairman, and six Members to be nominated by the Committee of Selection as soon as may be after the beginning of each Session. It shall be the duty of the Committee to consider from time to time and report on all matters relating to the Standing Orders which are referred to it by the Assembly.

(*b*) The Committee shall not have power to send for persons, papers and records unless the Assembly so resolves.

and Standing Order No. 83—*Amendment of Standing Orders*—reads as follows:

(1) Unless the Speaker shall otherwise direct, not less than twelve days' notice of a motion to amend the Standing Orders shall be given, and the notice shall be accompanied by a draft of the proposed amendments.

(2) The motion shall be set down for the earliest sitting after the expiration of the notice.

(3) When the motion is reached, the mover shall move the motion, and after it has, if necessary, been seconded, the motion shall be referred forthwith, without any question being put thereon, to the Standing Orders Committee, and no further proceedings shall be taken on any such motion until the Committee has reported thereon.

Zambia

Amongst its other duties, the Committee on Standing Orders is empowered to consider all proposals for the amendment of Standing Orders and in due course will review the proposed amendments to Standing Orders stemming from the present Constitution. The Committee reports to the Assembly and the Assembly adopts or amends the Report. The most recent large-scale revision of Standing Orders was carried out in 1963.

XV. UGANDA: THE GIFT OF A MACE TO THE NATIONAL ASSEMBLY FROM THE COMMONS OF THE UNITED KINGDOM

By K. R. Mackenzie, C.B.
Clerk of Public Bills in the House of Commons

Uganda became independent on 9th October, 1962, and a year later, after ceasing to form part of Her Majesty's Dominions, became the Sovereign State of Uganda. Following precedent, the House of Commons of the United Kingdom decided on 28th April, 1964, to pray Her Majesty to give directions for the presentation on their behalf of a Mace to the National Assembly.

Her Majesty's approval having been given, a delegation was appointed to present the Mace, consisting of Mr. David Renton, Member for Huntingdon and a former Minister of State; the Right Hon. Arthur Woodburn, Member for Clackmannan and East Stirling and a former Secretary of State for Scotland; Mr. Martin Maddan, then Member for Hitchin and recently re-elected for Hove; and Mr. Brian O'Malley, Member for Rotherham. The delegation was accompanied by the present writer as Clerk.

The Mace was designed on modern lines by Mr. Gerald Whiles.

The ceremony followed the form which has now become more or less stereotyped. The delegation, preceded by their Clerk carrying the veiled Mace, were conducted to their places in the magnificent Parliament chamber by the Serjeant at Arms. After a short speech of welcome from the Speaker, the Hon. Narendra Patel, Mr. Renton, as leader of the delegation, rose to address the assembly. If up to this point the proceedings had been somewhat coldly formal, they now became warm and enthusiastic, not to say exuberant. The leader of the delegation was frequently interrupted with cries of "Hear, hear!" and Mr. Woodburn's remark that Westminster might have something to learn from Kampala, was loudly applauded. After Mr. Woodburn's speech Mr. Renton unveiled the Mace and placed it on the shoulder of the Serjeant at Arms, who laid it on the table. The Prime Minister, Dr. Milton Obote, then made a motion of thanks to the British House of Commons. In the course of his speech he reminded his hearers that though parliamentary government was a comparatively new thing in Uganda, his country had a long tradition of free discussion "under the trees". The motion

was seconded by the Leader of the Opposition, Mr. Bataringaya. The question was put, the motion was carried unanimously, and the delegation withdrew from the floor of the Chamber.

The House then proceeded to its ordinary business. As at Westminster, the day's work begins with questions to Ministers, which the delegation were invited to attend in the gallery. They also had the opportunity to go down into the basement to see the system of tape-recording debates which had recently been installed.

In the evening the delegation called on His Excellency, the President of Uganda, Sir Edward Frederick Mutesa, and afterwards they were entertained by the Speaker at his home.

The following day the delegation, accompanied by Mr. Philip Pullicino, the Clerk of the House, and his wife, left by road for the Murchison Falls National Park and enjoyed two days seeing the wild life of the country. On their return to Kampala they attended a diploma-giving ceremony at Makerere University College and inspected the beautiful buildings. In the evening the delegation dined with the High Commissioner, H.E. Sir David Hunt, K.C.M.G., and at midnight were seen off at the airport.

XVI. APPLICATIONS OF PRIVILEGE, 1964

At Westminster

Complaint concerning speech of Lord President of the Council.—Mr. Quintin Hogg, Lord President of the Council, delivered a political speech at Chatham on Thursday, 19th March, 1964. On the following Monday, 23rd March, Mr. Wigg, Member for Dudley, complained of the following words in that speech

> No honest person since we came into power can accuse us of pursuing a reactionary or illiberal policy. Nevertheless, our elbows have been jarred in almost every part of the world by individual Labour members' partisanship of subversive activities. This is the party which is now seeking power. (*Com. Hans.*, Vol. 692, c. 36.)

Basing himself on the passage on page 117 of Erskine May (16th edition):

> Reflections upon Members, the particular individuals not being named or otherwise indicated, are equivalent to reflections on the House

and on the passage on page 125:

> Both Houses will punish not only contempts arising out of facts of which the ordinary courts will take cognizance, but those of which they cannot, such as contemptuous insults, gross calumny or foul epithets by word of mouth not within the category of actionable slander or threat of bodily injury.

Mr. Wigg submitted that Mr. Hogg was guilty of a gross calumny and had therefore committed a contempt of the House. He handed in a copy of the speech.

Mr. Hogg thereupon rose to defend himself. He claimed that if such utterances, honestly believed, were to be designated contempt, then it would be "a very serious infringement of the liberty of the subject". He had been attacking the Labour Party in the country as a whole, not merely the parliamentary party. Nothing he had said could be held to have impeded either House of Parliament in the performance of its functions and therefore there was, he submitted, no *prima facie* contempt.

While Mr. Hogg was speaking, the Speaker was asked, on a point of order, how proceedings that day and the next would be regulated, since it was now open to the Speaker to take a day to consider a submission of privilege. Mr. Speaker replied:

In days of not so long ago Mr. Speaker was required to rule at once and the practice then was that if a complaint were founded on a document against an hon. Member, then directly that document had been handed to the Table he, the accused Member, was allowed to be heard in explanation or exculpation.

The present position is that I should inevitably ask for 24 hours to consider before ruling on the proposition aye or no does the complaint disclose a *prima facie* case—that and no more. Since, in those circumstances, I should have thought it right to allow the hon. Gentleman to submit that he was raising a *prima facie* case, I thought it perfectly right to allow the other hon. Member to submit that he was not, because he would not have another opportunity in certain circumstances. It seems to me to be absolutely necessary in order to be fair. (*Ibid.*, col. 38.)

and added, when asked if other Members would have an opportunity to speak on the matter:

The point is this: should I come to the conclusion that there is no *prima facie* case, then there will not be an opportunity tomorrow. If I come to the opposite conclusion, there will be. That is all there is about that. (*Ibid.*, col. 41.)

He announced that he would rule on the matter the following day.

The following day Mr. Speaker gave his ruling:

It is not for me to say whether or no any contempt of the House was committed. I express no view of any sort or kind about that. I have to say whether, in my view, the hon. Gentleman's complaint raises a *prima facie* case. It is my opinion that it does.

This is the moment when, in accordance with our practice, I should ask the right hon. and learned Gentleman to withdraw. (*Ibid.*, col. 252.)

Mr. Hogg accordingly withdrew.

As the Member who had originally brought the matter before the House, Mr. Wigg then moved:

That the matter of the complaint be referred to the Committee of Privileges, and that, pending its report, the right hon. and learned Gentleman be suspended from the service of the House.

He considered that his rôle was simply to bring the matter before the House and not to act as prosecuting counsel. Mr. Hogg's speech in defence the day before had, however, changed the position. Since there had been a *prima facie* case of breach of privilege, he should, until the Committee had reported, be suspended. That was the treatment afforded Mr. Allighan in 1947.

The Leader of the House, Mr. Selwyn Lloyd, then moved an amendment to leave out from the word " Privileges " to the end of the motion. He supported the reference of the matter to the Committee of Privileges, but thought it wrong, by suspension, to inflict punishment before the case was heard. He pointed out that the motion to suspend Mr. Allighan had not been moved until after the Committee of Privileges had reported to the House on his case.

Mr. George Brown, for the Opposition, while thinking that Mr.

Wigg was justified in making his point, supported the Leader of the House's amendment, so that the motion would be passed in the customary form. The amendment was thereupon agreed to and the matter referred to the Committee of Privileges.

The Committee received memoranda from the Clerk of the House and heard him in evidence on four days. They also received a memorandum from Mr. Hogg amplifying the meaning which he had intended to convey in the words complained of. He concluded it by reaffirming that nothing he said was intended to be derogatory of the House; that he considered it a legitimate exercise of his right of free speech; and that he was at the disposal of the Committee should they wish oral evidence. The Committee, in the event, did not ask him, or anyone else, to give evidence.

After twelve meetings, eight of which were spent in deliberation, the Committee on 16th June reported to the House. After rehearsing the origins of the matter, the report of the Committee contained the following findings:

Your Committee do not consider that on the facts of this case any question of breach of the privileges of the House arises. The question is whether (*a*) there has been a contempt of the House in the sense that disgrace or ignominy has been cast upon it as an institution or (*b*) it has been brought into disrepute. It has long been recognised that the publication of any such contempt is punishable by the House.

It is an established principle that reflections upon Members, whether the particular individuals are indicated or not, can in some circumstances be equivalent to reflections on the House itself (Erskine May, 16th edition, page 117). The Clerk of the House referred Your Committee to a line of cases in which the House has considered treating imputations upon Members or some one or more of them as a contempt of the House itself. In every case, however, the imputation was expressly directed to the conduct of a Member or Members either in the transaction of the service or business of the House or within its precincts. It is by no means clear whether reflections upon Members otherwise than in respect of their conduct within the precincts of Parliament or in the transaction of the service or business of the House can properly be regarded as reflections upon the House itself.

The principle mentioned at the beginning of Paragraph 5, however well established, is not free from doubt about the scope and limits of its application. It is uncertain whether a person accused by reason of imputations upon the conduct of Members which may amount to a contempt of the House can justify on the basis that those imputations were in fact true. On this point Your Committee do not know of any decided case. It seems clear that if evidence of the truth of the words complained against can be given by or on behalf of the person against whom complaint has been made, then the evidence of those against whom the words made imputations must likewise in justice be admissible in rebuttal.

Your Committee recognise that it is the duty of the House to deal with such reflections upon Members as tend, or may tend, to undermine public respect for and confidence in the House itself as an institution. But they think that when the effect of particular imputations is under consideration, regard must be had to the importance of preserving freedom of speech in matters of political controversy and also, in cases of ambiguity, to the intention of the speaker. It seems to them particularly important that the law of parliamentary privilege should not, except in the clearest case, be invoked so as to inhibit or dis-

courage the formation and free expression of opinion outside the House by Members equally with other citizens in relation to the conduct of the affairs of the nation.

It has long been accepted that neither House of Parliament has any power to create new privileges. Your Committee believe that it would be contrary to the interest of the House and of the public to widen the interpretation of its privileges especially in matters affecting freedom of speech. Your Committee and the House are not concerned with setting standards for political controversy or for the propriety, accuracy or taste of speeches made on public platforms outside Parliament. They are concerned only with the protection of the reputation, the character and the good name of the House itself. It is in that respect only and for that limited purpose that they are concerned with imputations against the conduct of individual Members.

The Lord President in his memorandum assured Your Committee that he did not intend to refer to the Parliamentary Labour Party as such; that he was not referring to activities of any Members of Parliament within the Palace of Westminster or in their capacity as Members of Parliament; and that the phrase he had used was "partisanship of subversive activities", by which he did not intend to convey that any Labour Member had himself engaged in any subversive activities. He further assured Your Committee that nothing said by him was intended to be derogatory of the House of Commons or a breach of its rules. Your Committee accept these assurances.

While some members of Your Committee felt that without explanation the words complained of might in their context have been construed so as to amount to a contempt, nevertheless in the light of all the above considerations and of the fuller explanation of his words and of their intended meaning given by the Lord President, Your Committee do not find that there has been any contempt of the House in this case.

Your Committee therefore recommend to the House that no further action should be taken in the matter. (H.C. 1963-64, No. 247.)

Alleged divulgence of Committee Proceedings.—On 18th February, 1964, Mr. Wigg raised with the Speaker a reference the previous evening by the Minister of Aviation, to the impending appearance of his Accounting Officer before the Public Accounts Committee. The Minister had said: "My accounting officer is appearing before the Committee tomorrow" (*Com. Hans.*, Vol. 689, c. 970).

Mr. Wigg said that premature disclosure of a Committee's proceedings or evidence was clearly a breach of privilege. He sought guidance, whether disclosure of future proceedings fell into this category. He asked, what should happen if a newspaper produced the news that a certain witness was to be examined before the Public Accounts Committee on a certain matter? The Speaker said that he would give his ruling the next day (*ibid.*, cols. 1031-4).

The next day the Speaker ruled that, in his opinion, the complaint did not disclose a *prima facie* breach of privilege. When Mr. Wigg attempted to pursue the matter the Speaker ruled that the matter could not then be discussed further. He was, moreover, not willing to give his reasons for his decision since it was always open to the House to discuss the matter in some other way, and it would be undesirable to embarrass any future discussion (*ibid.*, cols. 1204-6).

SASKATCHEWAN

Contributed by the Clerk of the Legislative Assembly

During the course of debate on Friday, 14th February, 1964, a Minister of the Crown referred to certain recordings he had made of speeches broadcast from the Legislative Assembly. A question of privilege was raised to the effect that the Minister was in contempt of the House through having made an unauthorised report of the proceedings of the House. On the following Monday, the Speaker ruled that in his opinion a *prima facie* case had not been established since, according to May's *Parliamentary Practice*, sixteenth edition, page 56, it had long been established that "So long as the debates are correctly and faithfully reported . . . the privilege which prohibits their publication is waived".

QUEENSLAND: LEGISLATIVE ASSEMBLY

Contributed by the Clerk of the Parliament of Queensland

Sub-judice Matters.—The following exchange took place on 2nd September, 1964. Mr. J. E. Duggan, M.L.A. (Leader of the Opposition):

For my own guidance, and I hope that of hon. members generally, I should be grateful if you would outline the position in respect of the ruling that you impose when cases are ventilated in this Assembly at a time when they are before judicial courts of this land and in respect of which either evidence has not been submitted or decision has been reserved.

These remarks are prompted by a speech made yesterday by the hon. member for Nundah, Mr. Knox, concerning the case of a gentleman who owns a fairly large block of land on Nudgee Road, Hendra. Without canvassing the merits or demerits of this particular case, I point out that the hon. member appeared to set out to establish a case that was condemnatory of the Brisbane City Council and favourable to the person concerned.

I understand that this case has formed the subject of an appeal to the Full Court of Queensland, and that the City Council had sought an injunction restraining Mr. Hein from making a decision in the matter. If these facts are true (and I believe them to be so) the case is obviously *sub judice*. In this case, evidence was heard from the parties concerned and decision was reserved.

Unquestionably, the hon. member's speech, if made outside Parliament, would constitute contempt of court and I should be grateful if you would indicate the practice to be followed by hon. members in this House in respect of matters that are in the course of determination by the various judicial processes established under the authority of this Parliament.

Mr. Speaker Nicholson:

The Leader of the Opposition has raised a subject which undoubtedly has given concern to some people outside the Parliament. Whenever I have been officially advised, or Parliament has been officially advised, that a matter is *sub judice*, action has always been taken to rule against questions or debate covering the matter before the court. But the Chair, or Parliament, is not always aware of the fact that a certain subject is before the court, and one cannot always be guided by newspaper reports. My view is that it is entirely up to the hon. member himself whether his conscience will permit him to bring

forward a subject in this House under privilege. It is within his own thoughts whether he is breaching the privilege of this House or breaking the rule covering matters that are before the court. The Leader of the Opposition handed me a copy of his statement this morning when I took the chair. Consequently, I have not had a great deal of time to study either it or the speech of the hon. member for Nundah. In the latter portion of his statement the Leader of the Opposition states that that speech would undoubtedly constitute contempt of Court. That is something I certainly should not like to give a ruling on without having legal advice. I cannot see how the Leader of the Opposition could state such a legal proposition unless he had legal advice on the subject. Until such time as this House is appraised officially that a matter is *sub judice* I cannot rule against its being discussed in this House. (*Hansard*, p. 207.)

UTTAR PRADESH

Contributed by the Secretary of the Legislative Assembly

On 19th February, 1964, two of the three accused persons, Sri Shyam Narain Singh and Sri Hublal Dube, mentioned in the fourth report of the Privileges Committee of the Third Vidhan Sabha,* were produced before the House by the Marshal on the order of Sri Speaker. The third accused, Sri Keshav Singh, was absent. (For subsequent proceedings *re* Keshav Singh, see pages *supra* 25-36).

MADHYA PRADESH

Contributed by the Secretary of the Madhya Pradesh, Vidhan Sabha

Creating Disorder in the Visitors' Gallery.—On 19th March, 1964, while the House was discussing the demand of the Education Department, one Shri Kundanlal raised slogans from the Visitors' Gallery and threw leaflets in the Chamber. The Speaker who was in the Chair immediately ordered the arrest of the demonstrator who was detained by the Security Officer within the premises of the Vidhan Sabha. Immediately thereafter the matter was referred to the Committee of Privileges on the adoption of a motion in this behalf and moved by the Leader of the House. The Committee were directed to submit their report by 5 p.m. the same day.

The Committee accordingly met at once, settled the procedure and examined the offender Kundanlal who admitted that he raised slogans in the Visitors' Gallery and threw leaflets in the House. He also said that he had no regret to express for his action.

After examining the whole matter the Committee came to the conclusion that Kundanlal was guilty of the contempt of the House and that his act was premeditated and wilful. The Committee, therefore, recommended that Kundanlal be committed to prison till the prorogation of the House.

The Report was adopted by the House that very day.

* See THE TABLE, Vol. XXXII, p. 132.

MADRAS: LEGISLATIVE ASSEMBLY

Contributed by the Deputy Secretary of the Legislative Assembly

Paper punished for Contempt.—*Broadway Times*, an English weekly published in the Madras City, reported in its issue dated 13th December, 1963, a news item under the caption "D. M. K. Cells in Madras Secretariat" which contained among other things the following:

> The Legislature Secretariat is packed with D. M. K. Men. Some of the information like answers for Starred questions is being leaked out to D. M. K. Legislators long before the session begins.

As the above publication contained serious allegations against the Secretariat working under the Speaker and also against certain Members of the Assembly, the publication along with the correspondence the Secretariat had with the editor in this regard was brought to the notice of the House on 17th January, 1964, and on a motion moved by the Chief Minister the matter was referred to the Committed of Privileges. (M.L.A. Debates, Vol. XVI, pp. 26-30.)

When the above matter was pending before the Committee of Privileges, the weekly published in its issue dated 24th January, 1964, under the caption "Privilege and 'Broadway Times'" and under the sub-heading "Madras Assembly Takes up B.T.", "Posers for Committee of Privileges", "B.T. Editors Press Statement on 22nd January 1964" and in its issue dated 7th February, 1964, under the caption "Cityman's Diary". As the matter in these publications related to the matter already referred to the Committee of Privileges on 17th January, 1964, the Hon. Speaker brought it to the notice of the House on 2nd March, 1964, and on a motion moved by the Leader of the House, this matter was also referred to the Committee of Privileges.

The Committee examined the Secretary, Legislative Assembly and the editor of the weekly. The Committee found that the editor of the weekly was neither prepared to prove his allegation that the Legislature Secretariat was packed with D. M. K. men nor his other allegation that the information like answers to starred questions was leaked out to D. M. K. Legislators long before the session began. Since the editor could not prove these two allegations the Committee concluded that he had committed contempt of the House. The Committee also found that the editor had published such untenable imputations as to create a disreputable impression in the reading public of the Speaker, Legislature Members, etc., when the whole matter was pending before the Committee of Privileges and thereby he had also committed contempt of the House. As there was no mitigating circumstance and as the editor was not repentant, the Committee recommended that the editor be awarded suitable punishment.

Meanwhile the *Broadway Times* was involved in another case of contempt. On 24th January, 1964, a starred question on intercaste marriages was put and answered on the floor of the House. A Supplementary question was put by a D. M. K. Member whether the Hon. Chief Minister had any personal knowledge in the matter when he stated that it would be good that the persons who made speeches at intercaste marriages would come forward to do so without charging a fee. The Hon. Chief Minister replied that he had no personal experience in the matter but that he had received complaints that some leaders if invited on such occasions demanded Rs. 50, Rs. 100 and so on. With reference to the above, the editor of the *Broadway Times* had published in the weekly dated 7th February, 1964, a news item as follows:

Supplementary Boomerang: The D. M. K. Members could have left the matter at that but then their Legislature Party is woefully disorganised and so a cashew-nut among them bobbed up with the Supplementary question as to whether the C.M. was speaking from personal experience when he commented that orators attending intercaste weddings charged a fee. This was just the type of question which the astute Chief Minister had been waiting for and his sledge hammer reply that he had heard complaints about some dignatories charging Rs. 100 or Rs. 50 for the purpose of delivering a speech at the auspicious functions literally felled the Opposition for every one knew that the innuendo was aimed at the top brass of the D. M. K.

On 28th February, 1964, Sri S. Madhavan, a Member of the Assembly, raised a question of privilege stating that the above publication in the *Broadway Times* dated 7th February, 1964, constituted a breach of privilege. The matter was referred to the Committee of Privileges.

The Committee considered whether the description of the Member by the editor in the article in question amounted to a breach of privilege of the House. According to the Tamil Lexicon the word cashew-nut meant a presumptuous person who poked his nose into others' affairs. The Committee felt that the description of the Member in the article by the editor was certainly objectionable and would tend to lower his respect in the estimation of the public and thus it would amount clearly to a breach of privilege.

The Committee recommended that the editor was guilty of committing a gross breach of privilege and that appropriate punishment might be awarded to the editor.

The Report of the Committee was presented to the House on 31st March, 1964.

Subsequently on 31st March, 1964, Sri M. Bhaktavatsalam, Hon. Chief Minister, who was the Leader of the House, moved that the press gallery pass issued to the weekly be suspended for the whole of a session, and the motion was adopted. (*M.L.A. Debates*, Vol. XVII, pp. 85-89, 28th February, 1964, and Vol. XXI, p. 799, 31st March, 1964.)

Arrest of Members on criminal charges—Privilege no bar.—On 20th January, 1964, Sri S. Madhavan, a Member of the Assembly, gave notice of a privilege matter in regard to the arrest of two Members belonging to the D. M. K. Party within the precincts of the Legislators' Hostel when they were proceeding to attend the Assembly and said that thereby they were prevented from doing their duty and that the fact of arrest had not been communicated to the Speaker. On 21st January, 1964, the Speaker ruled that the matter did not involve a matter of privilege on the following grounds:

(i) That the arrest was effected at 1-45 p.m. on the 20th January and that the intimation of arrest was received at 3-40 p.m. and that the fact of arrest had therefore been intimated as required under rule 245 of the Assembly Rules.

(ii) that the two Members were arrested for criminal offences under section 120(B) I.P.C. read with section 188 I.P.C. and section 30 (2) of the Police Act and Section 5 of Prevention of Insults to the National Honour Act and Sections 109 and 147 I.P.C. and that the privilege of freedom of arrest did not apply to criminal offences but only to civil cases.

(iii) that in criminal cases it was immaterial whether the Member was arrested when he was on his way to the Assembly or not.

(iv) that arrest in the Legislators' Hostel did not amount to a breach of privilege as the Hostel had not been included within the definition of "Precincts of the House".

(v) that the privileges of Legislature could not be invoked as the Member had been arrested for criminal offences and that the privilege of freedom from arrest could not be allowed to interfere with the course of criminal justice.

(*M.L.A. Debates*, Vol. XVI, p. 267, 20th January, 1964, and pp 372-3, 21st January, 1964.)

Contempt by weekly paper.—*Tamil Seithi*, a Tamil weekly published in Madras City, reported an article in its issue dated 14th March, 1964, under the caption "Is it Legislative Assembly or a Recreation Club".

The article, among other things, contained the following passages:

(i) How the D. M. K. Party (the Opposition Party in the Madras Legislative Assembly) utilised the rare opportunity was indeed a mockery. The Legislature Debates of the D. M. K. Members served only to expose the political vacuum of the D. M. K. Leadership.

(ii) A party with a strength of 50 members in its capacity as the Opposition Party was engaged in a jugglery of words. This vacuum was a shame not to the D. M. K. but to the community which gave the status of an Opposition Party to these political vacuums.

(iii) The proceedings of the Legislature were conducted at a cost of Rs.50 per minute with the tax payers' money, while, if the Members treated the Legislature as a recreation club and behaved in an irresponsible manner, it was an offence that could not be tolerated by the people. The time had come when all those who were interested in an honest administration should object with one voice to this increasing trend of irresponsibility among the Members of the Legislature which at once belittles the high standard of the Legislature.

On 18th March, 1964, a matter of privilege in regard to the above publication in *Tamil Seithi* was raised by Sri K. Cheemaichamy, M.L.A., in the House stating that the article in question cast an aspersion against the Members and the House and lowered the dignity of the House in the eyes of the public and that it amounted to a breach of privilege of the Members and the House. The Hon. Speaker ruled that a *prima facie* case had been made out and on a motion moved by the Hon. Leader of the House, the matter was referred to the Committee of Privileges.

On 25th July, 1964, the Report of the Committee of Privileges was presented to the House. The Committee in its report felt that the article was written in an irresponsible way and that the contents of the article and the passages referred to above technically amounted to a breach of privilege of the House. The Committee further felt that it was not consistent with the dignity of the House to take every such statement which might technically constitute contempt of the House and that the House would best consult its dignity if it ignored such improprieties and indiscretions. The Committee recommended that no further action need be taken by the House in the matter, as it was trivial and as it did not deserve consideration.

On 16th October, 1964, Sri M. Bhaktavatsalam, Hon. Chief Minister who was Leader of the House, moved that the Report of the Committee be approved and the motion was adopted. (*M.L.A. Debates*, Vol. XX, pp. 369-73, 18th March, 1964.)

Derision on certain Members ruled not to raise case of Privilege.— On 21st October, 1964, certain Members of the Opposition Parties went on a token fast for a day in sympathy with the public in their difficulty in getting foodstuffs in the Madras State. However, they were squatting on the verandah of the Assembly Chamber. On that day a sign board had been placed near the entrance to the Fort St. George where the Assembly Chamber was situated, with the following inscription:

Once a session, it will do you good if you give up food.

On 22nd October, 1964, Sri Saw. Ganesan, Sri M. Kalyanasundaram and Sri Rama Arangannal, Members of the Opposition parties tabled notices with reference to a matter of privilege stating that the sign board had been fixed on the day on which they went on a token fast only with a view to insult or ridicule their fast and that whoever was responsible for that had committed contempt. The Hon. Speaker ruled that the Members admittedly at the time were not on their way to the Chamber of the Legislative Assembly in the course of their duty or for the performance of their obligation as Members *qua Members*. Furthermore, the inscription on the board did not relate to anything connected with their duties or obligations as Members but obviously referred to an extraneous act not connected with their

duties or obligations as Members. He therefore withheld his consent to raise the above matter. (*M.L.A. Debates*, Vol. XXIX, pp. 470-5, dated 22nd October, 1964.)

MADRAS: LEGISLATIVE COUNCIL

Contributed by the Secretary of the Legislative Council

Contempt by weekly paper.—On 20th January, 1964, the Hon. Chairman informed the House about a matter of privilege in regard to the publication of a news item in *Broadway Times*, an English news weekly, dated 13th December, 1963, and ruled as follows:

I have to bring to the notice of this Honourable House a serious matter of privilege which affects the Members, the House and the Chairman.

The matter relates to a despatch of a "Special Investigator" published in Broadway Times, an English News Weekly, in its issue, dated 13th December 1963, with the caption "D. M. K. Cells in Madras Secretariat". The relevant passage in the said dispatch which affects the Members, the House and the Chairman, reads as follows:

> "The Legislature Secretariat is packed with D. M. K. men. Some of the information like answers received for starred questions, is being leaked out to D. M. K. legislators, long before the session begins."

Needless to say, the allegations are of a serious nature as they cast reflections and aspersions on certain members of this House and the conduct, integrity and impartiality of the staff of the Secretariat of this House in the discharge of their duties and in their relationship with the Members of this House. It contains an imputation that the D. M. K. Members obtain answers improperly and in advance before they are furnished to the House. If it be true that any Member of the staff of the Secretariat of this House, which functions under the authority of the Chairman, has given any such information, he must be held to be guilty of a serious breach of privilege. In view of the seriousness of the charges levelled against the Secretariat as well as some of the members, the Editor of the News Weekly was requested by letter, dated 17th December 1963, to substantiate the charges and he was assured that any information or proof furnished by him would be treated as confidential. But the Editor in his reply, dated 19th December 1963, has stated that as a responsible editor having regard to journalistic ethics, he was not in a position to disclose the "sources" and that he could not give the names. The Editor was requested to give not the "source" but only the proof, if any, in support of the allegations levelled against the Secretariat and some of the D. M. K. Members of the House. But he has declined to substantiate the allegations. It follows that the allegations are baseless.

The aforesaid imputations cast aspersions on some Members that they seek and obtain improperly advance information before they are furnished to the House and thus bring them into odium and also attribute improper conduct on the part of the staff of the Secretariat of this House and therefore tend to impair their integrity and impede them in the performance of their delicate duties as they have to render assistance to all Members, irrespective of their party affiliations in accordance with the parliamentary procedure and practice.

Such written imputations which concern the character and conduct of some Members and the Secretariat of this House are a serious breach of privilege without perhaps being libel at common law. I therefore rule that there is a prima facie case of breach of privilege. But in as much as the matter has been raised and referred to the Committee of Privileges of the other House, further action in this regard may be deferred for the present.

Alleged impinging of a Member's motives.—On 21st January, 1964, the Hon. Chairman ruled that there was no *prima facie* breach of privilege in the motion under Rule 157 of the Council Rules given notice by Vidwan T. Muthukannappan to raise a matter of privilege, namely the statements of the Chairman of the Central Committee of the Corporation of Madras in respect of a short notice question answered on the floor of the Legislative Council on 19th August, 1963. The ruling made by the Hon. Chairman (Dr. P. V. Cherian) is as follows:

Hon. Members are aware that on 26th November 1963, I had informed this Honourable House that I had received notice of a motion under Rule 157 of the Council Rules from Vidwan T. Muthukannappan to raise a matter of privilege with regard to certain statements made in the press by the Chairman of the Central Committee of the Corporation of Madras in respect of a short notice question put by the Hon. Member on the floor of this House and the supplementaries thereon and I deferred my decision to the next meeting.

The matter proposed to be raised by the Hon. Member, Vidwan T. Muthukannappan, relates to certain remarks said to have been made by the Chairman of the Central Committee of the Corporation of Madras in the course of a press interview published in the Hindu under date 22nd August 1963 with the caption " Surprise School Inspection—Councillors' action defended " and the statement made by the Chairman of the Central Committee of the Corporation of Madras in his letter to the Editor published in the Hindu under date 12th September 1963 by way of reply to the letter to the Editor by Vidwan T. Muthukannappan published in the Hindu under date 29th August 1963.

The impugned remarks of the Chairman of the Central Committee of the Corporation of Madras read as follows:

> " to say that they had no right to inspect the schools run by the Corporation was not sustainable ".

The other statement of the Chairman of the Central Committee of the Corporation of Madras to which exception has been taken by the Hon. Member, runs as follows:

> " Our inspection notes are purely a domestic matter which need not create such an unnecessary stir in the papers caused by the very offender who wants to bring bad name to the Corporation institutions."

The Member maintains that the former is an unfair comment on the proceedings of the House and hence a breach of privilege of the House and that the latter imputes improper motives to the Hon. Member who raised this subject in a short notice question in this Honourable House and hence obstructs the member in the discharge of his duties and therefore amounts to a breach of privilege.

As regards the former, on a careful perusal of the relevant passages, I find that the Chairman of the Central Committee of the Corporation of Madras had stated only that " to say that they (Central Committee) had no right to inspect the schools run by the Corporation was not sustainable ". In other words, he had maintained, rightly or wrongly, that they had a right to make surprise inspections of schools run by the Corporation. He had not made any other comment much less any unfair criticism, in regard to what the Hon. Member had said in this House on this subject. I, therefore, do not think that there is any reflection or aspersion on what the Member had said in this House.

As regards the other impugned statement said to have been made by the Chairman of the Central Committee of the Corporation of Madras in his letter

to the Editor of the Hindu published under date 12th September 1963, on a careful consideration, I am of opinion that this does not relate to what the Member had said in this Hon. House but refers only to what the Member had raised in his "letter to the Editor" published in the Hindu under date 29th August, 1963.

Remarks and statements which cast aspersions and attribute irresponsibility or motive to any member in respect of anything said or done by the Member in the House which tend to diminish the respect due to the House is no doubt a high violation of the rights and privileges of the House as they tend to obstruct the House in the performance of its functions and bring the House into contempt.

I find that the impugned statement refers to what the member had said in his letter to the Editor of the Hindu and not what he had said in the House as a Member. This pertains to a disputation carried on in the press and outside this House by the Member and the Chairman of the Central Committee in the letters to the Editor. The Chairman of the Central Committee of the Corporation had said, among other things, that "it need not create such an unnecessary stir in the papers" and he had not said that "it need not create such an unnecessary stir in the House". It cannot therefore be held to be a reflection or aspersion on the conduct of the Member in the House or on what he had said in the House. Though this comment is not in good taste, I do not think that this can constitute breach of privilege. The House would best consult its dignity if it ignored such improprieties and indiscretion.

In the circumstances, I rule that there is no *prima facie* case of breach of privilege.

Alleged insults to Members not a contempt.—On 22nd October, 1964, Messrs. K. Anbazhagan, M. Subbaih Chetty, R. Venkatachalam, K. R. Ramaswami and S. K. Sambandhan, M.L.Cs., gave notices of motions under rule 157 of the Council Rules to raise a matter of privilege, namely, the placard looking like a traffic sign board put up on the left side of the road near the main gate to the Fort St. George with the inscription "Once a Session, it will do you good, if you give up food", on the morning before.

The position was explained by the Member, Sri K. Anbazhagan, and after hearing the views of the Hon. Sri R. Venkataraman, Minister for Industries (Leader of the House-Council) in the matter, the Hon. Chairman ruled as follows:

I have heard the views expressed by the Hon. Member and the Hon. Leader of the House. In the matter of determination of privileges of the House for its members we are governed by Article 194(3) of the Constitution which says that the powers, privileges and immunities of a House of the Legislature of a State and of the Members and the Committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom and of its members and committees, at the commencement of this Constitution.

There can be a breach of privilege only if the Members are in any way prevented or obstructed from performing their duties as Members of this House. If the Members had been prevented while coming to or going from the House without any reason then there would have been a case of breach of privilege. From the statements made on the floor of the House, I find no such act was involved by putting up the sign board. Nor can this be treated as a reflection upon any of the Members of this House or its proceedings tending

directly to obstruct or impede the House in the performance of its functions or have a tendency to produce this result indirectly by bringing the Home into odium, contempt or ridicule or by lowering its authority in any way.

Also the matter has not been brought to the notice of the House immediately though the Members had an opportunity to do so. As the matter raised does not involve any breach of privilege, I withhold consent for the matter being raised.

MAHARASHTRA

Contributed by the Secretary of the Maharashtra Legislative Department

In 1964* six cases regarding breach of privileges came up before the Assembly.

Publication of an alleged wrong and misleading report of the proceedings of the Assembly.—On 2nd January, 1964, Shri K. T. Girme, M.L.A., gave notice of a question of breach of privilege arising out of publication in the daily *Sakal*, dated 18th December, 1963, of an alleged wrong and misleading report of his speech made in the Legislative Assembly on 17th December, 1963. Before giving his consent to the raising of the issue in the House, the Speaker called for an explanation from the editor and publisher of the newspaper. In his explanation the editor and publisher of the newspaper expressed regret for the misleading report appearing in his newspaper. The necessary correction was also published in the said newspaper to the satisfaction of Shri Girme. The matter was then treated as closed. (*M.L.A. Debates*, Vol. XII, Part II, pp. 804-5.)

Premature publication of certain budget figures.—On 20th February, 1964, Dr. P. V. Mandlik and Shri P. D. Rahangdale, M.L.As., had given a joint notice of a breach of privilege arising out of publication of certain budget figures in the morning issue of *Nav Shakti* (a local Marathi daily), dated 19th February, 1964. The Deputy Speaker, while refusing his consent, ruled that premature publication of budget proposals did not constitute any breach of privilege and that it was a matter which should be investigated by Government. (*M.L.A. Debates*, Vol. XII, Part II, pp. 267-8.)

Alleged wrong answer given to a Starred Question.—On 5th March, 1964, Shri G. A. Deshmukh, M.L.A., had given a notice of a breach of privilege arising out of an alleged wrong answer given by the Deputy Minister for Industries in the course of supplementaries to Starred Question No. 9501 answered in the House on 26th February, 1964. The Speaker, while refusing to give his consent to the raising of the issue in the House, ruled that wrong answers given by Ministers did not give rise to a question of privilege. The Speaker, however, explained the procedure to be followed when contradictions or dis-

* Under Rule 244 of Maharashtra Legislative Assembly Rules, permission of the Speaker is to be obtained before the question of privilege is raised in the House.

crepancies are pointed out in the Ministers' replies. (*M.L.A. Debates*, Vol. XII, Part II, pp. 547-8.)

Criticising speeches made by the Members of the Assembly.—On 4th August, 1964, Shri P. G. Kher and Dr. P. V. Mandlik, M.L.As., gave notices of a breach of privilege arising out of the passing of an adjournment motion and the debate which took place thereon in the Bombay Municipal Corporation at its meeting held on 3rd August, 1964, expressing strong resentment against the speeches made by Members of the Assembly and demanding that the charges of corruption made against the municipal administration be proved or else an apology tendered and also requesting the Speaker to expunge those remarks from the proceedings of the House. The matter was allowed to be raised in the House and was referred to the Committee of Privileges on the same day. The matter is under consideration of the Privileges Committee. (*M.L.A. Debates*, Vol. XIII, Part II, No. 12.)

Publishing a wrong and misleading report of the proceedings of the Legislative Assembly.—On 14th August, 1964, Shri A. H. Mandani, M.L.A., gave notice of a breach of privilege arising out of a wrong and misleading report of the proceedings of the Legislative Assembly, published in *Maratha* (a local daily), dated 13th August, 1964. After calling for an explanation from the editor, printer and publisher of the newspaper concerned, the Speaker gave his consent to the raising of the matter in the House. The matter was accordingly raised in the House on 3rd December, 1964, and was referred to the Committee of Privileges for examination and report. The matter is at present under consideration of the Privileges Committee. (*M.L.A. Debates*, Vol. XIV, Part II.)

Casting reflections on a Member of the Assembly.—On 10th December, 1964, Shri B. M. Deshmukh, M.L.A., gave notice of a breach of privilege arising out of an article published in *Shanti Sandesh* (a local Marathi weekly), dated 9th December, 1964. After calling for an explanation from the editor, printer and publisher of the weekly, the Speaker gave his consent for raising the matter in the House. The matter was accordingly raised in the House on 18th February, 1965, and was referred to the Committee of Privileges for examination and report. The matter is under consideration of the Privileges Committee. (*M.L.A. Debates*, Vol. XIV, Part II, No. 17.)

SOUTHERN RHODESIA

Contributed by L. B. Moore, Second Clerk-Assistant of the Legislative Assembly

1. On the 6th August, 1964, the honourable member for Greendale, Mr. Partridge, drew attention to an alleged breach of privilege. He spoke as follows:

MR. PARTRIDGE: Mr. Speaker I rise in order to raise a matter of privilege and as this statement I will make is of some importance may I, with your permission, read it, Sir? I regret having to bring this matter to the attention of the House but I believe I would be failing in my duty to hon. members if I did not do so. On Tuesday afternoon, after I had spoken during the course of the Budget debate, I was talking on the first floor landing opposite to the entrance to the Press gallery with the Minister of Education and the hon. member for Greenwood (Mr. Brelsford). During the course of our conversation the hon. member for Greenwood noticed a person standing in the passage leading off to the caucus room of the Opposition and asked him if he wished to speak to him. This person replied: "No", and indicated he wished to speak to me, and I then went towards him, leaving the other hon. members. I asked this person what I could do for him and he advised me that he wished to speak to me about my speech. He then went on to inform me that he considered that in referring to the Press in the speech I had made on the Budget I had, in his opinion, been most unfair. I replied that if he was of that opinion he had plenty of space in his paper—I recognised him as a newspaper reporter—and that he could deal adequately with the matter there. He then went on further to advise me that he knew far more about Budget matters than I would ever know, that I was merely a chartered accountant, whilst he was an economist. His manner throughout was one of extreme annoyance and restrained anger.

Subsequently, on Wednesday afternoon when walking down the stairs to join the Assembly to say Prayers, I was stopped by the same person who was proceeding up the stairs and he said he would like to know whether I was prepared to make the same statement that I had made yesterday in the House, outside its precincts; I replied that I was quite prepared to do so. His attitude was challenging and I gathered the impression from his words and his attitude that he believed, having presumably reflected on the matter overnight, that if I were to make the same remarks that I made in the House outside of it, that he would be in a position to sue me for damages. Incidentally, during the previous day's conversation he had also stated that he was personally responsible for the headlines appearing in the paper and to which I have referred in my Budget speech. I made inquiries through the Serjeant-at-Arms who advised me that the person concerned was a Mr. Hawkins. Subsequently I saw this person again outside the Press gallery entrance and I asked him if his name was Hawkins, and he said it was.

Mr. Speaker, it is a privilege for members of the Press to be present during debates in this House and they are afforded a special position. I cannot accept that a person responsible for the headlines for our one daily paper can be said to be ignorant of his duties when in this House. If members are to be accosted on the stairways and challenged to make similar statements outside the House and advised that they know little or nothing about the affairs upon which they speak, I cannot see the affairs of this country being conducted in a proper manner. [Hon. Members: Hear, hear.] I take, therefore, grave exception to the action of Mr. Hawkins and believe that I rightfully bring this matter to your attention and to the attention of the members of this House. Thank you, Sir. [Hon. Members: Hear, hear.] (*Hansard*, Vol. 57, cols. 381, 382.)

On the same day, Mr. Speaker announced that he would give his ruling the next day. (*Hansard*, column 382, Volume 57.)

On 7th August, 1964, Mr. Speaker gave a ruling in this matter and announced to the House that in his opinion the statement of Mr. Partridge disclosed that, *prima facie*, a case of breach of privilege had been committed. (*Hansard*, column 481, Volume 57.)

The Honourable W. J. Harper, M.P., Leader of the House and Minister of Internal Affairs, moved on the same day: "That a Select Committee of Privileges be appointed to inquire into and report upon the matter of the complaint by Mr. M. H. H. Partridge concerning an alleged breach of privilege of the House; the Committee to have power to send for persons, papers and records. The motion was put and agreed to." (*Hansard*, column 483, Volume 57.)

On the 3rd September, 1964, the Committee reported to the House. The report contained, *inter alia*, the following paragraphs:

Though the matter of breach of privilege has been raised previously in the Southern Rhodesia Legislative Assembly, your Committee was the first to be appointed to inquire whether a breach of privilege had occurred. As there was no precedent of the Legislative Assembly to guide your Committee, it followed the precedent of the Committee of Privileges of the House of Commons.

The Committee of Privileges of the House of Commons in 1947 (H.C. (1946-47) 118, p. xii) accepted that "It is a breach of privilege to take or threaten action which is not merely calculated to affect the Member's course of action in Parliament, but is of a kind against which it is absolutely necessary that Members should be protected if they are to discharge their duties as such independently and without fear of punishment or hope of reward."

Your Committee also accepted that any attempt by improper means to influence a Member in his Parliamentary conduct is a breach of privilege (H.C. Report of Committee of Privileges, Session 1959-60, 284-I, p. vi).

Accordingly it was the duty of your Committee to decide whether the conduct of Mr. Hawkins, as disclosed in the evidence heard by your Committee, constituted a breach of privilege as so defined.

Having heard the evidence and having been addressed by Counsel your Committee is of the opinion that the conduct of Mr. A. Hawkins did not constitute a breach of privilege of the Legislative Assembly and recommends accordingly.

On the 9th September, 1964, a motion was moved: "That the House takes note of the Report of the Select Committee of Privileges." After debate (*Hansard*, Volume 58, columns 93-99) the motion was, with leave, withdrawn.

2. On the 1st September, 1964, the honourable member for Mtoko, Mr. Hackwill, drew attention to an alleged breach of privilege. He spoke as follows:

MR. HACKWILL: Mr. Speaker, with your leave I would like to raise a matter of privilege. I have here a copy of *The Rhodesia Herald*, of Friday, August 28th, and on page 5 of that edition there is what appears to be an advertisement which states at the bottom: "Issued by the Rhodesian Front Organizing Secretary, F. W. Bradburn, P.O. Box 242, Salisbury". This advertisement reads: "Country or Party first? The Government of the Country on Tuesday, August 25th, 1964, asked the House of Assembly to approve the following amendment during a debate on the Opposition 'No Confidence' motion." It then quotes: "Full support of this House in its approach to the British Government for Independence based on the 1961 Constitution", and the quotation ends. The advertisement, or the apparent advertisement, goes on: "The amendment was duly carried, but only thanks to Government Members,

plus one member of the Opposition. We can safely leave it to the people of Rhodesia to draw their own conclusions as to what were the motives of the Opposition in declining to support this amendment. The Opposition, in spite of their public protestations of support for the 1961 Constitution, for which they were responsible, and which they say they would use as a foundation for negotiation for Independence, refused to vote for this amendment. Many members of the Opposition left the Chamber while the vote was being taken. Others actually voted against the amendment. Has this behaviour by the Opposition not made it quite plain that they are not prepared to abide by their promises made to the Southern Rhodesian Electorate in 1961. The Rhodesian Front suggests that it would be the height of irresponsibility to give any further support to the new Rhodesia Party. Are they not already blatantly putting Party before Country?" The advertisement then ends with the words: " Rhodesian Front " and the words " Unity is the Key ".

In my submission the article which I have just read to the House is an infringement of section 10(1) of the Powers and Privileges of Parliament Act, Chapter 4; that subsection refers to certain offences which may be dealt with by this House and it reads: " The said offences shall be . . . the publication of any false or scandalous libel on any member touching his conduct as a member." [MR. CLARK: There is nothing false or scandalous about it.] I will very briefly state my case on this without in any way arguing it.

[AN HON. MEMBER: *Inaudible interjection.*] I would submit that the reference in this advertisement is to hon. members of this House. It refers in terms to the Opposition in the Chamber and the names of those hon. members on this side of the House who voted against the amendment are public knowledge; they can be discerned from Votes and Proceedings and from *Hansard*. I would submit to you, secondly, Sir, that this article is libellous in two respects; first of all it is libellous in suggesting that certain hon. members on this side of the House—or certain of them whose names are discoverable—are not prepared to abide by promises they made to the Southern Rhodesian Electorate in 1961. [HON. MEMBERS: Inaudible interjections.] Secondly, Sir, I would submit that it is libellous . . . [COLONEL HARTLEY: The greater the truth the greater the libel.]

MR. SPEAKER: Might I suggest that hon. members bear in mind that this is a discussion on the privilege of the House and this is the one occasion on which I would ask all hon. members please to refrain from interjecting. [HON. MEMBERS: Hear, hear.]

MR. HACKWILL: Secondly, Sir, I would submit to you that this article is libellous in the words: " Are they not already blatantly putting party before country "; I would submit that these two expressions quite clearly lower hon. members on this side of the House in the estimation of right thinking people and, Sir, I would draw your attention to the purpose for which the article was inserted.

THE PARLIAMENTARY SECRETARY TO THE MINISTRY OF MINES AND LANDS: On a point of order, Mr. Speaker, may I have a clarification; are we on this side of the House not allowed to interject?

MR. SPEAKER: I will repeat what I said for the benefit of the hon. member; we are discussing the privileges of this House. This is a Parliament and when we are discussing privileges it is the one occasion that I think it would be advisable for all hon. members of this House to refrain from indulging in interjections.

MR. HACKWILL: Mr. Speaker, I had already submitted to you that this article refers to hon. members whose names are discernible. I would submit to you that it is libellous of those hon. members and I would submit thirdly, Sir, that the article is a false libel in terms of Chapter 4. I would put it this way, that whatever other grounds hon. members might have for suggesting that hon. members on this side of the House are not abiding by their promises

and are putting party before country, the point of this article is that the deduction of which I complain is made on no other ground than the statement in the article of one aspect of the votes taken that day last week, on what has become known as the vote of no confidence.

I would submit this to you, Sir, that this article is false in that the true interpretation of the attitude of hon. members on this side of the House appears quite clearly from Votes and Proceedings. When one looks at the full proceedings on the many questions put and the many divisions, then the true story can be discovered and the attitude of hon. members referred to in this particular article. But the deduction which has been made in this article I would submit to you is false in that it is not warranted by a full picture of proceedings in this House on that particular afternoon. It is for that reason that I submit this is a false libel, and I would ask your ruling as to whether or not a *prima facie* case has been made out of a contravention of section 10 of the Powers and Privileges of Parliament Act. (*Hansard*, Volume 57, columns 1573, 1574, 1575.)

Mr. Speaker announced that he would give his ruling the next day (*Hansard* 20, Vol. 57, columns 1575-1576), and on Wednesday, 2nd September, 1964, he announced that he had considered the complaint in the light of the provisions of sections 10 and 33 of the Powers and Privileges of Parliament Act and that he was of the opinion that the publication of the advertisement forming the subject of the complaint constituted, *prima facie*, a contravention of the provisions of section 10 of that Act (*Hansard* 21, Vol. 57, column 1665).

Following Mr. Speaker's ruling the Hon. C. W. Dupont, M.P., Minister of External Affairs, moved: "That a Select Committee of Privileges be appointed to inquire into and report upon the complaint of the hon. member for Mtoko in regard to a matter of privilege raised by him in the House on Tuesday, 1st September, 1964; the Committee to have power to send for persons, papers and records." (*Hansard*, Vol. 57, columns 1668-1669.) The motion was put and agreed to.

On the 6th October, 1964, the Committee reported to the House The report contained, *inter alia*, the following paragraphs:

Your Committee considered its jurisdiction when inquiring into the complaint of Mr. Hackwill. On consideration of sections 10 and 33 of the Powers and Privileges of Parliament Act [Chapter 4] your Committee decided that though Mr. Hackwill had submitted that a breach of privilege had been committed under section 10(1), this did not necessarily limit your Committee in its inquiry or in its Report.

Precedent exists for raising a complaint of breach of privilege in general terms in the Report of the Select Committee of Privileges (L.A.S.C. 9—1964) presented to the House on 3rd September, 1964.

Apart from its decision on the interpretation of the Act your Committee also accepts the proposition of the House of Commons—

> "That when a matter of complaint of breach of privilege is referred to a Committee, such Committee has, and always has had, power to inquire not only into the matter of the particular complaint, but also into the facts surrounding and reasonably connected with the matter of the particular complaint, and into the principles of the law and custom of privilege that are concerned." (*General Index to the House of Commons Journals*, Vol. 195-205, page 204.)

Having heard Counsel, your Committee decided that publication of the advertisement, annexure I of this Report, was not a libel on any Member touching his conduct as a Member.

For this reason it became unnecessary for your Committee to determine whether the publication was false or scandalous for the purpose of this inquiry.

Your Committee further inquired whether any contempt of Parliament analogous to libel, or other breach of privilege, had been committed in the publication of the advertisement. Your Committee particularly considered whether the publication was a perverted or injurious misrepresentation of the proceedings of the House on Order of the Day No. 5 of 25th August, 1964, attached to this Report as annexure II.

Your Committee concluded that the publication was a misrepresentation of what passed in the House. However, in your Committee's view, the misrepresentation was not sufficiently gross as to amount to a contempt.

Your Committee is very conscious of the duty of this House to deal with any reflection upon its proceedings or any reflection upon any Member touching upon him as a Member and accordingly deplores this advertisement.

On the 7th October, 1964, a motion was moved: That the House takes note of the Report of the Select Committee of Privileges. After debate (*Hansard*, Volume 58, columns 1379 to 1397) the motion was, with leave, withdrawn.

XVII. MISCELLANEOUS NOTES

1. CONSTITUTIONAL

Australia (Ministers of State—increase in numbers).—Section 65 of the Constitution which took effect in 1901 provided that the number of Ministers of State who could be appointed by the Governor-General should not exceed seven but gave the Parliament power to determine otherwise.

This number was progressively increased by several Ministers of State Acts and had risen to twenty by 1951 (see *Journal*, Vol. XX, p. 53). The number of Ministers was further increased to twenty-two in 1956 at which figure it remained until 1964 when an amending Act* was passed which provided for a maximum of twenty-five.

Of these twenty-five Ministers, twenty are Members of the House of Representatives and five are Senators.

(*Contributed by the Clerk of the House of Representatives, Australia.*)

Queensland—Legislative Assembly (Indemnity for Member holding Office of Profit under the Crown—Percy Raymund Smith Declaratory Bill)—Mr. P. R. Smith is the Liberal Party Member for Windsor. In outlining the principle in the Bill, the Premier said:

> As all hon. Members are aware the Constitution of this State imposes certain disabilities which render a citizen incapable of being elected to, or of sitting and voting as a Member of, this Parliament. The Constitution Acts express these disabilities in rather general terms and in so doing cast quite a wide net which occasionally enmeshes a candidate for membership, or a member of this House at whom the disabilities are obviously not aimed.
>
> All hon. Members know the purpose for which these disabilities are imposed. They cover two categories, namely, the contractor with the Crown and the holder of an office of profit under the Crown. Their purpose is to ensure that hon. members, in the discharge of the duties and responsibilities of their parliamentary offices, will not be influenced in any way by self interest engendered by the relationship to the Crown created by a contract or by holding some paid office.
>
> Not only is it important that an hon. member should not take the profit of a contract or office with the Crown, but it is equally important that he should not appear to do so. Thus the disability applies to the office even though its

* Act No. 1 of 1964. *Hans.* H. of R., 26th February, 1964, p. 45. *Hans.* H. of R., 29th February, 1964, pp. 102-19. *Hans.* Senate, 27th February, 1964, p. 104. Hans. Senate, 3rd March, 1964, pp. 122-37.

emoluments are refused. . . . The Bill I am introducing is concerned not with the contract with the Crown but with the holding of office under the Crown. The disabilities attaching to these offices are imposed by Section 5 of the Officials in Parliament Acts. An exemption from this disqualification provides that it does not apply to officers and members of the Navy, Army or Air Force who receive only daily pay and are not employed permanently or at an annual salary.

The hon. Member for Windsor, Mr. P. R. Smith, was asked by the Commonwealth Government to act as Judge-Advocate-General of the Royal Australian Air Force during the absence of the Judge-Advocate-General from Australia.

The terms in which the hon. Member was asked to act in this Commonwealth office created some doubt as to whether acceptance would disable him from continuing as a member of this House.

After consultation with me the hon. Member accepted the appointment on the understanding that I ask this House to remove the doubt so far as it relates to the holding by him of the office of Acting Judge-Advocate-General, Deputy Judge-Advocate-General, or Judge-Advocate-General of the Royal Australian Air Force.

2nd and 3rd September, 1964.

Votes and Proceedings, pp. 75 and 82.

Hansard, Introduction pp. 208-18; Second Reading, Committee and Third Reading, pp. 222-3.

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

Canada (Federal Parliament Powers).—The legislative powers of the Federal Parliament were enlarged (subject to Provincial legislative powers over property and civil rights) to include the provision of a comprehensive pension plan. *U.K. Statutes*, 1964, c. 73.

New Brunswick (Legislative Assembly).—Chapter 39 of 1964 of the Province of New Brunswick was entitled "An Act to Amend the Legislative Assembly Act".

Section 1 accomplished a revision of the procedure in case of the Speaker's absence and the consequences of the Chair being occupied at any time by the Deputy Speaker or any other Member. Section 12 formerly required the Clerk to inform the House of the absence of the Speaker at the opening of a sitting. In practice the Deputy Speaker took the Chair without any preliminary steps being taken. Such practice is made legal by the new section 12.

The revision of sections 12 to 15 also gives statutory recognition to the office of Deputy Speaker. Previously he was referred to in the statute only as Chairman of the Committee of Supply.

Section 2 did not effect any change in the law.

Section 3 was enacted to overcome the possible disqualification of a Member who was selling to the Crown real property required for a public work.

Section 4 effected an amendment to preclude any possibility of disqualification of members by reason of their participation in a Government-sponsored group insurance plan.

Section 5 amended section 24 of the Act. Section 24 previously called for a deduction from a Member's indemnity for each day in excess of five, he was absent, either with or without leave. As amended a deduction is called for only if a Member is absent more than five days, *without* leave.

Section 27 of the Act was repealed to eliminate the need for an Order in Council to authorise payment of Members' travel allowances.

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

Kenya (Constitutional).—Kenya attained her Republican Status on 12th December, 1964, an historic date to be remembered by all of us for many years to come. The Constitution of Kenya (Amendment) Act, 1964, the Constitution of Kenya (Amendment) (No. 2) Act, 1964, and the Constitution of Kenya (Amendment) Act, 1965, amended the Kenya Constitution as contained in Schedules 1 to 4 inclusive of the Kenya Independence Order in Council, 1963, the Constitution in force prior to the establishment of the Republic of Kenya.

Under the new Constitution the powers and privileges *inter alia* formerly held by the Governor-General automatically devolved upon His Excellency the President who also became Head of State and Commander-in-Chief of the Armed forces. The Office of the Vice-President was established and according to the new changes, a person holding such an office had to be appointed by the President. The Status and functions of President in Parliament are provided for in the First Schedule, Part II, Item 33 C, of the Constitution of Kenya (Amendment) Act, 1964, which states:

33C. The President shall be entitled:

(*a*) in the exercise of his functions as Head of State to address either House of the National Assembly, or; both Houses sitting together;

(*b*) in the exercise of his functions as Head of the Cabinet and as a member of the House of Representatives, to attend meetings of that House and to take part in all proceedings thereof, and to vote on any question before that House; and

(*c*) in the exercise of his functions as Head of the Cabinet, to attend all meetings of the Senate and to take part in all proceedings thereof, but not to vote on any question before that House.

One Party System in Parliament

The Kenya African Democratic Union, the only Official Opposition Party in Kenya since pre-independence days, was voluntarily dissolved on 10th November, 1964. The Leader of Opposition, the Hon. R. G. Ngala, M.P., made a personal statement in the National Assembly in which he explained the circumstances which led supporters of his party to join the Kenya African National Union—the

Government Party. The central theme of his statement was based on the challenges that faced our country and the rôle of unity in building a new nation. The dramatic scene arose in the Chamber of the House when after the speech, all the Members of Opposition crossed the floor and took their seats on the Government benches. The Prime Minister, the Hon. Jomo Kenyatta, M.P., who is also the President of the Kenya African National Union, also made a speech of welcome on behalf of the Government. He commended the Members of the Opposition Party for having realised that Kenya needed greater unity.

The Senators' Terms of Office

The Senators who were returned to the Senate as a result of the General Elections held in May 1963 were divided into three classes in accordance with Section 6 sub-section 10 of the Preamble to the Kenya Order in Council 1963. The Section provides that "As soon as possible after the Senate first meets after the appointed day the Speaker of the Senate shall, by lot, divide the Senators representing the several Districts in each Region into three classes as nearly equal in number as is practicable; and every Senator in the First class shall vacate his seat at the expiration of two years from the date when the Senate first meets under the Constitution. Every Senator in the Second Class shall vacate his seat at the expiration of four years from that date, and, every Senator in the Third Class and the Senator representing the Nairobi Area shall vacate his seat at the expiration of six years from that date." On the 18th June, 1963, the provision of Section 6 of the Preamble had to be put into practice and the procedure in the Chamber was briefly as follows: The Clerk placed on the Table the 38 cards which he had made up and marked in this Order—12 marked Class 1-2 years; 13 marked Class 2-4 years; and 13 marked Class 3-6 years. Any Senator who wished to come forward to verify the markings could then do so. The cards were then folded and placed on the ballot box. Members were called forward in alphabetical order by the Clerk and asked to draw a ticket and read out to the Clerk which class they had drawn. The 1963 General Election did not cover the N.E. Region which area until recently had remained unrepresented in the National Assembly. The Class I, Class II and Class III Senators are due for elections on 7th June, 1965, 7th June, 1967, and 7th June, 1969, respectively.

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

Jersey (Constitutional).—The States of Jersey are in the process of considering a Bill to codify, with sundry amendments, the Law regarding the constitution, procedure and committees of the States

of Jersey, to declare and define the powers, privileges and immunities of the States, and to make provision in relation to certain ancillary matters.

(*Contributed by the Greffier of the States.*)

Bahamas (Constitution).—At the general election in the Bahamas in 1962 both the major parties advocated a move towards internal self-government. A charter of 1670 had provided for an elected House of Representatives and the Constitution dated, with little amendment, from 1729. It was similar to that of the North American Colonies before the War of Independence. It was, moreover, partly unwritten, very complicated and nowhere codified.

The Secretary of State for the Colonies, Mr. Duncan Sandys, visited the Bahamas in December 1962. The representatives of the political parties and the Legislature expressed to him their desire for constitutional advance. He accordingly convened a conference in London in May 1963, at which agreement on the main features of a constitution was achieved. The conference report was contained in Command Paper 2048.

A bill was introduced in the next session of Parliament to enable a draft Order in Council to be made, which would embody a constitution on the agreed principles. The Bill received the Royal Assent on 3rd December, 1963, and the draft Order in Council was presented to both Houses on 31st December and came into force on 1st January, 1964.

The principal provisions were summarised by the Secretary of State for the Colonies as follows:

The new Constitution provides for a continuance of the bicameral legislature. The House of Assembly, which is the Lower House and is wholly elected, will be slightly enlarged to provide a greater number of representatives of New Providence Island. The Senate will have only delaying powers and will not, in general, be able to delay Money Bills for more than two months.

The Governor's Executive Council has been replaced by a Cabinet of Ministers who will be appointed by the Governor on the advice of the Premier. The Premier himself will be appointed by the Governor as the person whom he thinks best able to command the confidence of the majority of the House of Assembly.

This Cabinet will be responsible for the administration of the Colony and Ministers will be assisted by Boards, similar to the old Public Boards but reconstituted to exercise only consultative and administrative functions. Each Minister will carry full responsibility for the matters dealt with by the Boards under his control and will be answerable for these matters to the Legislature.

The Governor will retain special responsibility for defence, external affairs, internal security and the control of the police.

The Public Service, including the Magistracy and staff of the Courts and the police (except the Commissioner and Deputy Commissioner) will be under the control of Commissions, whose advice will be binding upon the Governor.

As this Constitution has only just been brought into force it is too early to forecast future developments. (*Com. Hans.*, Vol. 68, c. 63-4 written.)

British Guiana.—General Elections were held in December, 1964, under the List System of Proportional Representation.

The new House of Assembly (unicameral) has replaced the bicameral legislature, i.e. the Legislative Assembly (Lower elected House) comprising 35 Members and an elected Speaker and the Senate (Upper nominated House) comprising 13 Members.

The House of Assembly comprises 53 elected Members and a Speaker elected by the Members of the House of Assembly from outside.

Zambia.—The Zambia Independence Bill was given an unopposed Second Reading in the House of Commons on the 2nd July, 1964, and a Third Reading on the 10th July, 1964, and the Zambia Independence Act was promulgated on 31st July, 1964. The Zambia Independence Order, 1964, came into operation immediately before the 24th October, 1964, and the Constitution of Zambia (which came into being on the 24th October, 1964) is set out in the Second Schedule to that Order. The new Constitution provides for a Parliament consisting of the President and the National Assembly. The National Assembly consists of—

(i) seventy-five elected Members of whom ten are elected to Reserved (non-African) seats, which will continue until the first dissolution of the National Assembly; and
(ii) Members nominated by the President, subject to a maximum of 5 such Members.

The Speaker of the National Assembly is elected by the Assembly either from its Members or from persons outside the Assembly who are qualified to be elected as such. The Deputy Speaker is elected by the Assembly from amongst its Members. The President, Vice-President, Ministers and junior Ministers are not eligible for election to the office of either Speaker or Deputy Speaker.

The President presides at meetings of the Cabinet which consists of the Vice-President and Ministers (not exceeding fourteen in number). Junior Ministers are appointed by the President and include Ministers of State, Parliamentary Secretaries and Resident Ministers.

Amendments to the Constitution require the support of two-thirds of all the Members of the National Assembly at the Second and Third Readings of the relevant Bills and thirty days have to elapse between the publication of such a Bill and its First Reading. Any amendments affecting the Code of Human Rights, the judiciary, or the procedure for amending the Constitution, in addition, require approval by a simple majority of the electorate at a referendum.

While the provisions regarding human rights are the same as in the previous Northern Rhodesia Constitution, the Constitutional Council has been replaced by an arrangement whereby, upon written

notice being given to the Speaker by not less than seven Members of the National Assembly within three days of the final reading of any Bill, a Tribunal of two High Court Judges is appointed by the Chief Justice to consider the Bill and to report to the President and the Speaker. If the Bill appears to the Tribunal to be inconsistent with the Code of Human Rights, the President may assent to or refuse to assent to the Bill or return it to the National Assembly. If, in the case of a Bill returned to the Assembly, the Assembly resolves, within six months of the Bill being so returned upon a motion supported by the votes of not less than two-thirds of all the Members of the Assembly, that the Bill should again be presented for assent, the Bill shall be so presented. If the Bill is again presented to the President for assent, in accordance with the provisions of the Constitution the President shall assent to the Bill within twenty-one days of its presentation, unless he sooner dissolves Parliament.

In the case of Statutory Instruments, the above procedure also applies except that the written request from not less than seven Members of the National Assembly is addressed to the authority having power to make the Instrument within fourteen days of the Instrument's publication in the *Gazette*. If the Tribunal reports to the President that any provision of a Statutory Instrument is inconsistent with any of the provisions of the Code of Human Rights, the President may annul that Statutory Instrument.

The House of Chiefs retains the functions which it enjoyed under the previous Constitution, but the powers vested in the Governor are now transferred to the President.

Provision is made in the Constitution for the appointment by the Assembly of a Clerk of the National Assembly who may be removed from office only by resolution of the Assembly for inability to discharge the functions of his office or for misbehaviour. Power to appoint persons to hold or act in any office in the department of the Clerk of the National Assembly (other than the office of Clerk), and to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office, is vested in the Speaker of the Assembly. There is provision that, in the case of senior officers of the Assembly whose emoluments exceed a certain figure, the Speaker may exercise the power to appoint such officers or remove them from office only after consultation with the Public Service Commission. If the Speaker acts otherwise than in accordance with the recommendations of the Commission, as soon as practicable thereafter, he has to inform the Assembly that he has so acted.

2. CEREMONIAL

House of Commons (Retirement of Sir Winston Churchill).—Sir Winston Churchill had made known his intention not to seek re-election at the end of the last Parliament. Shortly before its

conclusion, on 28th July, 1964, the House resolved, *nemine contradicente*

That this House desires to take this opportunity of marking the forthcoming retirement of the right honourable Gentleman the Member for Woodford by putting on record its unbounded admiration and gratitude for his services to Parliament, to the nation and to the world; remembers, above all, his inspiration of the British people when they stood alone, and his leadership until victory was won; and offers its grateful thanks to the right honourable Gentleman for these outstanding services to this House and to the nation.

The Prime Minister, Sir Alec Douglas-Home, moved the motion, which was supported by the Leaders of the Opposition parties and also by Mr. Harold Macmillan, in his last speech in the House, and several senior Members.

To mark Churchill's retirement, the House had by general agreement, reverted to an old custom of moving Votes of Thanks. The Prime Minister referred to a precedent of a Vote of Thanks to the Duke of Wellington on 1st July, 1814. Mr. Harold Wilson, Leader of the Opposition, believed that the last Vote of Thanks to a Member was 17th March, 1700. (*Com. Hans.*, Vol. 699, cols. 1237-49.)

The House ordered a "Committee to wait upon the right honourable Gentleman to convey to him the thanks of the House". The Committee was nominated of the Prime Minister, Mr. Harold Wilson, Mr. Grimond, Mr. Selwyn Lloyd, Sir Thomas Moore and Mr. Shinwell. Attended by Mr. D. W. S. Lidderdale, the Clerk-Assistant, they waited on Sir Winston Churchill at his London house the same day.

The next day, the Prime Minister reported to the House:

I have to report that the Committee appointed by this House waited upon the right hon. Gentleman the Member for Woodford, according to the Order of the House, yesterday afternoon, and conveyed to him the Resolution expressing the thanks of the House.

The right hon. Gentleman said:

"I am deeply grateful to the House that it should see fit to honour its servant in this outstanding way. Among the many different aspects and chapters of my public life, it is my tenure as a Member of Parliament that I value most highly. Now, at the time of my departure, this Resolution has set the seal on the many kindnesses which the House has done me. It will always be remembered and cherished by myself and my descendants."

(*Ibid.*, col. 1429.)

Her Majesty the Queen (Birth of a Son).—On Thursday, 12th March, 1964, the Prime Minister, Sir Alec Douglas-Home, moved:

That an humble Address be presented to Her Majesty, offering the congratulations of this House to Her Majesty and to His Royal Highness the Prince Philip Duke of Edinburgh on the birth of a Son to Her Majesty, and signifying to Her Majesty the great pleasure given to Her faithful Commons by this happy event.

with these words:

When the good news was received on Monday evening that the Queen and Prince Philip had had a son there was spontaneous rejoicing all over the country. This Motion enables us to send congratulations to Her Majesty and to the Duke of Edinburgh from this House on our behalf and on behalf of the constituents whom we represent.

I think that this is an occasion, of which we are glad to take advantage, to reaffirm our loyalty to the Sovereign. We are grateful that we are able sincerely to do much more than that because we have watched with respect and admiration the way in which the Queen and Prince Philip, while never stinting themselves in public service and public duty, have, nevertheless, been able to maintain their private life and to set aside time for their children. However demanding the claims of public life may be, it is important for us to be reminded that private duties and private joys are no less important.

The happiness of the birth of a child we have all experienced in our families and those of our relations and friends, and we share the joy of the Queen and of the Duke of Edinburgh and the sister and brothers of the new prince, to whom we would wish a very long and a very happy life, and we humbly send to Her Majesty our affectionate congratulations.

Mr. Harold Wilson, Leader of the Labour Party, seconded the motion:

I rise on behalf of the Opposition, and those whom we represent in the country, to second the Motion which the Prime Minister has just moved in terms which I think all of us would wish to echo and to applaud.

On the last occasion when the House had the privilege of considering and passing a similar Motion the right hon. Gentleman's predecessor, the right hon. Gentleman the Member for Bromley (Mr. H. Macmillan), said that it was the first time that the House had had such a Motion before it for over 100 years, I think, since 1857.

The right hon. Gentleman rightly said that for over that century we as a nation, as a people, have been privileged to see the monarchy enter more closely into the hearts and affections of our people, not least because of the factor mentioned by the right hon. Gentleman that Her Majesty and His Royal Highness and their family are unstinting in the work they put in in visiting not only parts of this country, but of the entire Commonwealth of which Her Majesty is the Head.

I think it right to say, also, that whereas every family will have shared in the happiness occasioned by this event, so many more millions of our people now feel that they know Her Majesty and His Royal Highness more closely and more intimately than was possible in past generations because of the new media of communication, the radio and television, and that they therefore will be able to join all the more fully in the rejoicing which it is now the duty and pleasure of this House to pronounce upon by accepting the Motion.

and Mr. Grimond, Leader of the Liberal Party, added his support. The motion was agreed to, *nemine contradicente*. (*Com. Hans.*, Vol. 691, cols. 673-5.)

Kenya (1964 State Opening of Parliament— Maces presented to Speakers).—The 1964 State Opening of Parliament in Kenya was unique and unlike the past ones had one remarkable peculiarity. The Maces were presented to the two Speakers in the National Assembly (the Senate and the House of Representatives) by His Excellency the President.

His Excellency the President after the preliminary formalities had been accomplished took his seat, specially installed for him on the right hand of that of the House of Representatives' Speaker and said "Pray be seated". All persons then inside the Chamber resumed their seats. The Speaker of the Senate thereupon welcomed His Excellency the President and humbly requested him to present the Maces to the Speakers. Each Speaker was then presented with the Mace for his House. On receiving his Mace each Speaker handed it to the Serjeant-at-Arms and Assistant Serjeant-at-Arms respectively who in turn together proceeded to the Table and placed the Maces in position.

This was followed by a speech from the Chair by His Excellency the President. It would be of interest to note that some extracts from the speech of His Excellency the President, Jomo Kenyatta, on this particular day 14th December, 1965, have now been compiled into a booklet entitled "Notes on Membership of Parliament".

The presentation of the Maces to the Speakers by His Excellency the President was Kenya's own idea. This occasion was particularly important because Members of Parliament, the Officers of this institution and all persons interested in and concerned with parliamentary procedure recognise the Mace as a symbol of authority and that there is a continuity of procedure from the State Opening of Parliament to the daily parliamentary sittings.

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

Jamaica, Trinidad and Tobago (Gift of a Speaker's Chair, a bookcase and a gavel).—On 4th December, 1963, the House of Commons passed the following Resolutions—

Resolved, That this House will, tomorrow, resolve itself into a Committee to consider of an humble Address to be presented to Her Majesty praying that Her Majesty will give directions that there be presented, on behalf of this House, a Speaker's Chair to the House of Representatives of Jamaica and assuring Her Majesty that this House will make good the expenses attending the same.

Resolved, That this House will, tomorrow, resolve itself into a Committee to consider of an humble Address to be presented to Her Majesty praying that Her Majesty will give directions that there be presented, on behalf of this House, a bookcase containing Parliamentary and Constitutional reference books, together with a gavel for the Speaker, to the House of Representatives of Trinidad and Tobago and assuring Her Majesty that this House will make good the expenses attending the same. (*C.J.*, 1963-64, p. 37.)

The resolution was come to in Committee the next day, and agreed to by the House on the following day. On Wednesday, 11th June, the Queen's answer to the address was reported to the House signifying her pleasure and concurrence. The Leader of the House, on 17th December, moved

That Sir Kenneth Thompson, Miss Joan Vickers, Mr. Shinwell and Mr. Charles Royle have leave of absence to present, on behalf of this House, a Speaker's Chair to the House of Representatives and a bookcase and gavel to the House of Representatives of Trinidad and Tobago.

and added

The House may wish to know what the composition of the delegation to perform these pleasant tasks has been arranged in consultation with you, Mr. Speaker, and that the delegation will be accompanied by Mr. A. C. Marples, the Clerk of Standing Committees. (*Coms. Hans.*, Vol. 686, col. 1212.)

The motion was agreed to.

On 10th February, 1964, the senior Member, Sir Kenneth Thompson, reported to the House:

I have to report that we have discharged this agreeable duty. The Speaker's Chair was presented to the Parliament in Kingston, Jamaica, on 20th January, and the presentation of the bookcase and gavel took place in Port of Spain, Trinidad, on 27th January, 1964.

In each case, Mr. Speaker, your delegation was invited to appear at the Bar of the House in the company of large gatherings of distinguished guests and in each Parliament we were welcomed by the Speaker. The right hon. Member for Easington and I were permitted to address the Houses before formally presenting the gifts. Motions were then proposed in each case by the Deputy Prime Minister and in each case seconded by a leader of the Opposition, accepting with thanks and appreciation the gifts which we had offered on behalf of our House to the independent Parliaments of each State; and the Motions were accepted *nemine contradicente*. I submit a printed and signed copy of each.

I hope, Mr. Speaker, that, in accordance with precedent, you will direct that these Resolutions shall appear in the Journal of the House.

It is needless to say that the delegation was received with great cordiality and entertained with generosity throughout our visit. We were received by the leading personalities of Jamaica and Trinidad and Tobago and met the ordinary people at work and at play. With the concurrence of my co-delegates, I record our confidence in the parliamentary democracy of the two nations and, in returning thanks for the warmth of our reception, we all join, as I am sure the House will, in wishing them happiness and well-being in the future.

Mr. Speaker: In accordance with what I am sure are the wishes of the whole House, I shall cause the two Resolutions to be recorded in the Journal.

(*Com. Hans.*, Vol. 689, cols. 30-1.)

The Resolutions were:

1. Be it Resolved that this House accepts with thanks and appreciation the gift of the Speaker's Chair from the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland as a token of friendship and goodwill on the part of the British House of Commons and people towards the House of Representatives and people of Jamaica.

2. Be it Resolved that this House accepts with thanks and appreciation the Independence Gift of a bookcase and a gavel from the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland as a token of friendship and goodwill on the part of the British House of Commons and people towards the House of Representatives and people of Trinidad and Tobago. (*C.J.*, Vol. 219, p. 103.)

3. General Parliamentary Usage

House of Lords (Reprinting of Acts of Parliament as amended).—In the House of Lords on the Committee stage on the Machinery of Government Bill (subsequently the Ministers of the Crown Bill), an interesting amendment was discussed, which as it refers to the reprinting of an Act of Parliament as amended by a subsequent Act deserves to be set out at some length.

The Bill proposed for subsection (2) of Clause 5 that:

> Subsection (2) of section 5 of the House of Commons Disqualification Act 1957 (reprinting of Schedule 1 as from time to time amended) shall apply to provisions of that Act other than Schedule 1 as it applies to that Schedule.

Lord Dilhorne moved to leave out subsection (2) of Clause 5 and said:

> I have put down this Amendment as a probing Amendment. Section 5 of the House of Commons Disqualification Act, 1957, provides for altering the First Schedule of that Act when Amendments have been made to that Schedule by Order in Council under subsection (1) of that section of the Act. That is a convenient system, so that anyone who is considering whether or not he is, or may be, disqualified from standing for election to the House of Commons can look at the Schedule which should be up to date at that time. It is obviously right that if, under Section 5(1), it is possible to amend the Schedule by Order in Council there should be provision for reprinting the Schedule as amended. What puzzles me is that power is now taken, by this particular subsection (2) of Clause 5 of the present Bill to reprint also the Act, as amended. What puzzles me is why this power to reprint the Schedule, as amended, given by subsection (2), should be applied to the body of the Act as a whole when it is not possible to amend the 1957 Act by Order in Council. There may be some technical reason for it, but at the present moment it escapes me.

The Lord Chancellor (Lord Gardiner) in reply said:

> This matter is a little complicated and a little technical. As your Lordships know, if you want to know what the law is you find an Act which deals with it, Act *A*. Then you have to look to see whether there are other Acts which have amended, or perhaps repealed, Act *A*. Whether that is sensible or not (I have always thought it was not), that is, in fact, what one does. So there may be a chain of Acts amending one another. There has been one exception to this general way of dealing with Statutes. There was a Naval Discipline Act in 1922. This was a further Naval Discipline Act amending earlier Acts, and one section of it stated:
>
> > "A copy of this Act with every such enactment and word inserted in the place there assigned, and with the omission of any portion of this Act directed by any such amending Act as aforesaid to be repealed or omitted from this Act, shall be prepared and certified by the Clerk of the Parliaments and deposited with the Rolls of Parliament, and His Majesty's Printers shall print in accordance with the copy so certified all copies of this Act which are printed after the commencement of such amending Act."
>
> That is a curious provision. If you have an Act and you amend it, the Stationery Office, when they next reprint, are, as it were, to take advantage

of any Amendments that there have been and to reprint the Act as amended.

Then 33 years passed and in 1955 the Members of another place were considering the House of Commons Disqualification Bill—this was the Bill which did not become law. One of the things that everybody was unhappy about was the phrase " office of profit under the Crown ". Everybody said that it is difficult to know exactly what that term means and what it does not mean. So the matter was remitted to a Select Committee for consideration. The noble Lord, Lord Spens, whom I see here, was, if I remember rightly, as Sir Patrick Spens, Chairman of that Committee. There appeared before that Committee the then learned Attorney General, the present noble and learned Viscount, Lord Dilhorne, who suggested that it should be possible to specify in a Schedule all the different offices of profit under the Crown. The Committee accepted that proposal.

Then the noble Lord, Lord Spens, the Committee's Chairman said, " Well since, obviously, future offices will be created in the future, ought we not to make provision for altering the Schedule by an Affirmative Resolution, so as to save the necessity for a new Act?" The Committee agreed with that proposal. Following that, as I understand it, another member of the Committee suggested that, as it is important to all prospective Parliamentary candidates and their agents to know for certain whether or not some particular office was an office of profit under the Crown, it would be convenient if, instead of their having to hunt through the Acts and all the statutory instruments, each time the Act and Schedule were reprinted the Schedule was reprinted up to date. And the Committee accepted that view.

So it came about that when the then Attorney General, now the noble and learned Viscount, Lord Dilhorne, introduced the revised Bill in another place it included this provision which, after some slight amendment, one now finds in the House of Commons Disqualification Act, 1957, requiring the reprinting of the Schedule up to date. That was the position when the present Bill was introduced in another place and it did not contain any provision of this kind.

But it was then pointed out, I think by the Public Bill Office, by Parliamentary draftsmen and others, that if no alteration were made on this point, as the present Bill is also amending other parts of the House of Commons Disqualification Act, 1957, one would now have the Stationery Office reprinting with the Schedule up to date, but with other parts of the Act not up to date. Anybody who looked at the First Schedule would say, " This has obviously been printed up to date as Parliament has altered it since." But other parts of the Act would not be so up to date, and this would be something of a trap.

There were, therefore, altogether some five alternatives. One was to leave the trap as it was, which seemed obviously unsatisfactory. The second was to introduce a new type of Consolidation Bill, repealing the Act of 1957 and consolidating with the present Bill: that course obviously was not appropriate. The third was to repeal the reprinting provision contained in the 1957 Act; but that would have been a rejection of the view which Parliament had taken in 1957, that it was a great help, and indeed of importance, to Parliamentary candidates and agents to be able to have an up-to-date list in that way. The fourth alternative—and this was very seriously considered—was whether it would not be the right solution to ask the Stationery Office to include a note saying, " The Schedule has been reprinted up to date, but there have been alterations in other parts of the Act and they have not been shown—so look out!" That was considered, but I think the noble and learned Viscount will agree with me that it would be very undesirable to start a practice by which the Stationery Office include notes, whoever may have authorised them, on reprinted Acts of Parliament.

So the best alternative was thought to be that which is now contained in Clause 5(2), so as to provide that

"Subsection (2) of section 5 of the House of Commons Disqualification Act 1957 (reprinting of Schedule 1 as from time to time amended) shall apply to provisions of that Act other than Schedule 1 as it applies to that Schedule."

That is the reason for that provision in the circumstances which arose and it was, it is suggested, the sensible thing to do. For those reasons the Government do not feel able to accept this Amendment. (*L. Hans.*, Vol. 262, cols. 639-45.)

The Government's proposal was agreed to, and was greeted on all sides of the House, Lord Conesford saying that he hoped that "this precedent will be extended to many other pieces of legislation in this country".

House of Commons (Misdescription in the Navy Estimates).—By the Defence (Transfer of Functions) Bill, the Government intended to secure a more unified control of matters of defence and to reduce the autonomy of the three Service Departments. Major policy decisions were to be taken by the Secretary of State for Defence, as the Minister of Defence was to be restyled, and the Defence Council. The Board of Admiralty would disappear and a sub-committee of the Defence Council would inherit the residue of its functions.

In the Bill, the Government proposed that this sub-committee should be styled the "Navy Board". In consonance with this, in Class III of the Navy Estimates which were presented to the House, reference was made to the "Navy Board". When the Bill reached the Lords, they amended "Navy Board" to "Admiralty Board" and in the Commons the Government accepted the Lords' amendment. Several Members of the Opposition took the point, when the Lords Amendments were being considered by the Commons on 4th March, 1965, whether the Estimates should be withdrawn and presented afresh to the House.

The Government's view was that there was no misdescription in the effective part of the Estimates and they could therefore stand. The references to the "Navy Board" occurred only in the explanatory part of the Estimates, and the House was not required to take any action on this.

Mr. Callaghan, Member for Cardiff, South-east, asked the Speaker to consider whether the form of Class III was appropriate to be considered by the House. The Speaker undertook to consider the question (*Com. Hans.*, Vol. 690, cc. 1464-84).

On 9th March, Mr. Speaker gave his answer:

My conclusion is that, upon both constitutional and procedural grounds, I must forgo any wish to meet the hon. Member's request. I will explain why.

What we received was a Royal demand for Supply, that is to say, that, after we had been warned by words in the Gracious Speech to expect Estimates to be presented, Estimates were, by the responsible Minister, presented to the House by "Command of Her Majesty".

It is not for the Speaker—even were the Estimates still to be now within my field of responsibility—to pronounce upon the terms in which Her Majesty's request to us is expressed. But the Estimates are not. Any action of this House, upon a Royal request for Supply, must—in accordance with one of the oldest and most fundamental rules of our Constitution—be begun in Committee, so that the Estimates were in the normal course of financial procedure referred to the Committee of Supply and they had been so referred before the hon. Member addressed his request to me.

In such circumstances it would be quite improper for me to attempt to say anything more in answer to the hon. Member. (*Com. Hans.*, Vol. 691, cc. 37-8.)

The House then resolved itself into Committee of Supply on various Defence Estimates and an attempt was made to raise the issue there. The Chairman, however, declined to afford an opportunity, since Navy Vote Class III was not one of those down for discussion (*ibid.*, cc. 40-4).

In the event, the Opposition did not select the item for any subsequent Supply day and it fell under the July guillotine.

Queensland (Motion to Summon Mr. J. A. R. Egerton, President of the Trades and Labour Council to appear at Bar of the House).—Mr. E. J. Walsh, M.L.A. (Independent) moved, pursuant to notice—

That whereas on the sixteenth day of October, 1964, John Alfred Roy Egerton, President of the Trades and Labour Council, addressing the 40th State Trade Union Congress at the Brisbane Trades Hall, was reported in *The Courier-Mail*, Brisbane on the seventeenth day of October, 1964, as having stated in the course of his Presidential Address that information at his disposal established to his satisfaction that some Members of Her Majesty's Executive Council and some other Members of this House being Members of Her Majesty's Government Parties were corrupt and had improperly received emoluments outside and beyond their entitlement as such Members of Her Majesty's Executive Council and/or Members of this House; . . . it is therefore resolved by this House—

> " That the said John Alfred Roy Egerton be ordered to attend before this House at a time and day to be named by Mr. Speaker but not being later than twenty-eight days from the date hereof, to be here examined as to what he shall know concerning the aforesaid matters and such other matters that may be relevant or incidental thereto, and to bring with him any papers, books, records or other documents relating to the aforesaid matters as may be in his possession or power."

The Premier (Hon. G. F. R. Nicklin, M.L.A.), on behalf of the Government, opposed the motion (*Hansard*, pp. 1720-4).

The Leader of the Opposition and Leader of the Australian Labour Party (Mr. J. E. Duggan, M.L.A.) concluded his speech by saying:

. . . once it becomes a subject of debate here it has the effect of creating political mischief as far as the A.L.P. is concerned. There have been occasions when we have been forced into the position where we have had to vote with the Government because we thought that the action taken was designed to embarrass us. But I would rather do that than walk out if I thought the actions of the Government were right. On this occasion it is not a case of making a decision of that kind. It is a case, whether by accident or design,

of an attempt being made indirectly to discredit the A.L.P. The Government has the numbers to do what it likes. It has a substantial majority in the House, including all the parties, to solve this problem to its own satisfaction. We will allow you to conduct this argument amongst yourselves—in peace if you like, in rancour if you like, and with recrimination if you like. But we in the Australian Labour Party do not intend to take part in it and I now propose to leave the House with my colleagues.

All Members of the Australian Labour Party present then withdrew from the Chamber and took no further part in the proceedings.

After Mr. Walsh had replied, a division was called for and there being fewer than five Members appearing on one side, under the provisions of Standing Order No. 148 Mr. Speaker declared the Question resolved in the negative. (*Queensland Hansard*, 20th November, 1964, pp. 1710-40, and *Votes and Proceedings*, pp. 393-5).

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

Queensland (Amendment to Want of Confidence Motion).—Mr. J. E. Duggan, M.L.A. (Leader of the Opposition) pursuant to notice, moved the following Motion:

That the Government does not possess the confidence of this House, for the following reasons, namely—

(1) The economy of Queensland and Australia is being adversely affected by the prolonged industrial dispute at Mount Isa;
(2) Great hardship and financial suffering has been, and is being, experienced by a great number of people, both directly and indirectly involved in the dispute;
(3) A major contributing factor to the foregoing has been the tragic and inept handling of the problem by the Government and its continuing lack of interest and effective action in bringing the dispute to a satisfactory conclusion;
(4) Failure of the Government to convene Parliament earlier than March 2, 1965;
(5) The provocative nature and circumstances under which the emergency Orders in Council were issued, thereby aggravating and prolonging the dispute;
(6) Its failure to acknowledge that the basic provocation of the dispute was the sections of the 1961 Industrial Conciliation and Arbitration Act which deprived the employees of Mount Isa Mines and other industries of access to the Industrial Commission on the question of increased bonus payments, and its failure to indicate at any stage of the dispute its intention to amend the Act to allow the Commission to arbitrate on the bonus question;
(7) The public disquiet and concern by members of the Queensland Police Force regarding certain administrative decisions which—
    (*a*) have resulted in widespread discontent within the Force;
    (*b*) has caused grave doubts by the general public as to whether the Force is being permitted to operate at its optimum efficiency.

The Premier (Hon. G. F. R. Nicklin, M.L.A.) moved the following Amendment:

To omit all words after " Government " and insert: " possesses the full confidence of this House in relation to the industrial dispute at Mount Isa for the following reasons—

(*a*) The Government has at all times throughout this dispute insisted that it be determined in accordance with the principles of conciliation and arbitration as embodied by former Australian Labour Party Governments in the Industrial Conciliation and Arbitration Acts of this State and as continued by the Government in the Industrial Conciliation and Arbitration Act of 1961;

(*b*) In so doing the Government has upheld the rule of law; namely the basic principle of our social and economic structure that disputes which the disputants cannot settle between themselves must not be decided by duress or threats, but must in all cases be determined by the properly constituted judicial authority in an atmosphere free from even the appearance of duress or threat;

(*c*) The industrial union of employees of which the Mount Isa Mine employees who were primarily concerned in the dispute are members, namely the Australian Workers' Union, at all times during the dispute advocated and advised its members concerned that the dispute be settled under and in accordance with the Industrial Conciliation and Arbitration Acts, and has dissociated itself from those who have usurped control of those employees who are prolonging the dispute;

(*d*) Those who have usurped such control have at all times blatantly asserted that the dispute will never be settled except upon terms which (having regard to the award variations already obtained by the advocacy of the Australian Workers' Union by due process of law) are solely concerned with the aggrandizement of their self-declared leader —a man whose history shows that he endeavours to turn every opportunity to his own advantage whether by lawful or unlawful means.

The amendment was agreed to and the Question, as amended, was agreed to by the House.

Mr. Duggan raised a Question of Order as to whether the Amendment was not a direct negative. (*Hansard*, p. 2336.)

Mr. Speaker Nicholson's Ruling:

It is my opinion that the amendment is in order. It places before the House two alternative propositions, contained in the motion and in the amendment, respectively, between which the House has to make a preliminary choice before deciding finally to agree to either of them.

Further, I can say that hon. Members are not prejudiced in any way by the introduction of this amendment because the House still has the right to decide that the Government does not possess the confidence of the House by voting that the words in the original motion stand part of the question. The amendment is in order. (*Hansard*, p. 2336.)

Notice of Dissent from Mr. Speaker's Ruling was given by Mr. Duggan and this was debated on 9th March, 1965 (*Votes and Proceedings*, p. 529, and *Hansard*, pp. 2421-30). The Premier quoted extracts from May's *Parliamentary Practice*, 16th edition, pages 418 to 426, and also referred to three similar amendments which had been moved in the Queensland Legislative Assembly on 21st September, 1916; 31st January, 1917; and 29th August, 1917.

On a division the Dissent motion was negatived.

(4th March, 1965, and 9th March, 1965. *Queensland Votes and Proceedings*, Motion and Amendment, pp. 516-20; Speaker's Ruling, p. 517; Dissent Motion, p. 529. *Queensland Hansard*, pp. 2309-416.)

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

Ceylon (Proceedings in relation to Press Bills).—In the fifth year of the Fifth Parliament a series of events took place which ended in the defeat of the Government by one vote on the Address of Thanks in reply to the Throne Speech. The Sri Lanka Freedom Party Government led by Mrs. Sirimavo Bandaranaike proposed to control the Press by measures aimed at breaking the Press monopoly and making its ownership broad-based. The principal Ceylon daily newspapers are owned by two establishments called The Associated Newspapers of Ceylon Ltd. and the Times of Ceylon Ltd., companies whose shares are principally held by certain family members in the one case and a small group of individuals in the other.

It is suggested that since the Sri Lanka Freedom Party came into power in 1960 several draft Press Bills were discussed at Parliamentary Group meetings and each successively rejected before they reached Parliament until the Government decided to appoint a Press Commission and act on its recommendations. The Press Commission in its interim report recommended the appointment of a Press Council to regulate Press policy and a Press Tribunal for the adjudication of Press offences and the take-over by the Government of the two principal groups of newspapers for the purpose of broad-basing ownership by a wider distribution of share capital. Meanwhile the Sri Lanka Freedom Party Government had entered into a Coalition with certain Leftist groups in Parliament. The Ceylon Press Bill provided for the establishment of a Press Council and a Press Tribunal as recommended by the Press Commission with certain modifications.

It was introduced in the Senate, and being passed was forwarded to the House of Representatives with a message desiring the concurrence of that House. Standing Order 77 of the House of Representatives with regard to Bills brought from the Senate provides that:

(1) All Bills brought from the Senate shall lie upon the Table until a day is named for second reading.

(2) At any time after the reading of a message recording that a Bill has been brought from the Senate, a member may inform the Clerk at the Table that he will sponsor the Bill and name a day for second reading (not being less than five clear days after the giving of such notice).

(3) The Clerk shall thereupon endorse the Member's name upon the back of the Bill and record in the minutes that the said Bill has been read a first time and ordered to be read a second time upon the day named and to be printed.

The Opposition parties in the House of Representatives were strongly opposed to the Press Bill. Taking advantage of the above Standing Order a Member of the Opposition handed a note to the

Clerk at the Table immediately after the message was read that he would sponsor the Bill and named a day almost five months later for second reading. The Minister of Labour who intended to sponsor the Bill also rose and said "Second reading tomorrow", but this notice was not in accordance with the Standing Order. Mr. Speaker on being asked for his ruling upheld the sponsorship of the Bill by the Opposition Member and the Bill was accordingly set down for second reading on the long date named by him.

The Government, being anxious to proceed with the Bill early, notice was given of a motion that all proceedings after the reading of the message be declared null and void and that the name of the Minister of Labour be endorsed on the Bill as its sponsor. This motion was ruled out of order by Mr. Speaker as being in effect an indirect attempt to review his earlier ruling which could be done only by way of a substantive motion. Thereupon the Government introduced a Bill entitled "the Newspaper Corporation Bill" whose object was the establishment of a Corporation to take over the "undertaking carried on by the Associated Newspapers of Ceylon Ltd." While this Bill was being discussed in Committee in the House of Representatives Parliament was prorogued on the advice of the Prime Minister and both Press Bills lapsed.

In the new Session the Bills were introduced in the House of Representatives soon after the Address in Reply to the Speech from the Throne declaring the causes of summoning Parliament was moved. The Speech, a short one, referred to the need to reintroduce the Press Bills. The debate on the Address in reply lasted four days in a tense atmosphere and then Government was defeated by a majority of one, fourteen Members of the Government Party voting with the Opposition. Soon after this, Parliament was dissolved. At the General Elections that followed the United National Party led by Mr. Dudley Senanayake secured the largest number of seats but not, however, an over-all majority in the House. This led to some speculation as to whether the Coalition Government should resign though it commanded fewer seats than the United National Party. When eventually it became clear that the Federal Party which was in a position to hold the balance between the United National Party and the Coalition Party had decided to throw in its lot with Mr. Dudley Senanayake, Mrs. Bandaranaike tendered her resignation and Mr. Dudley Senanayake was called to form the Government.

(Contributed by the Clerk of the Senate, Ceylon.)

4. PROCEDURE

House of Commons (Committee on Procedure).—An account of the Select Committee on Procedure from 1961-2 onwards was given in the last Volume of THE TABLE.* The Committee made one fur-

* Pages 35-8.

ther report in session 1963-4* on three further matters which had been referred to them, as follows:

1. Your Committee have heard evidence from the Rt. Hon. Martin Redmayne, D.S.O., T.D., a Member of the House, Parliamentary Secretary to the Treasury, and from the Rt. Hon. Herbert Bowden, C.B.E., a Member of the House, Opposition Chief Whip. They have also received a memorandum from the Clerk of the House.

The Allocation of Time to Proceedings on Public Bills

2. During the course of his evidence Mr. Bowden proposed certain changes in the procedure relating to allocation of time orders. Without further evidence and thorough discussion, which are not possible so near the end of the Session, Your Committee could not make any recommendation concerning this scheme. Nor could they say whether it would be likely to achieve the objects for which it was designed. Nevertheless they consider that Members should have an opportunity of thinking about it before the next Parliament, and for this reason they set out a brief summary in the following paragraph.

3. Mr. Bowden proposed that there should be a select committee, to be appointed by Standing Order and to consist of a number of members of the Chairmen's Panel and a number of experienced backbench Members. Immediately after the second reading of any bill, or at any time during subsequent proceedings, any Member could move that the bill be referred to this committee. The motion would be decided without amendment or debate and, if it were agreed to, the select committee would draw up a time-table for the remaining stages of the bill, after hearing representatives of the Government and the Opposition and any other Members the Committee might wish. They would report their proposals to the House and the motion to agree with the committee would be open to amendment and debate. It would thus be possible, for example, for the Government to seek to reduce an allocation of time which they considered excessive. He suggested that the time allowed for debate on the motion might be a whole day, or three hours. Although it would be open to any Member, under Mr. Bowden's scheme, to refer any bill to the select committee, its principal function would obviously be to prepare time-tables for the more contentious Government bills. Mr. Bowden said that his proposals had two main objects. First, by having time-tables drawn up, after thorough discussion, by an all-party select committee, it was intended to reduce the antagonism on the part of the Opposition which is normally aroused when a time-table is introduced by the Government. Secondly, it was intended to save the time of the House and of standing committees, and to assist the Government in planning its programme of legislation, by ensuring that time-tables could be in force from the beginning of the committee stage.

The method of signifying Objection at the time of Unopposed Business

4. On several occasions during recent Sessions there have been criticisms in the House of the present procedure for objecting to stages of private Members' bills after four o'clock on Fridays.† The changes which have been proposed are set out in the memorandum from the Clerk of the House, which also describes the existing procedure. They may be summarised as follows:

(i) That some method should be devised to allow bills to go forward after having been objected to at four o'clock on a number of occasions.
(ii) That the names of objecting Members should be recorded, and
(iii) That Members should rise to object.

* H.C., 1963-4, No. 306.
† *E.g.*, 14th February, 1964, *Com. Hans.*, Vol. 689, cols. 796-812.

5. Your Committee cannot recommend any change under the first of these headings. They consider it undesirable that bills which do not command the unanimous approval of the House should be allowed to proceed without a second reading debate. They share the view expressed by the Select Committee on Procedure of Session 1958-59 in connection with another proposal: "In our opinion, however, there can be no justification for a special relaxation of the safeguards which apply to all public legislation, in the interests of private Members."

6. The proposal that the names of objecting Members should be recorded raises difficulties. Objection may be taken by a considerable number of Members and it would be invidious or even misleading to require the Chair to single out one particular Member so as to give the appearance of his being the sole cause of the bill's failure to make progress. Moreover, an objection is often made because of unwillingness on the part of a Member to allow a bill a second reading (or other progress) without first obtaining an undertaking or explanation about some particular provision from the sponsors of the bill or the Government. Your Committee therefore recommend no change under this heading.

7. With regard to the proposition that Members should rise to object, Your Committee share the view of those Members who believe that there should be some opportunity for identifying Members who voice objection to any particular bill. There may be occasions when the Member in charge of the bill, if he were enabled to discover more easily the identities of his opponents, might approach them with a view to reconciling their differences. When the time for unopposed business was first instituted, in 1854, it was the normal practice for Members to rise in their places to say "I object". Your Committee consider that the House should return to this practice and they therefore recommend that the House should be invited to pass a resolution to this effect.

Opportunities for brief speeches. Morning Sittings.

8. Your Committee regret that they have not had sufficient time to consider these two matters, and in any case they are of the opinion that they are more suitable for consideration by a Select Committee on Procedure in the next Parliament.

No action has yet been taken on the recommendation in paragraph 7. On 8th July, 1964, in answer to a question, the Leader of the House announced the intention to set up in the next Session a Committee on Procedure with wider terms of reference, similar to the Committee in 1958, to examine more fundamental questions of procedural reform.* A Committee was duly set up; its report had not been published when THE TABLE went to press.

Pakistan.—The procedure of the Provincial Assembly of West Pakistan is governed by the National Assembly of Pakistan Rules of procedure 1962 as adopted for regulating the procedure of the Provincial Assembly of West Pakistan.

5. STANDING ORDERS

Australia: House of Representatives.—A report† from the House of Representatives Standing Orders Committee, to which was at-

* *Coms. Hans.*, Vol. 698, cols. 407-8. † Parl. Paper No. 129 of 1964.

tached a schedule of proposed amendments with full explanatory notes, was presented to the House on 21st October, 1964,* and adopted after debate on 31st March, 1965.†

Many of the proposed amendments were of a formal nature, designed to give effect to practice or to make alterations found necessary in the light of events since the major review of 1963.‡ There were, however, some matters of more than passing interest.

Standing Order 62 which states that "A Member shall not read his speech" was omitted. The Committee referred to the parliamentary practice which recognises and accepts that, wherever there is reason for precision of statement, such as on the second reading of a Bill, particularly that of a complex or technical nature, or in ministerial or other statements, it is reasonable to allow the reading of speeches, and recommended the omission of the Order as, in other cases it had been found that the rule was difficult to apply in practice and that, on many occasions, the Chair had no option but to declare that a Member was referring to "copious notes".

The amendment to Standing Order 110 allows the precedence provision which applies to a censure or want of confidence *motion* which is accepted by the Government as such to apply, as well, to a censure or want of confidence *amendment* which is similarly accepted, *e.g.*, those moved to the Address-in-Reply or to the Budget.

Standing Order 144 was amended to make it quite clear that although a Minister may not be asked to announce Government policy, questions seeking an explanation to clarify policy and its application, and questions to ascertain whether a Minister's statement in the House expresses policy, are in order.

(*Contributed by the Clerk of the House of Representatives, Canberra.*)

New South Wales: Legislative Council.—A Message was received from the Legislative Assembly with a copy of their amended Standing Order No. 57, and an invitation to the Council to adopt a similar amendment. Standing Order No. 57 of the Legislative Assembly reads as follows—

57. All Papers and Documents laid upon the Table of the House may be ordered to be printed without notice and without debate. Any such Papers or Documents ordered to be printed shall be considered public.

Papers not ordered to be printed may be inspected at the offices of the House at any time by Members, and, unless otherwise ordered by the Speaker, by other persons, and copies thereof or extracts therefrom may be made.

* V. & P. No. 54, 21st October, 1964, p. 191.

† V. & P. No. 73, 31st March, 1965, p. 266. *Hans.* H. of R., 31st March, 1965, pp. 477-500.

‡ THE TABLE, Vol. XXXI for 1962, pp. 85-7, and Vol. XXXII for 1963, pp. 151-2.

Should Mr. Speaker present any document he may, at once, put the Question: " That the Document be printed "; no debate being allowed.

The Message was reported and read by the President but no further action has been taken. (Entry 6, p. 494 of *Legislative Council Journal* 1962-63-64, Vol. 149.)

It was considered desirable to retain the present Standing Order of the Legislative Council No. 20, by which all documents tabled are deemed to be public. It is the practice to allow these documents to be inspected by Members of the Legislative Council, members of the Public and representatives of the Press upon request, whether they have been ordered to be printed or not.

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

India: Rajya Sabha (Amendments to Rules).—The Rajya Sabha, by a resolution adopted on 7th September, 1962, appointed a Committee to recommend for its consideration draft Rules pursuant to clause (1) of article 118 of the Constitution. That Committee presented its report to the Rajya Sabha on 29th November, 1963 (*Rajya Sabha Debates*, dated 29.11.1963, Vol. XLV, col. 1542). The House considered the draft Rules recommended by the Committee at its sittings held on 27th May, 1st June and 2nd June, 1964. The Rules, as amended, were adopted by the Rajya Sabha on 2nd June, 1964. These Rules came into force with effect from 1st July, 1964. (*Rajya Sabha Debates*, dated 27.5.1964, Vol. XLVIII, cols. 59-80, dated 1.6.1964, Vol. XLVIII, cols. 229-35 and 241-324, dated 2.6. 1964, Vol. XLVIII, cols. 413-47 and 449-536.)

The more important new additions made in the Rules are given below:

Rule 38 : Questions

This rule provides that the first hour of every sitting shall be available for asking and answering of questions. Previously only four days in a week were allotted for this purpose.

Rules 137-153 : Petitions

The scope of the rules relating to petitions has been enlarged so as to make provision also for petitions on matters of general public interest. Prior to this change petitions could be presented in the Rajya Sabha only on Bills pending before the House.

Rules 176-180 (Chapters XIII and XIV): *Calling Attention Notices and Short Duration Discussion*

These new provisions have been made in the Rules enabling Members to give notices of calling attention to matters of urgent public importance and to raise discussion on matters of urgent public importance for short duration.

Rules 204-212 : Committee on Subordinate Legislation

Hitherto there was a Committee on Subordinate Legislation functioning only in the House of the People (Lok Sabha). In the matter of subordinate legislation both the Houses of Parliament have got the same and equal powers.

It was, therefore, decided that suitable provisions should be made in the Rajya Sabha Rules of Procedure also for the appointment of a Committee of the Rajya Sabha on Subordinate Legislation to scrutinise and report to the House whether powers delegated by Parliament have been properly exercised within the framework of the statute delegating such powers. Rules 204-212 make provisions accordingly.

(*Contributed by the Secretary of the Rajya Sabha.*)

India: Punjab Legislative Council.—For the previous rule 37 of the Rules of Procedure and Conduct of Business in the Punjab Legislative Council, which reads as under:

37. *Pending questions.*—If a question for oral answer is not reached within the time available for questions on any one day, such question or questions as are left over shall be carried on to the next day and be taken up before the questions put down on the list for that day,

the following rule has been substituted vide notification No. PLC-64/5, dated the 17th February, 1964:

37. *Written answers to questions not replied orally.*—If any question placed on the list of questions for oral answer on any day is not called for answer within the time available for answering questions on that day, the Minister to whom the question is addressed shall forthwith lay on the Table a written reply to the question, and no oral reply shall be required to such question and no supplementary questions shall be asked in respect thereof.

No new edition of the Rules of Procedure and Conduct of Business in the Punjab Legislative Council was brought out in the year 1964.

Uttar Pradesh: India (Amendment to Rules).—An amendment to sub-rule (1) of Rule 16 of the Rules of Procedure and Conduct of Business of the Uttar Pradesh Legislative Assembly was made by the House at its meeting held on 18th March, 1964, as under, thus restoring the provision as it existed before an amendment to the said sub-rule was made in 1962:

For sub-rule (1) of Rule 16 of the said Rules, the following was substituted:

(1) The Assembly shall meet from 11 a.m. to 5 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.

Nigeria: Northern Nigeria (Revision of Standing Orders).—The Standing Orders of both the House of Chiefs and the House of Assembly were revised in conformity with the Constitution and other changes which had taken place to make Nigeria a Federal Republic under the Commonwealth of Nations. The new Standing Orders did not make any important changes in the procedure of the Houses. The only notable changes were those which brought in the name of the President instead of the Governor-General as the Head of State on the adaption of republican system of Government in Nigeria.

Nigeria: Western Nigeria (Revision of Standing Orders).—The Standing Orders of the Western House of Assembly were reprinted under section 2B (i) of the Constitution of Western Nigeria, set out in the Schedule to the Constitution of Western Nigeria Law, 1963 (No. 26 of 1963).

A similar new edition was done for the Western House of Chiefs.

These amended Standing Orders resulted from Nigeria becoming a Republic on 31st October, 1963.

Malta.—In virtue of s. 7 (3) of the Malta Independence Order 1964, the Standing Orders of the Legislative Assembly established under the 1961 Order were made to apply for the regulation of the procedure of the House of Representatives with such modifications, adaptations, qualifications and exceptions necessary to bring them in conformity with the above Order.

(*Contributed by the Clerk of the House of Representatives, Malta.*)

Kenya.—The Standing Orders of both the Senate and the House of Representatives were amended in accordance with the provisions of Section 6 sub-section 6 of the Preamble to the Kenya Independence Order in Council, 1963. The main purpose for the Amendments was to incorporate in the Standing Orders provision for the President of the Republic consequent upon constitutional changes in the country.

Trinidad and Tobago.—One new Standing Order was added to the Standing Orders, setting up a Joint Parliamentary Committee on External Affairs. The new S.O. reads as follows:

79A. (1) There shall be a Joint Select Committee on External Affairs to be known as the Joint Parliamentary Committee on External Affairs. The Committee shall be a Standing Committee appointed for the duration of the life of the Parliament.

(2) The House shall, for the purposes of this Committee, appoint not more than six members to sit with members of the Senate, but any member may be discharged from serving as a member of the Committee and be replaced.

(3) The balance of the Parties in the House shall be reflected in the appointment of the House members of the Committee.

(4) The Committee shall consider such matters pertaining to External Affairs as may be referred to it by the Minister responsible for External Affairs, and shall submit its reports to the Minister who may in his discretion, lay or cause such reports to be laid in the House of Representatives.

(5) The Committee shall have power—

(*a*) to send for persons, papers and records;

(*b*) to appoint sub-committees from among its members and to delegate any of its authority to such sub-committee; and

(*c*) to make its own rules.

This new Standing Order was approved by the House of Representatives on 24th July, 1964. A similar Standing Order was passed by the Senate (No. 71A).

Southern Rhodesia (Amendments to Standing Orders).—A report from the Committee on Standing Rules and Orders was presented to the House on the 26th November, 1963. This report proposed certain amendments to the Standing Orders adopted by the House on the 13th February, 1963, which had been completely revised and re-written in order to incorporate the provisions of the 1961 Constitution, and generally to bring the procedure of the House up to date and to eliminate obsolete and cumbersome procedures.

The proposed amendments came into force at the beginning of 1964. The principal changes were as follows:

(*a*) Night sittings on Tuesdays and Thursdays were abolished. Monday was eliminated as a normal sitting day (the House had not in practice sat on Mondays for many years), the days and times of sittings were to be: Tuesday, Wednesday and Thursday, 2.15 to 6.55 p.m. and Friday, 11 a.m. to 12.55 p.m. and 2.15 to 4.10 p.m., and provision was made for a thirty minute debate on the motion for the adjournment of the House on each sitting day.

(*b*) Government business was to have precedence after 6 p.m. on Wednesdays.

(*c*) A Minister, speaking on behalf of Government to a motion which in the opinion of Mr. Speaker was one of censure or of no confidence, would not be restricted in regard to the length of time he could address the House. (Previously a time limit of 40 minutes had applied.)

(*d*) Provision was made for a debate on the motion "That Mr. Speaker do now leave the Chair" prior to going into Committee of Supply. The budget debate takes place on the motion to go into Committee of Ways and Means, and while it would normally be undesirable to have a separate debate on going into Committee of Supply, this amendment was intended to apply principally to Supplementary Estimates. The moving of such a motion, however, lies entirely in the discretion of the Government.

(*e*) Provision was made for the motion for the adoption of the Reports of the Committee of Supply and the Committee of Ways and Means to be taken either immediately upon the conclusion of those Committees or upon a day to be appointed by the Minister. The financial bills which give effect to the reports of the two Committees could be introduced forthwith.

(*f*) A period not exceeding eighty-five hours in the aggregate was allotted to the business of supply on the main estimates in each session. Previously the period was sixteen days. Further a period of thirty hours was allotted to each set of supplementary estimates, with a proviso that not more than five hours should be allotted to any one vote in supplementary estimates. The same procedure would apply to additional estimates as in respect of supplementary estimates. Finally, the time limit for speeches in Committee of Supply was extended from ten minutes to forty minutes.

(*g*) Provision was made for the appointment of an Estimates Committee. The new Standing Order reads as follows—

(1) There shall be a select committee, to be designated the Estimates Committee, to examine and report upon such of the estimates of expenditure presented to the House as it shall think fit. The committee shall report to the House how, if at all, the policy implied in the estimates of expenditure may be carried out more economically and, if the committee thinks fit, on the principal variations between the estimates as aforesaid and those for the preceding financial year and on the form in which the estimates are presented to the House:

Provided that it shall not be the function of the committee to examine or report upon the policy of Government as revealed in the estimates of expenditure.

(2) The Estimates Committee shall consist of ten members who shall be nominated at the commencement of every session in terms of Standing Order No. 173.

(3) The Estimates Committee shall have power to set up sub-committees and to refer to any such sub-committee for examination and report to the committee any matter falling within its terms of reference under paragraph (1) of this Standing Order.

(4) Every sub-committee shall consist of—

(*a*) the Chairman of the Estimates Committee; and

(*b*) five members of whom not less than three shall be nominated by the Estimates Committee from amongst its members.

The Chairman of a sub-committee shall be a member of the Estimates Committee and shall be nominated by that committee.

(5) Where it is desired, at any time, to co-opt members to the Estimates Committee or to a sub-committee, application shall be made by the committee to the Committee on Standing Rules and Orders who shall nominate such members:

Provided that the number of members so co-opted to the committee or to any sub-committee shall not exceed two in each case.

(6) (*a*) A member co-opted to the Estimates Committee shall be entitled to take part in the deliberations of the committee but not to vote therein.

(*b*) A member co-opted to a sub-committee shall be entitled—

(i) to take part in the deliberations of that sub-committee and to vote therein; and

(ii) when required so to do by the Estimates Committee, to take part in the deliberations of the committee but not to vote therein.

(7) The Estimates Committee and every sub-committee thereof shall have power to send for persons, papers and records, to sit notwithstanding any adjournment of the House and to adjourn from place to place.

(8) The Estimates Committee shall have power to report from time to time including reports of the minutes of evidence taken before the sub-committees and reported by them to that committee.

(9) Notwithstanding anything contained in these Standing Orders, no person shall be present during any of the proceedings of a sub-committee except by leave of that sub-committee.

(10) Save as otherwise provided in this Standing Order, the proceedings in the Estimates Committee and any sub-committee appointed by it shall be governed by the Standing Orders relating to select committees.

6. Electoral

Australia (Electoral).—Section 24 of the Constitution provides (*a*) that the number of Members of the House of Representatives shall be, as nearly as practicable, twice the number of Senators and (*b*) that, until the Parliament otherwise provides, the number of Members to be chosen in the several States shall be determined in a manner stated in the Section.

The Parliament did so otherwise provide, and Section 10 of the Representation Act 1905-1938 as in force at the end of 1963 stated

> (*a*) A quota shall be ascertained by dividing the number of people of the Commonwealth, as shown by the certificate (for the time being in force) of the Chief Electoral Officer, by twice the number of Senators.
> (*b*) The number of Members to be chosen in each State shall, subject to the Constitution, be determined by dividing the number of the people of the State, as shown by the certificate (for the time being in force) of the Chief Electoral Officer, by the quota: and if on such division there is a remainder greater than one-half of the quota, one more Member shall be chosen in the State.

Following the taking of the 1961 census, the Chief Electoral Officer determined the number of Members to be chosen in accordance with Section 10 of the Act with the strange result that, due to the limitation imposed by paragraph (*b*) of the Section which rendered ineffective a "remainder" in a State which is one-half or less than one-half of the quota, the number of Members would have decreased from 124 to 122 despite Australia's steadily increasing population.

In the light of this situation, an amending Bill was introduced and passed* which deleted from paragraph (*b*) the words "greater than one-half of the quota". The effect of this amending legislation was that, in determining the number of Members for a State, one more Member would be added if any fraction remained after dividing the number of people in that State by the quota.

In addition the amending act rendered ineffective the previous determination of the Chief Electoral Officer and provided for a new determination to be made based on the amended section 10, the consequence of which would have been an increase in the size of the House by two instead of the reduction under the earlier determination.

Normal practice would be for a redistribution of Divisions to take place before the next election. However, the Prime Minister (Sir Robert Menzies) informed the House on 28th April, 1965,† of the proposal to hold a referendum to alter the Constitution in relation to

* Act No. 97 of 1964. *Hans.* H. of R. 15th October, 1964, pp. 1978-9. *Hans.* H. of R. 30th October, 1964, pp. 2565-90. *Hans.* Senate, 9th November, 1964, pp. 1517-18, 1519-34.

† *Hans.* H. of R. 1st April, 1964, p. 923.

the existing nexus between the two Houses requiring that the number of Members of the House of Representatives should be as nearly as practicable twice the number of the Senators, and said that there would be no distribution before the next election and that the nature of the redistribution then would be governed by the result of the proposal to alter the Constitution.

(*Contributed by the Clerk of the House of Representatives, Australia.*)

India (Armed Police Forces Votes).—By virtue of section 20 (3) of the Representation of the People Act, 1950 (43 of 1950), a member of the Armed Forces of the Union is deemed to be ordinarily resident in his home constituency and, therefore, was eligible for registration as a voter in the electoral roll for such constituency, although on account of exigencies of service he may be away from, and not ordinarily resident in, the home constituency at the time of the preparation or revision of the electoral roll. As a corollary to this, a member of the Armed Forces of the Union is, by virtue of section 60 of the Representation of the People Act, 1951 (43 of 1951), entitled to give his vote by postal ballot.

Such facilities were not, however, available to the members of the Armed Police Forces of a State, when they were serving outside the State. This was considered anomalous, and accordingly, by the Representation of the People (Amendment) Act, 1964, Sections 2 and 3 (33 of 1964) section 20 of the Representation of the People Act, 1950, and section 60 of the Representation of the People Act, 1951, were modified so as to bring members of the Armed Police Forces of a State on a par with the members of the Armed Forces of the Union in the matter of registration and voting rights.

(*Contributed by the Secretary to the Lok Rajya.*)

Federation of Nigeria (Electoral).—The Electoral Act, 1964, amends the Electoral Act of 1962, and

(*a*) Provides for the compilation of the register of electors from the records of the census taken on 5th November, 1963.
(*b*) Abolishes the payment of deposit on lodging of objection to the inclusion of a name in a preliminary list and every notice of list of voters;
(*c*) Increases the amount of deposit payable before a candidate's nomination paper is delivered to the electoral officer from twenty-five to one hundred pounds;
(*d*) Allows a nominated candidate at an election to withdraw at any time before the beginning of the period of seven days ending with the date of the election; and
(*e*) Removes the limitation on period during which treating is prohibited.

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

Kenya (Electoral Commission).—The Electoral Commission whose composition is as follows was established under Section 48 of the Constitution:

(*a*) the Speaker of the Senate (Chairman),
(*b*) the Speaker of the House of Representatives (Vice-Chairman),
(*c*) a member appointed by the President,
(*d*) a member representing each Province who shall be appointed by the President.

Functions of the Commission. The main function of the Commission includes: (i) Direction of revision of Constituencies in accordance with Section 49 of the Constitution. (ii) Direction of Elections to the National Assembly and Provincial Councils. (iii) The Supervision of such Elections. (iv) Preparation or revision of Voters Roll for the Senate, House of Representatives and Provincial Councils.

Section 49 (4) provides that "the Commission shall, at intervals of not less than eight nor more than ten years, review the number and the boundaries of the constituencies into which Kenya is divided and may by order alter the number of boundaries in accordance with the provision of this section to such extent as it considers desirable in the light of review". The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the President, may confer powers or impose duties on an officer or authority for the purpose of the discharge of its functions.

Southern Rhodesia (Electoral).—(1) In terms of the Ministerial Title Act (No. 10 of 1964) the title "Minister of the Treasury" was changed to "Minister of Finance".

(2) The Electoral Amendment Act (No. 30 of 1964) repealed the provisions of the Electoral Act (Chapter 2) which provided for the preferential vote. The law previously read as follows—

In the case where there are two candidates only for election as the member for a constituency or electoral district, as the case may be, the returning officer shall forthwith declare the candidate who, subject to the provisions of subsection (2), has the greater number of first preference votes to be duly elected as a member of the Legislative Assembly. If both candidates have an equal number of first preference votes and the addition of a vote would entitle one of the candidates to be declared elected, the returning officer shall at once communicate the fact to the Minister. The Minister shall thereupon, or as soon as possible thereafter, arrange for the determination of the candidate to whom one additional vote shall be deemed to have been given by the casting of lots in the presence of a judge of the General Division, and shall thereafter declare the candidate so determined to be duly elected. The candidates who have received an equality of votes or the representatives nominated by them shall have the right to be present at such determination.

In the case where there are three or more candidates for election as the member for a constituency or electoral district, as the case may be, the returning officer shall forthwith declare the candidate who, subject to the provisions of subsection (2), has received the largest number of first preference votes to be duly elected as a member of the Legislative Assembly, if that number

constitutes an absolute majority of votes. If no candidate has received an absolute majority of first preference votes, then the candidate who has received the fewest first preference votes shall be excluded and each ballot paper counted to him, other than an exhausted ballot paper, shall be counted to the candidate next in the order of the voter's preference subject to the provisions of subsection (2). If no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes, and counting each of his ballot papers, other than exhausted ballot papers, to the unexcluded candidate next in the order of the voter's preference, but subject always to the provisions of subsection (2), shall be repeated until one candidate has received an absolute majority of votes, and the returning officer shall forthwith declare the candidate who has received an absolute majority of votes to be duly elected as a member of the Legislative Assembly.

These subsections were repealed, and the following subsection substituted—

After the counting is completed the returning officer shall forthwith declare the candidate who has the greater number of votes, in the case where there are two candidates or the greatest number of votes, in the case where there are more than two candidates, to be duly elected as a member of the Legislative Assembly.

(3) The Parliamentary Parking Areas Act (No. 43 of 1964) provided, *inter alia*, as follows:

3. The City Council of Salisbury shall, at the request of and in consultation with the Clerk of the Legislative Assembly, set aside an area in the immediate vicinity of the building of the Legislative Assembly which, in the opinion of the Clerk, is sufficient for the purpose of this Act.

4. (1) The Clerk of the Legislative Assembly shall reserve, at such times and for such periods as circumstances may require, the whole, or such part as he deems necessary, of the area set aside in terms of section three for the parking of motor vehicles used by authorised persons.

(2) The reservation of the whole or a part of the area referred to in subsection (1) shall be made by the erection of notices demarcating the area reserved.

5. A police officer may remove from a reserved area any vehicle parked in the reserved area which is not a motor vehicle used by an authorised person.

6. A person who—

(*a*) removes or interferes with a notice erected in pursuance of the provisions of section four without the authority of the Clerk of the Legislative Assembly; or

(*b*) parks in a reserved area a vehicle which is not a motor vehicle used by an authorised person;

shall be guilty of an offence and liable to a fine not exceeding ten pounds.

7. EMOLUMENTS

Australia (Members' and Ministers' Allowances—Increase).—Sections 48 and 66 of the Constitution which took effect in 1901 provided, respectively, that each Senator and each Member of the House of Representatives should receive a yearly allowance of £400 and that an annual sum not exceeding £12,000 be payable to the Crown for the salaries of the Ministers of State. These Sections also gave the Parliament power to determine other amounts.

In the succeeding years, several Parliamentary Allowance Acts and Ministers of State Acts were passed to increase these allowances and, in 1959, as described in Vol. XXVIII of THE TABLE (p. 186), Senators and Members received a basic allowance of £2,750 p.a., and, in addition, received certain expense allowances. The amount available for the payment of Ministers' salaries (22 Ministers) had increased to £66,600. In addition, the Prime Minister received a special allowance of £3,500 p.a., and other Ministers a special allowance ranging from £1,250 to £1,500 p.a.

In 1964 amendments* of the Parliamentary Allowances Act and the Ministers of State Act provided for further increases and certain other allowances were increased administratively, as shown hereunder:

MEMBERS' SALARIES & ALLOWANCES ETC., PARLIAMENTARY ALLOWANCES ACT

	Allce. Parl.	*Allce. Elec.*	*Expenses of Office*	*Parl. Office*
Members (City)	3,500	1,100		
Members (Country) ...	3,500	1,300		
Senators	3,500	1,050		
Prime Minister	3,500	1100-1300		
Ministers (Reps.)	3,500	1100-1300		
Ministers (Senate)	3,500	1,050		
Speaker	3,500	1100-1300	600	3000
President	3,500	1,050	600	3000
Chairman (Reps.)	3,500	1100-1300		1250
Chairman (Senate)	3,500	1,050		1250
House of Representatives				
Ldr. of Opposition	3,500	1100-1300	1800	4250
Dep. Ldr. ,, ...	3,500	1100-1300	600	2000
Ldr. Party 10 Members ...	3,500	1100-1300	300	1000
Government Whip	3,500	1100-1300		600
Other Whips	3,500	1100-1300		500
Senate				
Ldr. of Opposition	3,500	1,050	600	2000
Dep. Ldr. ,, ...	3,500	1,050	300	650
Whips	3,500	1,050		500

MINISTERS OF STATE ACT

	Salaries	*Expenses of Office*
Prime Minister	£8,500	£4,000
Dep. P.M. not being Treasurer	£5,000	£1,800
Treasurer	£4,900	£1,800
Senior Ministers	£4,250	£1,800
Junior Ministers	£3,000	£1,500

* Acts 70 and 71 of 1964. *Hans.* H. of R. 28th October, 1964, pp. 2394-402. *Hans.* Senate, 28th October, 1964, pp. 1386-9, 1405-24.

In addition, Members and Senators receive—free air travel on parliamentary business plus one trip each parliament to a Territory; and the services of a secretary-typist. Living allowance in Canberra of £6 per day (not paid to Ministers).

Ministers—travelling allowance, Prime Minister £18 per day, Senior Ministers £15 per day and Junior Ministers £12 per day, payable when away from home except in Canberra.

President and Speaker—travelling allowance £12 per day when away from home on official business but not during sittings.

Leader and Deputy Leader of Opposition (Representatives)—£15 per day and £12 per day respectively. Member's wife—free air travel from home to Canberra four times per year.

The increased salaries of Ministers was covered by lifting the amount available under the Ministers of State Act to £95,650.

When introducing the Bills in the House of Representatives, the Prime Minister stressed that the Constitution provided that alterations in the emoluments of Members of the Parliament must be made by the Parliament itself.

(*Contributed by the Clerk of the House of Representatives, Australia.*)

Australia (Retiring Allowances).—The provisions for retiring allowances for Members of both Houses (*see* THE TABLE, Vol. XXVIII, pp. 186-7) were amended by the Parliamentary Retiring Allowances Act (No. 72 of 1964).*

The contribution of each individual Member to the Pension Fund has been increased and is now calculated at the rate of 11½% of the Parliamentary Allowance being received.

The rate of pension payable has been increased and is calculated in accordance with the following scale:

Age of Member on becoming entitled to pension	*Percentage of Parliamentary Allowance to be paid as pension*
40 years	30 per centum
41 ,,	34 ,, ,,
42 ,,	38 ,, ,,
43 ,,	42 ,, ,,
44 ,,	46 ,, ,,
45 years or over	50 ,, ,,

Parliamentary Allowance was increased to £3,500 p.a. as from 1st November, 1964.

Benefits to widows have been increased to five-twelfths of the rate of the Parliamentary allowance to which the deceased was entitled immediately before he died.

* *Hans.* H. of R. 28th October, 1964, pp. 2397-402. *Hans.* Senate 28th October, 1964, pp. 1386-9, 1405-24.

Provision was also made for an increase in pension to former contributors as follows:

Present weekly pension	*New weekly pension*
£10	£15
£12	£18
£15	£21

Pensioners who were Members of the previous Parliament, *i.e.*, those who either did not stand or were defeated at the 1963 election, were brought within the scope of the amending legislation and now receive pensions calculated in accordance with the scale for contributors under the 1964 Act based on a Parliamentary Allowance of £2,750 p.a.

A radical change from previous policy was the provision of additional Retiring Allowances for Ministers and Leaders and Deputy Leaders of the Opposition in both Houses.

Contributions, which are not payable after contributing in respect of a period of, or periods aggregating, fourteen years, are at the rate of:

Minister or the Leader of the Opposition in the House of Representatives	£4 5 0 per week
Leader of the Opposition in the Senate or the Deputy Leader of the Opposition in the House of Representatives	£2 2 6 ,, ,,
Deputy Leader of the Opposition in the Senate ...	£1 1 3 ,, ,,

Benefits are payable to these contributors in accordance with the following scale:

Period of Service	*Weekly amount of Pension*
8 years	£9 0 0
9 ,,	£10 10 0
10 ,,	£12 0 0
11 ,,	£14 0 0
12 ,,	£16 0 0
13 ,,	£18 0 0
14 ,, or more	£21 0 0

The widow of a deceased office holder has the option of receiving either a pension calculated at the rate of five-sixths of the pension payable to the deceased, or a refund of contributions.

(*Contributed by the Clerk of the House of Representatives, Australia.*)

Queensland (Parliamentary Contributory Superannuation Fund Acts Amendment Bill).—As from 14th December, 1964, contributions by sitting Members of the Legislative Assembly to the Fund were increased from £8 to £10 per fortnight.

The weekly rate of benefit, according to parliamentary service, was increased as follows:

8½ years' service but less than 11½ years' service £15 to £18

11½ years' service but less than 14½ years' service £17½ to £21½

14½ years' service or longer—£20 to £25.

Votes and Proceedings, pp. 429, 476, 486. *Hansard*, Introduction, pp. 1934-1938; Second Reading and Committee, p. 2203. Assented to on 14th December, 1964.

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

New South Wales: Legislative Council (Travel Facilities).—By letter dated 10th November, 1964, the Premier, the Hon. J. B. Renshaw, M.L.A., advised the Honourable the President that Cabinet had approved of the extension of facilities for free air travel to certain Members of the Legislative Council. The conditions applicable are set out hereunder—

Members of the Legislative Council whose residence is located in the electoral districts set out in Parts III and IV of the Fifth Schedule to the Constitution Act may be issued with air travel vouchers to cover 6 return or 12 single journeys per annum between their home and Sydney undertaken in connection with their Parliamentary duties; and

Members to be issued with vouchers, to cover the air travel proposed above, for a full year in respect of their increased and additional entitlement up to, but not including, March 1965. (The year, for the purpose of the issue of air travel vouchers is regarded as commencing at the date of each General Election of Members of the Legislative Assembly.)

(*Contributed by the Clerk of the Parliaments, New South Wales.*)

New Zealand.—A new Parliamentary Salaries and Allowances Order 1964 (1964/177) dated 4th November, 1964, was promulgated giving effect to the recommendations of the Royal Commission which, pursuant to statute, is set up for this purpose within three months of each general election. Other changes recommended were given effect to administratively.

The recommended increases were:

Prime Minister	from £4,750 to £5,750.
Deputy Prime Minister	from £3,350 to £4,250.
Each Minister	from £3,150 to £4,000.
(For any Ministers appointed without portfolio)	£3,250.
Parliamentary Under-Secretaries ...	from £2,250 to £3,000.
Leaders of the Opposition	from £2,600 to £3,400.
Deputy Leader of the Opposition ...	from £1,700 to £2,400.
The Speaker	from £2,700 to £3,400.
Chairman of Committees	from £2,100 to £2,750.
Chief Government and Opposition Whips	Salary as members plus £100.
Junior Government and Opposition Whips	Salary as members plus £65.

The Royal Commission had made the following comments on the above recommendations:

We have been influenced in these increases, except those relating to the Whips, by three main factors, namely, the recommended increase in the salaries of members, the recent substantial increase in the salaries of senior officers in the State Services, and the effect of taxation.

It is our belief that a realistic salary for members is of paramount importance. If that was the only comparison to make the increase in the higher salaries need not have been such as to maintain precisely the same relative position as in the past. Some small narrowing of that gap would have been, we think, reasonable.

It is the effect of the other two factors which, in our view, must be recognised. Whether one agrees or disagrees with what has been recommended to and adopted by the Government regarding salaries in the State Services, we are faced with the reality of what has happened. It is true that Ministers and Under-Secretaries, for example, have additional benefits by way of tax-free allowances and privileges, the advantages of which must be taken into account in any precise comparison with the salaries paid to the heads of the Departments they administer. Yet if these allowances and privileges are justified, as we believe they are, one has still to make some comparison purely as to salary. There can be no doubt, we think, that without the substantial increase we recommend the relative positions would not be maintained. For example the present salary of the Prime Minister is below what is paid to the Secretary to the Treasury. The status and the responsibilities of the office of Prime Minister are so immense and so fundamental to our entire system of Government that his salary, in our view, ought always to be substantially higher than that paid to any person in the State Services and to any other person in Parliament.

It is as well to note in passing that, quite apart from their great responsibilities or from any comparison with the salaries of general managers in commerce, Ministers have the same inherent insecurity of office which applies to members.

(*Contributed by the Clerk to the House of Representatives.*)

India (Parliamentary Emoluments).—By section 2 of the Salaries and Allowances of Members of Parliament (Amendment) Act, 1964, Sections 2 and 3 (26 of 1964), section 3 of the Salaries and Allowances of Members of Parliament Act, 1954 (30 of 1954), was amended raising the salary of a Member of Parliament from Rs. 400/- to Rs. 500/- per mensem, and the daily allowance from Rs. 21/- to Rs. 31/- for each day during any period of residence on duty. It was considered that the emoluments of Members of Parliament provided under the parent Act (30 of 1954) were inadequate in relation to the high cost of living and in view of the considerable expenses they had to incur on account of various demands of public life. By section 3 of the amending Act (26 of 1964), section 5 of the parent Act (30 of 1954) was amended so as to provide for intermediate journey by air by a Member of Parliament to his usual place of residence not more than twice during a session or sitting of a House of Parliament lasting more than seventy-five days and one such journey in any other case. This facility was considered necessary in view primarily of the long distances Members had to cover when they performed intermediate journeys to their usual place of residence during session time.

(*Contributed by the Secretary of the Rajya Sabha.*)

Gujarat (Speaker's allowance).—The Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances Act 1960 (Act No. 3 of 1960) has been amended by the Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances (Amendment) Act 1964 (Gujarat Act No. 12 of 1964). This Act allows the Speaker the sum of Rs. 3,000 per annum as a sumptuary allowance.

(*Contributed by the Secretary of the Gujarat Legislature.*)

Uttar Pradesh (Emoluments).—A Bill to amend the Uttar Pradesh Legislative Chambers (Members' Emoluments) (Amendment) Act, 1952 (U.P. Act No. XII of 1952) was passed by the Uttar Pradesh Legislative Assembly in 1964. Clause 2 of the Act provides for—

(i) increase in the salary of the members by Rs. 100 per mensem;
(ii) increase in the rate of daily allowance in the plains by Rs. 5 per diem; and
(iii) facility of travel within the State by free non-transferable first class railway coupons also for journeys other than those connected with their duties and functions as members.

The above provisions, when enacted, would involve the following additional recurring estimated annual expenditure from the Consolidated Fund of the State:

	Rs.
(1) Salary	6,16,800
(2) Daily allowance	3,56,000
(3) Railway coupons	2,00,000
Total ...	11,72,800

Clause 5 of the Act empowered the State Government to make rules for—

(i) matters relating to provision of free railway coupons including their use and surrender; and
(ii) matters relating to classification of accommodation and payment of charges arising out of use of such accommodation.

In addition sub-section (3) of section 2 empowered the State Government to prescribe conditions and restrictions under which a member shall be entitled to—

(1) incidental charges for every journey by rail performed by him in connection with his duties or functions as a member;
(2) road mileage for journey by road between places not connected by railway, at the rates admissible to gazetted officers of Class I; and
(3) daily allowance.

Rajasthan (Emoluments).—Amendments were made in the Rajasthan Legislative Assembly (Officers and Members Emoluments) Act, 1956, to raise the amount of salaries of members from Rs. 250/- to Rs. 300/- p.m.; to extend the benefit of free medical facilities to the members of the Assembly and also to the members of their families and to provide the amenity of free travel to the members of the Assembly in any part of the State by the State Road Transport Service.

(*Contributed by the Secretary, Rajasthan Legislative Assembly.*)

Northern Nigeria (Salary of Sergeant-at-Arms).—The chief provision of the Officers of the Legislative Houses (Salaries) (Amendment) Law, 1964, is the increase to the salary of the Sergeant-at-Arms consequent upon the salary revision which effected all the workers in the Public Services in the Federal Republic of Nigeria recommended by the Morgan Salaries Commission. It in fact amended sub-Section 1 of Section 8 of the Principal Law of 1958.

Southern Rhodesia (Emoluments).—The Ministerial and Parliamentary Salaries and Allowances Act (No. 78 of 1964) prescribed the following salaries, allowances and other benefits with effect from 1st April, 1964:

4. The Prime Minister shall be paid—

(*a*) a salary at the rate of three thousand five hundred pounds a year and

(*b*) an allowance at the rate of one thousand five hundred pounds a year; and

(*c*) such subsistence and travelling allowances at such rates and in such circumstances as are determined for Ministers under paragraph (*c*) of section five.

5. A Minister, other than the Prime Minister, shall be paid—

(*a*) a salary at the rate of three thousand two hundred and fifty pounds a year; and

(*b*) an allowance at the rate of seven hundred and fifty pounds a year; and

(*c*) such subsistence and travelling allowances at such rates and in such circumstances as the Prime Minister may determine.

6. A Parliamentary Secretary shall be paid—

(*a*) a salary at the rate of two thousand two hundred and fifty pounds a year; and

(*b*) an allowance at the rate of seven hundred and fifty pounds a year; and

(*c*) such subsistence and travelling allowances at such rates and in such circumstances as the Prime Minister may determine.

7. (1) A Minister or Parliamentary Secretary shall be entitled, free of rent, to occupy an official residence or other accommodation allocated to him by the Government—

(*a*) which shall be furnished in such manner as the Prime Minister may determine; and

(*b*) in respect of which the charges for the supply of electricity and water shall be paid by the Government.

(2) A Minister or Parliamentary Secretary who instead of occupying an official residence or other accommodation allocated in terms of subsection (1) occupies his own residence or other accommodation owned by him shall be paid a housing allowance at such rate, not exceeding seven hundred and eighty pounds a year, as the Prime Minister may determine.

(3) A Minister or Parliamentary Secretary who maintains two homes for the use of himself or members of his family shall, if the Prime Minister so directs, be paid an additional housing allowance at the rate of four hundred pounds a year.

(4) A Minister or Parliamentary Secretary shall, in respect of the official residence or other accommodation allocated to him in terms of subsection (1), be entitled to be provided, free of charge, with such services for the upkeep of garden and grounds or shall be paid such allowance in lieu thereof as the Prime Minister may determine.

Salaries, Allowances and Benefits payable to Speaker, Acting Speaker, Deputy Speaker, Leader of the Opposition, Chairman of Estimates Committee, Chief Whips of Party in Office and Official Opposition Party and Members.

8. (1) The Speaker shall be paid—

(*a*) a salary at the rate of one thousand seven hundred and fifty pounds a year; and

(*b*) an entertainment allowance at the rate of seven hundred and fifty pounds a year; and

(*c*) a subsistence allowance at the rate of three hundred and fifty pounds a year; and

(*d*) such additional subsistence and travelling allowances at such rates and in such circumstances as the Speaker may, with the agreement of the Prime Minister, determine.

(2) The Speaker shall be entitled, free of rent, to occupy an official residence or other accommodation allocated to him by the Government—

(*a*) which shall be furnished in such manner as the Prime Minister may determine; and

(*b*) in respect of which the charges for the supply of electricity and water shall be paid by the Government.

(3) If the Speaker does not occupy an official residence or other accommodation allocated in terms of subsection (2) he shall be paid a housing allowance at the rate of four hundred pounds a year.

(4) The Speaker, if he is a member, shall be paid, in addition to the allowances mentioned in this section, the constituency allowance mentioned in paragraph (*c*) of section fourteen.

9. A person who has held the office of Speaker immediately prior to a dissolution shall continue to receive the salary and allowances at the appropriate rates specified in section eight and shall continue to be entitled to enjoy the benefit conferred on the Speaker by that section until—

(*a*) the Legislative Assembly meets after the dissolution; or

(*b*) he ceases sooner to perform the functions of the Speaker in the circumstances mentioned in subsection (2) of section 11 of the Constitution.

10. The Deputy Speaker shall be paid—

(*a*) a salary at the rate of five hundred pounds a year; and

(*b*) an allowance at the rate of two hundred pounds a year; in addition to the salary and allowances to which he is entitled as a member.

11. (1) The Leader of the Opposition shall be paid an allowance at the rate of seven hundred and fifty pounds a year in addition to the salary and allowances to which he is entitled as a member.

(2) For the purposes of subsection (1) " Leader of the Opposition " means the member who, in the opinion of the Speaker, is recognised by the Legislative Assembly as the Leader of the official Opposition Party.

12. The Chairman of the Estimates Committee shall be paid a salary at the rate of five hundred pounds a year in addition to the salary and allowances to which he is entitled as a member.

13. (1) The Chief Whip of the Party in office shall be paid an allowance at the rate of one hundred and fifty pounds a year in addition to the salary and allowances to which he is entitled as a member.

(2) The Chief Whip of the official Opposition Party shall be paid an allowance at the rate of seventy-five pounds a year in addition to the salary and allowances to which he is entitled as a member.

14. A member, other than a member who is a Minister or a Parliamentary Secretary or the Speaker, shall be paid—

(*a*) a salary at the rate of one thousand pounds a year; and

(*b*) a special allowance at the rate of five hundred pounds a year; and

(*c*) a constituency allowance at the annual rate set out in the first column of the Schedule appropriate to the area of his constituency as set out in the second column thereof; and

(*d*) such subsistence and travelling allowances at such rates and in such circumstances as the Speaker may determine.

Provided that the determination of any rates under this paragraph shall be subject to the agreement of the Prime Minister.

15. (1) The allowances payable in terms of this Act shall be exempt from any tax leviable in terms of the Income Tax Act, 1954.

(2) For the purpose of the Income Tax Act, 1954, the taxable income of a Minister, a Parliamentary Secretary, the Speaker or the person acting as the

Speaker shall be determined without taking into account the value of any benefit, right or advantage relating to the occupation of an official residence or other accommodation allocated to him by the Government or the use of official furniture which is enjoyed by him by virtue of the provisions of this Act.

16. (1) The Ministers', Speaker's and Member's of Parliament (Salaries and Allowances) Act [Chapter 3] is repealed.

(2) Notwithstanding the repeal of the Act mentioned in subsection (1), any person to whom the provisions of section 8 of that Act applied shall continue to receive the pension to which he was entitled as if that Act had not been repealed.

SCHEDULE (Section 14)

CONSTITUENCY ALLOWANCES

Allowance £	*Area of Constituency Square Miles*	
75	Not exceeding	100
100	101 to	500
125	501 to	1,000
150	1,001 to	2,000
175	2,001 to	4,000
200	4,001 to	6,000
225	6,001 to	8,000
250	8,001 to	12,000
300	Over	12,000

8. ACCOMMODATION AND AMENITIES, ETC.

House of Commons (Accommodation).—The question of providing better accommodation for the House of Commons, of which an account was given in the last Volume of THE TABLE, on pages 69-72, was carried further in 1964. On 25th February, the Speaker informed the House:

The House should know that in accordance with what I understand to be the general wish of the House, I propose to appoint an *ad hoc* Committee, with the following terms of reference:

To review, with regard to the accommodation of this House, plans for the redevelopment of the Palace of Westminster/Bridge Street area, taking into account:

1. the Report of Mr. Speaker's Committee which reported in November, 1962;

2. the tentative proposals set out in Sir William Holford's preliminary outline scheme, described in the booklet " Accommodation for the House of Commons (July, 1963)".*

3. the views on this scheme expressed in the debate on Accommodation in the House of Commons on 1st August, 1963.

He also announced the Members of the Committee, with the Leader of the House as Chairman (*Com. Hans.*, Vol. 690, col. 239).

* Limited to building on the Bridge Street site.

That Committee reported to the Speaker, who on 4th May gave the report to the House. Its conclusions were:

2. We are of the unanimous opinion that the present and future needs of Parliament can be met only by a substantial addition to the existing building. It must be consistent with the dignity of Parliament and be an addition of which the nation can be proud. A mere corner of the Bridge Street site, surrounded by shops and offices and connected by an underground passage would be entirely unsuitable and inadequate. The extension should be a part of the parliamentary precinct and must be seen to be so.

For these reasons, in our view, an area extending northwards from New Palace Yard, and including Bridge Street itself, should be devoted to the use of Parliament. The front of the new building, overlooking New Palace Yard, should be as close as convenient to the line of the existing railings. Since it would thus enclose a third side of New Palace Yard, it should be built in the Gothic style, in order to harmonise with the buildings on the other sides, and also to emphasise the fact that it is an integral part of the parliamentary precinct and in no sense an "annexe". This would also enable the floor levels of the existing building on the east side of New Palace Yard to be followed in the new building. Direct internal access to the existing building should be provided at all levels.

3. The Duncan Committee* has already listed the most urgent needs for accommodation and, in the main, we accept their recommendations as to those needs and consider that they should be implemented in the proposed extension. This larger building would, however, enable better provision to be made for several of the facilities referred to by that Committee. Their principal recommendation was that approximately 35,000 square feet should be made available for Members and their secretaries, and that this space should be partitioned in various ways, to allow for rooms for one, two, or more Members.

We believe that the demand for rooms will grow as more new Members enter the House. The Duncan Committee's provision of 35,000 square feet was determined by the overall limit of 50,000 square feet and they foresaw a growing need and recommended that the new accommodation should be capable of expansion. In view of these considerations, we consider that a larger area should be provided for Members' rooms.

4. The Duncan Committee also referred—in paragraph 21 of their Report—to the need for more committee rooms for both official and unofficial committees, although they were unable to recommend the use of the limited space in Bridge Street for this purpose. In our opinion a larger building on the proposed site should contain extra committee rooms, so as to relieve the pressure on the existing rooms and to make possible readjustments in the use of those rooms.

These proposals, by their size for 100,000 square feet of floor space, as against the 50,000 square feet offered to the Duncan Committee for Parliamentary purposes; by their commendation of an extension in the Gothic style; and by the effect they would have on traffic using Westminster Bridge, aroused considerable public controversy as well as parliamentary discussion.

On 13th July the House devoted a day to debating the proposals on a motion† taking note of the report and

* *I.e.*, the Committee referred to in paragraph (1) of the terms of reference.
† The House agreed to the motion.

. . . having regard to the need to co-ordinate the redevelopment of the Whitehall area as a whole, invites Her Majesty's Government to pursue the necessary technical and professional inquiries arising from these recommendations, and subsequently to report to this House.

moved by the Leader of the House. In the course of the debate a wide range of views was expressed. What did emerge was that the extension was not proposed for immediate implementation, nor at the expense of other vital building; that the gothic building would cost about four times as much as a modern building of comparable floor area; and that no definite decision could be taken before Sir Leslie Martin, who had been commissioned to consider the various projects of redevelopment in Whitehall in relation to the whole area and Professor Buchanan, who had been appointed to advise on traffic problems, had made their reports.

Canada (Electronic Recording apparatus).—The problems of recruiting competent shorthand-writers and of publishing accurate verbatim reports of debates expeditiously are common to many legislatures. The following information, therefore, supplied by Mr. Alexander Small, Third Clerk-Assistant of the House of Commons, Ottawa, on the progress of tests with recording apparatus there, may be of interest.

The trial use of electronic recording apparatus started in 1964 for committee proceedings. In Committees, all French speeches are transcribed by the use of tape recording procedures due to the shortage of French shorthand reporters. English speeches in Committees are still being handled by English shorthand reporters, but when overloaded by a number of Committees sitting simultaneously, the tape recording apparatus is utilised. Tape recording procedures also have a decided advantage in Committees for the purpose of producing transcripts for any spoken language as well as for the simultaneous interpretation thereof; all of which can be produced from a single multi-track tape recorder. In the Commons Chamber experiments in the use of tape recorders are only commencing. Speeches in the Chamber are still reported by English and French shorthand or stenotype reporters. Our experience with Committees demonstrates the need to experiment in order to determine the exact nature and extent to which microphones, amplification and recording apparatus and procedures require modification to ensure compatibility.

There is in Committees one microphone on each table at which up to four Members may be seated (2 Members on each side of the table). In the Commons Chamber, there is one ceiling-suspended microphone for every 10 to 12 Members. The Chamber ceiling microphones are due to be replaced before September by desk microphones. At that time, one microphone per desk will serve each two Members. The new system will also be capable of providing anywhere from two to six language simultaneous interpretation and

listening facilities all through the Chamber and the galleries for the purpose of international conferences such as the Inter-parliamentary Union Conference from 8th to 17th September, 1965.

For the purpose of tape recording, there is no reason why Members should have their own individual desks since each desk has the same facilities. It is merely a matter of speaker-identification on the part of the transcriber. This information can be provided in a number of ways: "dubbing" on to a tape from a microphone, notes from logged entries made by hand or even by identification of the speaker's voice once a transcriber becomes familiar with the Members' voices as recorded on the tapes. Members in Committees, and even in Committee of the Whole in the House, sit wherever they please and move about without creating any problems of personal identification.

The findings from Committee operations over the past year and the brief experiments with the Chamber leave no doubt as to the efficacy of the apparatus. The key is elsewhere: proper transcription and editing procedures with capable trained staff to perform these functions quickly, accurately and efficiently. With the possibility of extended hours of sitting, the continuing shortage of French reporters and the growing evidence of similar shortages for English reporters, it may shortly be necessary to extend tape recording procedures to the Chamber as well (for English and French speeches) in addition to Committees.

The Chamber procedures are only in the preliminary state and will not be capable of proper assessment or appreciation until the end of this year following the I.P.U. Conference, when there will have been experience with the new amplification and microphone apparatus to be installed some time this year. Even the Committee procedures did not start until last Spring on a trial basis and were only authorised in March, 1965, to be implemented on a permanent basis.

It should be pointed out that the provincial legislatures of Saskatchewan, Ontario and Quebec have been tape recording their proceedings in their Chambers for a number of years. There is, however, this disctinction; the sitting capacity at Ottawa requires coverage for 265 Members, whereas the maximum capacity of a provincial legislature is barely little more than the largest Standing Committee of up to 60 Members. The use of two official languages is also an additional factor in the procedures relating to transcription and editing.

The authority for the extended tests, especially in the Chamber itself, was provided by the House's concurrence on March 26th, 1965, to a Report from the Select Committee of Procedure and Organisation, as follows:

1. Your Committee has had under observation the progress being made with the trial use of electronic recording apparatus in selected committee rooms as authorised by the House on 20th May, 1964. (This experiment was recommended in your Committee's Seventh Report presented and concurred

in on that date.) Your Committee finds that this apparatus has provided the solution to the problem that was drawn to the attention of the House at that time. It is also the finding of your Committee that the use of such apparatus is not only the solution to providing bilingual reporting services but can be utilised to provide an immediate transcription of simultaneous interpretations and will be the only means available for covering multilingual proceedings of conferences of international parliamentary bodies that are scheduled to meet in this House and in its committee rooms later this year.

2. Accordingly, your Committee recommends that Mr. Speaker arrange, as soon as possible, for the installation, operation and control of satisfactory electronic recording-transcribing apparatus and procedures, together with compatible sound amplification and simultaneous interpretation equipment and facilities, for the purpose of:

1. providing back-up aid or alternative verbatim reporting service in any room designated for committee meetings; and
2. providing coverage in the Chamber of the House of Commons for:
   (i) proceedings of multilingual international or national parliamentary or other public bodies assembled in the Chamber of the House of Commons or its committee rooms, whenever approved by Mr. Speaker; and
   (ii) English and French proceedings of the House in session on an experimental basis, including use for back-up or emergencies. (*Journals*, 1964-5, pp. 1213-4.)

XVIII. SOME RULINGS BY THE CHAIR IN THE HOUSE OF COMMONS, 1963-64

The following index to some points of parliamentary procedure, as well as rulings by the Chair, given in the House of Commons during the Fifth Session of the Forty-second Parliament of the United Kingdom (10 & 11 Eliz. II), is taken from Volumes 684 to 699 of the *Commons Hansard*, 5th Series, covering the period from 12th November, 1963, to 31st July, 1964.

The respective volume and column number is given against each item, the figures in square brackets representing the number of the volume. The reference 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, notice of motion for*
—doubt about contract for frigates for Spanish Govt. and how a false impression was given (not within the Standing Order) [698, c. 1209]
—giving of an order, by traditional formula; no right to make a speech [687] 407
—introduction of topics of which notice not given, defeated [688] 487, [489] 799
—passing reference to legislation, allowed [688] 474
—*under S.O. No. 9 (Urgency Subjects refused, with reason for refusal)*
—Application to Home Secretary for temporary entry permit for Mr. Williams and family from South Africa, about which a decision was required within 12 hours (not within the Standing Order. Ordinary administration of the law.) [692] 1214-20
—participation of R.A.F. officer in military operations against armed forces rebelling against Government of South Vietnam without a specific request from that Government for military assistance (not urgent) [688], 214
—government policy with regard to U.N. Resolution calling on all States to use influence with South African government towards obtaining amnesty following Rivonia trial (not within the Standing Order) [696], 451-2

Delegated Legislation

—out of order, in debate on, to discuss merit of parent legislation [698] 1589

Division(s)

—point of order not permissible at moment of collecting the votes [692] 172

Judges

—can be criticised only on a substantive motion [699] 1961

Member

—attack on, requires a substantive motion [684] 1175

Member(s)

—personal conduct of, cannot be attacked in a Question [687] 380

Member

—stays withdrawn while House is discussing his words and conduct in a *prima facie* case of Complaint of Privilege [692] 259

Ministers

—may answer Questions on behalf of another [696] 626
—have right to reply at end of debate [696] 1066
—quoting from a despatch or other state paper, must lay it on the Table [684] 341
—statements by, do not require permission of Chair, but must be notified [698] 414, [699] 42

Order

—before moving Dilatory Motion if Member requires leave to speak again, he must seek leave [690] 1472
—Cannot discuss proceedings of a Committee which has not yet reported [690] 857
—*Chair cannot entertain complaint regarding words spoken in House or Committee, unless attention is drawn to them at the time [692] 481
—interventions, Members making, must stand up [691] 923
—if Member does not give way, other Member must not remain standing or persist in trying to intervene [696] 1225, 1492
—*Members must be addressed as honourable or right honourable [690] 1207
—*Members should not pass between Chair and Member speaking [692] 1116
—Member rising to catch eye of chair must remove his headdress [693] 234
—*out of order to deal with things out with the business of Committee [690] 1597
—out of, to interrupt a speech on a point of to move a Dilatory Motion [691] 1231
—reading newspaper in Chamber allowed only if in connection with speech to be made [691] 1874
—point of, not occasion for lengthy speech [692] 47
—quoting from newspaper permissible [693] 1154
—prior publication in newspaper of a Ministerial statement, not a point of [691] 1390

Personal Statements
—must be submitted to Chair in advance [696] 573

Privilege
—refusal of Minister to answer a question on ground of public interest, not a matter of [689] 876

Questions
—by private notice—customary to allow Leader of Opposition to ask [686] 1444
—*Members*
—personally, responsible for facts in [685] 7

Questions to Ministers
—answers, long inconvenient [693] 1286
—asking for view on matter of opinion, out of order [693] 1086, [696] 430
—amputations out of order [693] 1084
—by private notice, reasons for allowance or disallowance not publicly given [695] 609
—lengthy introduction to, deprecated [688] 348
—Member putting down, takes responsibility for assertion
—Minister need not answer, about rumours [687] 8

A
—Out of order in, to attack personal conduct of another Member [687] 380
A*—Minister cannot be compelled to answer [690] 1515, [692] 798

B
—supplementary, right to ask not to be abused by making offensive remarks [688] 197
—transfer of, not responsibility of Chair [698] 214
B*—quotations in, out of order [698] 208

Questions to Speaker
—must be by Private Notice [689] 1203
—by *private notice*, cannot anticipate a question of which notice has been given [698] 628

Serjeant-at-Arms
—duty of, when House summoned to Lords [698] c1499

Supply, Committee of
—*out of order in, to go into detail on subjects which require legislation [698] 473

Unopposed Business—Time of
—" object ", constitutes sufficient objection to end proceedings [688] 1599

XIX. EXPRESSIONS IN PARLIAMENT, 1964

The following is a list of examples occurring in 1964 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

"and the rest of the defunct gang". (*Malawi*, p. 1245.)
"bunny girl". (*S. Rhod. Hans.*, Vol. 58, c. 1898.)
"bray" (imitated). (*S. Rhod. Hans.*, Vol. 60, c. 320.)
"calculated to cause mischief and do damage". (*Com. Hans.*, Vol. 696, c. 1095.)
"chuck". (*S. Rhod. Hans.*, Vol. 56, c. 1215.)
"cops". (*S. Rhod. Hans.*, Vol. 59, c. 1775.)
"Criminals abound on the Opposition Side". (*W. Nigeria Hansard*, 9th April, 1964, col. 225.)
"donkey's years". (*S. Rhod. Hans.*, Vol. 60, c. 706.)
"Filthy language" (Chakkadai mozhi) with reference to election speeches. (*Madras Assembly Debates*, dated 20.1.64, Vol. XVI, p. 317.)
"guts". (*S. Rhod. Hans.*, Vol. 57, c. 1706.)
"having a crack at". (*S. Rhod. Hans.*, Vol. 60, c. 407.)
"hypocritical attitude". (*New Zealand Hans.*, c. 982.)
"I am not going to have irresponsible, ambitious and malicious political puppets". (*Malawi*, Revised Edition, 8th Sept., p. 12).
"immorality". (*East. Nig. Ass. P. Deb.*, 1964-5, c. 367, p. 194.)
"obstructed" (by speeches, business of House). (*Com. Hans.*, Vol. 703, c. 1754.)
"Mean" (Eanathanamana) with reference to the burning of the Constitution. (*Madras Assembly Debates*, dated 18.1.1964, Vol. XVI, p. 204.)
"planted" (of a Question). (*Com. Hans.*, Vol. 704, c. 564.)
"she has the cheek" (*Malawi*, Revised edition, 8th Sept., p. 14.)

"smear campaign". (*Com. Hans.*, Vol. 692, c. 722.)
"'sock' the lower income groups". (*S. Rhod. Hans.*, Vol. 57, c. 1440.)
"swindle". (*S. Rhod. Hans.*, Vol. 56, c. 1212.)
"tiny, wee strip". (*S. Rhod. Hans.*, Vol. 59, c. 1415.)
"to break that stupid Federation". (*Malawi*, Revised Edition, 8th Sept., p. 11.)
"treachery" (not applied to a person). (*Com. Hans.*, Vol. 703, c. 1749.)
"twaddle". (*S. Rhod. Hans.*, Vol. 58, c. 210.)

Disallowed

"Accused". (*Gujarat*, Vol. 12, Part II, No. 17, p. 793.)
"animal noises" (of interjections). (*S. Rhod. Hans.*, Vol. 57, c. 1074.)
"arses". (*S. Rhod. Hans.*, Vol. 59, c. 141.)
Reference to Obas and Chiefs "as Organising Secretaries of N.N.D.P." (the ruling Party). (*Western Nigeria, Daily Hansard*, 21.4.64, c. 693.)
"Bahar jara sarun dekhay aatla mate Mananiya Eabbyashri bolya" (the Hon'ble member has spoken this to create good impression outside). (*Gujarat*, Vol. 12, Part II, No. 6, p. 188, 1.9.64.)
"bastard Labour Party". (*Saint Vincent Hans.*, 550).
"Bhadooti" (Hired). (*Gujarat*, Vol. 11, Part II, No. 29, p. 1573, 30.3.64.)
"Bhan Vagarno Kaydo Kargo chhe" (enacted senseless legislation). (*Gujarat*, Vol. 11, Part II, No. 27, p. 1446, 25.3.64.)
"Black-marketer" (used by one Member for another). (*Lok*
"block headed". (*Punjab Leg. Coun. Hans.*, 26th Mar., p. 1125.)
Sabha Debates, Vol. XXX, No. 54, 18.4.1964, c. 11842.)
"Board of Stooges". (*Kenya Ho. Reps. Hans.*, Vol. III, Part I, c. 695.)
"Boombarada" (bawling and shouting). (*Gujarat*, Vol. 12, Part II, No. 7, p. 223, 2.9.64.)
"Boome Pade Chhe" (bawling out). (*Gujarat*, Vol. 12, p. 493, 14.9.64.)
"bribery" (of Government action). (*S. Rhod. Hans.*, Vol. 57, c. 1802.)
"Buddhi Brahmane" (out of his mind). (*Mysore Leg. 1st Session Brief Report*, Statement 14, p. 34.)
"Budhdhi nun devalun" (bankruptcy of intellect). (*Gujarat*, Vol. 12, Part II, No. 17, p. 761, 21.9.64.)
"Bumran" (hue and cry). (*Gujarat*, Vol. 11, Part II, No. 18, p. 785, 9.3.64.)

"Bunkum". (*Gujarat*, Vol. 12, Part II, No. 17, p. 764, 21.9.64.)

"The caucus sub-committee dominated by starting-price bookmakers . . . no guts, any of them". (*New South Wales*, p. 7232.)

Charging a Member complaining against the receipt of a threatening letter that the posting of the letter was his own manipulation. (*Vidhan Sabha*, 246, 648-9.)

"Chas Bhaji" (ha'penny t'penny fellows with reference to Members). (*Gujarat*, Vol. 12, Part II, No. 12, p. 476.)

"Chicken". (*Queensland Hans.*, 2430.)

"clap-trap". (*S. Rhod. Hans.*, Vol. 56, c. 78.)

"Collusion". (*Queensland Hansard*, 336.)

"the conduct of Provincial Commissioners leaves much to be desired". (*East. Nig. Ass. Deb.* (1964-65), c. 477-8, p. 249.)

"cooked". (*New Zealand Hans.*, c. 3567, 3574.)

"Dambha" (hypocrisy). (*Gujarat*, Vol. 12, Part II, No. 8, p. 295, 3.9.64.)

"deliberate misleading of the House". (*Com. Hans.*, Vol. 699, c. 1204.)

"deliberately misled" (the Committee). (*Com. Hans.*, Vol. 696, c. 1637.)

"Dingo". (*Queensland Hansard*, 2430.)

"dishonest" (of a Member). (*Com. Hans.*, Vol. 702, c. 1123.)

"dishonest remarks". (*Saint Vincent Hansard*, 488.)

"Dodgy character". (*Com. Hans.*, Vol. 689, c. 900.)

"Fascist". (*Senate*, Australia, H. 1964, p. 591.)

"Filth". (*Senate*, Australia, H. 1964, p. 594.)

"foolish policy of the Government". (*Punjab Leg. Coun. Hans.*, 21st Feb., p. 290.)

Friendly Societies, termed "Race-course urgers". Objection taken and expression withdrawn at direction of Chairman. (*New South Wales Parl. Debates*, Vol. 54, p. 2160.)

"fundi". (*S. Rhod. Hans.*, Vol. 60, c. 989.)

"grinning like a roast dog" (*Saint Vincent Hansard*, 293.)

"Gunegaar" (Offender). (*Gujarat*, Vol. 12, Part II, No. 17, p. 794, 21.9.64.)

Guilty conscience is always suspicious (for a Member). (*Vidhan Sabha*, 3.3.64. 246, 537.)

The Hon. The Attorney General "has seized power by force". (*Western Nigeria Hans.*, 10.4.64, c. 272.)

"He cast a slur . . . by suggesting . . . that we seem to have a vested interest in mine disasters". (*New Sth. Wales*, p. 8323, 8324.)

"He has no sense to understand this" (for a Member). (*Vidhan Sabha*, 21.3.64, 248, 136.)

"He understood it right according to his own wisdom" (for a Member). (*Vidhan Sabha*, 21.3.64, 248, 139.)
"He has deliberately lied". (*New South Wales*, p. 7849.)
"hell of a mistake". (*S. Rhod. Hans.*, Vol. 57, c. 140.)
"hell of a noise". (*S. Rhod. Hans.*, Vol. 57, c. 330.)
"heights of stupidity". (*New Zealand Hans.*, c. 2128.)
"his prestige will be made to smell" (of a Minister). (*S. Rhod. Hans.*, Vol. 57, c. 1370.)
"hired" (referring to a Member). (*S. Rhod. Hans.*, Vol. 58, c. 487.)
"the hon. Member will be an accessory . . . to the crime of murder". (*S. Rhod. Hans.*, Vol. 59, c. 574.)
"The hon. Member is making out a case for legalising two-up and brothels". (*New South Wales*, p. 7228.)
"The hon. Member who moved this motion has migrated through the different primary classes of the Left Book Club". (*New South Wales*, p. 1042.)
"the hon. Member knows darned well". (*S. Rhod. Hans.*, Vol. 60, c. 476.)
"hon. Members are apt to distort certain facts". (*S. Rhod. Hans.*, Vol. 58, c. 619.)
"hypocrisy" (of another Member). (*S. Rhod. Hans.*, Vol. 56, c. 473.)
"hypocrisy" (of Government). (*East. Nig. Ass. Deb.* (1964-65), c. 251, p. 136.)
"hypocrite" (of a Member). (*Com. Hans.*, Vol. 703, c. 1738.)
"If the hon. Member for Bulli can spare time from the communist-run show with which he is associated". (*New South Wales*, p. 225.)
"It is a great injustice to us" (*re* the Speaker). (*Vidhan Sabha*, 9.9.64, 252, 717.)
"incompetent and squalid little creature". (*Com. Hans.*, Vol. 690, c. 1591.)
"Imbeciles". (*Queensland Hansard*, 2460.)
"Irrelevant". (*Vidhan Sabha*, 5.3.64, 246, 757.)
"jackass". (*New Zealand Hans.*, c. 2166.)
"Jhamooni" (Fanatic). (*Gujarat*, Vol. 11, Part II, No. 6, p. 272, 24.2.64.)
"Jooni Record Vage Chee" (It (speech) is as if an old record is being played again). (*Gujarat*, Vol. 11, Part II, No. 32, p. 1769, 24.1.64.)
"Juthun Chhe" (false). (*Gujarat*, Vol. 12, Part II, No. 7, p. 250, 2.9.64.)
"kitty" (of Government funds). (*S. Rhod. Hans.*, Vol. 56, c. 103.)
"Khotun Vidhan" (false statement). (*Gujarat*, Vol. 12, Part II, No. 12, p. 503, 14.9.64.)

"Liar". (*Queensland Hansard*, 2426.)
"Liar". (*Queensland Hansard*, 2430.)
"lie". (*Com. Hans.*, Vol. 681, c. 527.)
"A lie". (*Vidhan Sabha*, 11.8.64, 251, 140.)
"lie". (*Queensland Hansard*, 867.)
"loquacious and stupid hon. Member". (*S. Rhod. Hans.*, Vol. 57, c. 1329.)
"makuruta" (councillors). (*S. Rhod. Hans.*, Vol. 59, c. 641.)
"the Minister is blackmailing the company". (*S. Rhod. Hans.*, Vol. 59, c. 813.)
"the Minister is more stupid than I thought". (*S. Rhod. Hans.*, Vol. 56, c. 899.)
"Mitroni Vakllat Khatar Bole Chhe" (Canvassing the friends view). (*Gujarat*, Vol. 11, Part II, No. 26, p. 1405, 24.3.64.)
"Natak" (hypocrisy). (*Gujarat*, Vol. 12, Part II, No. 18, p. 889, 22.9.64.)
"Nachi Rahya Chhe" (dancing with joy). (*Gujarat*, Vol. 11, Part II, No. 6, p. 264, 24.2.64.)
"Nit wits". (*Punjab Leg. Coun. Hans.*, 6th Apr., p. 1247.)
"Nonsense". (*Gujarat*, Vol. 12, Part II, No. 12, p. 498, 14.9.64.)
"oppressor" (of another Member). (*S. Rhod. Hans.*, Vol. 57, c. 760.)
"passing the buck". (*S. Rhod. Hans.*, Vol. 58, c. 1316.)
"performing flea". (*New Zealand Hans.*, c. 748.)
"peeved". (*S. Rhod. Hans.*, Vol. 56, c. 1514.)
"Pick-pocket" (used by one Member for another). (*Lok Sabha Debates*, Vol. XXVII, No. 30, 17.3.64; Vol. 5894.)
"Polampol" (Scandal). (*Gujarat*, Vol. 11, Part II, No. 21, p. 1130, 17.3.64.)
"Pakdai gayelun Puchhadun" (Foolishly obstinate in sticking to policy once adopted even though it is generally accepted to be wrong). (*Gujarat*, Vol. 12, Part II, No. 20, p. 1033, 24.9.64.)
"Padada Pachhal koi ramat chali rahi chhe" (underhand dealing). (*Gujarat*, Vol. 12, Part II, No. 19, p. 955, 22.9.64.)
"point of information" (by member instead of rising to a Point of Order). (*East Nig. Ass. Deb.* (1964-65), c. 576, p. 298.)
"playing the fool" (of a Committee). (*S. Rhod. Hans.*, Vol. 60, c. 241.)
"polish her marble". (*S. Rhod. Hans.*, Vol. 59, c. 638.)
"Prostitution of democracy". (*Queensland Hansard*, 1916.)
"Rackets". (*Queensland Hansard*, 1916.)
Reference to the Chairman and Executive Directors of Public Corporations as "Party Thugs and lazy lawyers". (*Western Nigeria Hansard*, 10.4.64, c. 297/8.)
"resident comedian" (of another Member). (*S. Rhod. Hans.*, Vol. 57, c. 1658.)

"slanderous" (of another Member's speech). (*S. Rhod. Hans.*, Vol. 57, c. 668.)
"stinks in the nostrils" (of an appointment). (*S. Rhod. Hans.*, Vol. 57, c. 496.)
"stink". (*S. Rhod. Hans.*, Vol. 60, c. 26.)
"smear". (*New Zealand Hans.*, c. 368.)
"stonewall". (*New Zealand Hans.*, c. 3648.)
"stooge". (*Saint Vincent Hansard*, 384.)
"Same Bothola Gunogaro" (Offenders sitting opposite). (*Gujarat*, Vol. 11, Part II, No. 18, p. 640, 5.3.64.)
"Shamelessness". (*Vidhan Sabha*, 21.8.64, 251, 413.)
"Stupid". (*Kenya, Ho. Rep. Hans.*, Vol. III, Part I, c. 637.)
"Sweeper" (used with reference to a Minister). (*Lok Sabha Debates*, Vol. XXV, No. 9, 20.2.64, c. 1702.)
"that man over there". (*Saint Vincent Hansard*, 209-10.)
"They are intimidated" (Chiefs, by Government). (*S. Rhod. Hans.*, Vol. 60, c. 383.)
"They are supporting those people who are foisting those dishonest practices upon the public". (*New Sth. Wales*, p. 8343.)
"These traitors". (*Malawi*, Revised Edition, Sept., p. 14, ruling made on p. 37.)
"This bloke Chirwa, who has been dismissing people". (*Malawi*, Revised Edition, Sept., p. 61.)
"This Government is capable of Criminal Act". (*Western Nigeria Hansard*, 7.4.64, c. 132.)
"This is your favouritism, it is injustice to us" (for the Chair). (*Vidhan Sabha*, 21.3.64, 248, 194.)
"We did not do so for the reason that the Premier wanted to quaff the amber liquid and eat some sandwiches with his millionaire friend". (*New South Wales*, p. 1267.)
"Vote without selling conscience for a price" (Manasatchiyai vilaikku virkamal vote alithal). (*Madras Assembly Debates*, 24.10.64, Vol. XXIV, pp. 693-4.)
"what a heap of lies". (*S. Rhod. Hans.*, Vol. 59, c. 716.)
"We in this House are constantly subjected to the fanatical ravings of this idiot from Dulwich Hill". (*New South Wales*, p. 1720.)
"Yellow-belly". (*Queensland Hansard*, 341.)
"You are a bunch of cowardly curs". (*New South Wales*, p. 1253.)
"You are doing this due to your personal jealousy with the Socialist Party" (for the Speaker). (*Vidhan Sabha*, 5.3.64, 246, 755-6.)
"You are yourself creating disorder" (for the Chair). (*Vidhan Sabha*, 21.7.64, 250, 367.)
"You have ceased to see after you have put on glasses" (for the Speaker). (*Vidhan Sabha*, 10.8.64, 251, 39.)

" You have also turned an agent of the ruling party " (for a Member). (*Vidhan Sabha*, 21.3.64, 248, 162-3.)
" You put his out of business ". (*New South Wales*, p. 1320.)
" Zimbabwe " (referring to S. Rhodesia). (*S. Rhod. Hans.*, Vol. 58, c. 452.)

Borderline

" dishonest " (out of order if applied to a Member). (*Com. Hans.*, Vol. 699, c. 95.)
" mercenary ". (*Com. Hans.*, Vol. 703, c. 659.)

XX. REVIEWS

The Reform of Parliament. By Bernard Crick. (Weidenfeld & Nicholson, 36s.)

The present moment is not perhaps the most fortunate in which to review Dr. Crick's stimulating book which, even without the author's clear statements of the fact, was obviously written before the general election of 1964. Indeed in some respects his book is as clearly a product of its particular period as if it had been written in the mid 1820's when Lord Liverpool's administration must, in the face of all the evidence, have appeared to be endowed with the gift of perpetual life.

There is somewhat of the same feeling about Dr. Crick's analysis of the present British parliamentary discontents—however much one may feel that much of what is wrong with Parliament at the present time is lucidly and clearly described by Dr. Crick, it is hard finally to avoid feeling that his book is over-dominated by the British parliamentary system at the end of the 1950's, and also not to feel that while much of his criticism is valid for that period, some of the assumptions that lie behind his book no longer possess the force they doubtless had at the time of writing when they are examined against the background of the present Parliament.

Dr. Crick argues, in chapter two, somewhat on the line taken by Machiavelli in "Il Principe", that he is not examining what *should* be, but simply what *is*. Unfortunately, however, the author is for the purpose of his analysis dependent upon a situation in which, to quote his own words, "the Government is never defeated". This was obviously true for most of the 1950's, and in particular for the period 1959-64, which is presumably the period when the book was written, a period when (with the possible paradoxical exception of the House of Lords) the Government was, by reason of its overwhelming majority in the House of Commons, virtually safe from defeat over any issue.

The result of the 1964 election brought about a situation which perhaps more nearly reflects the average political state of affairs than did the previous Parliament. At the least it indicates the danger of assuming that the term two party system is one to be used lightly or of taking the example of a few consistent years as the measure of the future political situation.

Dr. Crick's book must then be viewed from two angles. Firstly there are his criticisms of the day-to-day workings of Parliament. It would be difficult indeed to disagree with nearly all of what he has to say about such matters as accommodation, secretarial services, research facilities for Members and so on; in this field Dr. Crick speaks with a well-informed voice. But granted the justice of his remarks it is still necessary to look at his book from the second point of view and to ask oneself what, in the opinion of Dr. Crick, is Parliament basically about. He tells us, and with his statement there can surely be no disagreement, that it is not the business of Parliament to govern the country, but that it is the business of the House, "to call to account those who govern it". From this follow logically Dr. Crick's strictures on the present arrangements of Parliament which make it difficult for Members adequately to perform the process of "calling to account"?

But Dr. Crick has a more positive view of Parliament's function for, following on his rejection of active opposition to the Government in the sense of defeating it, he goes on to argue that each Parliament should represent a sort of five years hustings during the duration of which the electorate would listen to the arguments put forward in defence of their policies by the Government, and to the attacks on those policies made by the Opposition. Attractive though this idea sounds it does not appear to be based on generally held views about the rôle of the electorate today. It is, at the least, extremely doubtful whether that small and crucial portion whose minds are not made up, virtually from adolescence, are affected significantly by long term considerations of pro and contra. Furthermore, as recent events have shown, the "presidential" aspect of the British Prime Minister is now being taken absolutely seriously by the British political parties.

If then one rejects this aspect of Dr. Crick's argument it is perhaps fair to describe his view as over pessimistic—and after all from the point of view of the political commentator he was writing at a bad time—for the view which suggests, as may at times seem to be overwhelmingly true, that divisions are meaningless or the possibility of a serious Government defeat infinitely remote, misses a great part of the truth. Moreover, if this view were to be generally accepted, it is hard not to feel that that sense of reality and urgency which Dr. Crick seeks to bring to Parliament would be defeated. Truism though it is, politics are about nothing if they are not about power and although at times the exercise of power in Parliament may appear to be a remote possibility it would be regrettable if that exercise of power were to be lost by placing too much stress on a brief period when it had not been very great.

(*Contributed by Mr. David Dewar, a Clerk in the House of Lords.*)

The English Constitution. By Walter Bagehot, with a new Introduction by R. H. S. Crossman. (Watts, 1964, 15s.)

Bagehot's *The English Constitution*, written exactly a hundred years ago, remains today of supreme interest for two reasons. The first is as a work of historical *rapportage* of a vanished political scene, and the second is as an introduction (never since rivalled in immediacy of effect) to what is so depressingly called "constitutional" theory and practice. Why is this?

Partly because Bagehot wrote so well, with such *élan* and clarity and without pretension of any kind. His pragmatism eschews the constant reiteration of long words of Latin origin which seem inseparable from the subject—and he has therefore a great claim to our gratitude. Save for the professional "political scientist"—how many could happily sit down on a winter's evening before the firelight and read any other book on this subject and be diverted, amused and arrested as we can still today by Bagehot's racy analysis of the political institutions of 1865. He is full of images, and his prose (bespangled with aphorisms which have crept into common use) has, alas, been no example to those who have followed him.

He was a journalist of a kind fairly common in Victorian England —those contributors to the monthly and quarterly reviews who, for example, in the *Fortnightly Review*, instructed and dazzled the sober parts of the nation. Racy, full of quotable passages, Bagehot's prose is nevertheless both informed and out to inform, to analyse and to illumine the realities lurking behind the political façade of King, Lords and Commons or the division of powers as portrayed in the older works on the constitution. In Bagehot's day there were none of the great works on constitutional history which we have now and he had actually to rely on Hallam! The great change, portrayed by the late Richard Pares in his Ford Lectures, *George III and the Politicians*, from government as under George II, in reality still the King's, to that of the Cabinet as under George IV, had not before 1865 been made fully apparent, though it was naturally appreciated in the political classes—and J. S. Mill in his *Representative Government* (1861) had sought to do that which Bagehot succeeded in doing in his book. Mill was only an M.P. from 1865-8, towards the end of his life, and had previously served in the East India Company office. Lack of knowledge of politics from the inside may serve to help explain why his book fails to reflect the difference between the *dignified* and the *efficient* part of the constitution, which is made clear in *The English Constitution*.

If Bagehot would make the perfect "set text" on which to set undergraduates to gnaw, using alongside a collection of the principal documents relating to Victorian political history, he also provides the best of starting places for the study of our constitution today. This is partly because nobody has managed so far to do his work so

well again, and as it is impossible to study the political institutions of Britain *in vacuo*, to begin with Bagehot at least makes a comprehensible starting off point for the exploration of the succeeding hundred years. He describes what is usually considered the classic period of English parliamentary democracy (*i.e.*, 1850-67)—the great period in which the House of Commons did perform its given functions well (they were, Bagehot thought, to elect a Ministry, to legislate, to teach the nation, to express the nation's will, and to bring matters to the nation's attention) but, as Bagehot himself admits, it possessed then (as it had not thirty years previously) "the common sort of moderation essential to the possibility of parliamentary government". This Utopian parliamentary period has been yearned for ever since, and Bagehot by describing it has strengthened the myth that it is the "right" form of government. Crossman in the last paragraph of his Introduction reflects this—"It is my hope and belief that . . . the House of Commons should once again provide the popular check on the executive". English radicals and conservatives alike look back to Bagehot with nostalgia and longing.

A source book on English Victorian history, a starting point for the study of modern British institutions, *The English Constitution* provides also a stimulus to reflection on the changes and similarities in our political scene today with that of a hundred years ago. Constantly the reader is forced to consider recent happenings, and to apprehend truths of the present situation, by the realisation of the changes since Bagehot. For instance, over and over again the thought comes to mind "how far has the Prime Minister today taken over the functions of the Cabinet in Bagehot's day?" And if so, how far is it a desirable and irretrievable step? To the reviewer at least Mr. Crossman's Introduction seemed of much greater interest for his comments on 1964 than on Bagehot as an accurate recorder and observer of 1865, and it is to be hoped that his present experiences as a Cabinet Minister may give him yet greater opportunities to describe and analyse what actually happens now, and that, fluent and provocative as he is, he will do so. Luckily the "fifty year rule" (which seems now to be under real assault) hardly seems to be made to apply to ex-Cabinet ministers. The "cynical" mood of the Introduction may be tempered by a year or two of office, and no longer would he perhaps write (as on page 51), "loyalty has become the supreme virtue, and independence of thought a dangerous adventure" with a Prime Minister whose years as "number two" in the Labour party were marked by frequent brushes with his Leader, and with front benches which contain such notorious and entertaining rebels as Mrs. Castle, Messrs. Cousins, Enoch Powell, Macleod, Boyle and Crossman himself.

A final reflection on Bagehot: his book now paradoxically represents no longer the "efficient" parts of the constitution but rather the "dignified"—and he therefore is in some ways responsible for

myths which nobody of comparable knowledge and lucidity has since brought up to date. If the new countries were to copy his picture of the English constitution they would be trying to emulate a constitutional theory which already by the second edition (1872) was out of date.

This edition, which should as a matter of course be held by all parliamentary libraries, contains the important Introduction by Bagehot himself to the 2nd edition of 1872, and also an admirable bibliography by Mr. C. Seymour-Ure on British Central Government and Politics.

Erskine May's Treatise on the Law, Privileges Proceedings and Usage of Parliament (17th Edition). Sir Barnett Cocks (Editor). (Butterworths, £6 6s.)

To review Erskine May is akin to reviewing the Bible. The comparison holds good in many respects, not least in the fact that both are prepared by a committee of individuals, each of whom contributes much in learning and opinion. The Bible, however, unlike Erskine May, does not require to be revised every few years to keep up with changes in the religious firmament, and the opportunity for reviews is accordingly limited.

A cold view would be taken, I feel, of any attempt to analyse and criticise the Bible in such a modest scale as is granted to this reviewer. Opinions to the effect that the work as a whole is deficient in balance and that many of the characters and episodes lack credibility would not, I feel, be generally welcomed. And I have an uneasy suspicion that a similar operation on the Parliamentary Bible would not be hailed with enthusiasm.

The new edition of this massive work has had to be extensively revised. At least 100 pages have become wholly obsolete as a result of the reforming zeal of Parliament over the past seven years, and it is estimated that changes have had to be made "in perhaps nine hundred out of the thousand pages". These figures give an estimate of the amount of work involved in the preparation of a new edition; what they do not reveal is the care and scholarship involved, for which no praise can be too high.

It is, furthermore, a wholly thankless task. Everyone who has to work with Erskine May curses its index, its calculated vagueness on matters on which one wants a clear answer, and its often apparently eccentric order of priorities. It is, of course, an indispensable work of reference, and I do not know of any comparable work which is not denigrated by those who have to rely so heavily on it. For my part, I am constantly infuriated and awed by it, and although I frequently make solemn pledges never to use it unless as a last resort these always have to be forgotten in the press of events.

The plot seems to me rather thin in places, and there is a notable

lack of colour in the depiction of some of the more notable personalities and episodes to which bleak reference is made. There is, indeed, " nothing to laugh at at all ", which is sad. But to the hard-pressed and indefatigable compilers of the Parliamentary Bible—and particularly its talented and much maligned indexes—I accord the same humble and grateful salutation as I do to the compilers of that other Bible. Rather you than me.

(*Contributed by Robert Rhodes James, formerly a Senior Clerk in the House of Commons, and presently a Fellow of All Souls' College.*)

The Law Officers of the Crown. By Professor J. Ll. J. Edwards. (Sweet and Maxwell, 1964, £3 10s.)

This book gives an interesting, detailed and very readable account of the development of the offices of the Attorney General and Solicitor General with an account of the office of the Director of Public Prosecutions in England.

It traces the offices of Attorney General and Solicitor General from the earliest days when they were simply legal advisers of the Crown and servants of the Sovereign to conduct the Sovereign's cases in the courts, through the time when they were the Crown's principal representatives in the courts and legal advisers and Members of the House of Commons but with substantial private practices of their own, to the present day when they are full-time appointments with a small Department under them. It gives a history of the Law Officers' place in Parliament (it is interesting that their original place in Parliament was not in the House of Commons but in the House of Lords); it also gives a detailed account of the Attorney General's functions as protector of the public interest, particularly in regard to the enforcement of the criminal law in which the Director of Public Prosecutions now plays a prominent part.

Some of the Law Officers' functions have disappeared in the course of time; for instance, the jurisdiction in regard to patents and the fiat for appeal on a point of law to the House of Lords in a criminal matter. But, as the book clearly shows, they remain remarkably varied.

Those concerned with parliamentary procedure and practice will be interested in the differing rôles played by the Law Officers. On the one hand there is the complete independence of the Attorney General from the executive in coming to decisions on his quasi-judicial functions (*e.g.*, the institution and withdrawal of prosecutions) and the extent to which he can be questioned in Parliament about these decisions and the legal advice he gives to the Government. At other times the Law Officers are engaged in the political championing in the House of Commons of causes advanced by the Government of which they are Members. These matters are fully discussed.

Altogether the book contains a most valuable account of the development of the legal side of the business of Government and the position at the present day.

(*Contributed by Sir Robert Speed, C.B., Q.C., Counsel to the Speaker, House of Commons.*)

The Private Member of Parliament and the Formation of Public Policy: A New Zealand Case Study. By Robert N. Kelson.

This book is one of a series called "Canadian Studies in History and Government" sponsored by the Social Science Research Council of Canada.

Professor Kelson has handled his subject in a scholarly way and has dealt most instructively with the procedure which existed in New Zealand at the time his research was conducted. Unfortunately, there have been some far-reaching changes in New Zealand procedure during the past two years. The Standing Orders of the House of Representatives have been thoroughly revised and reprinted. In particular the method of dealing with Questions to Ministers has been radically altered, time limits for speeches have been generally reduced, and the rights of the private Member have been enlarged considerably in several directions.

It will be seen therefore that through circumstances beyond the control of the learned author, the book has been deprived of almost all of its immediate value and that it is no longer an accurate picture of the state of affairs existing in the New Zealand Parliament at the present time.

This is most regrettable and it is to be hoped that Professor Kelson will find the time to make the necessary revision of his book.

(*Contributed by E. A. Roussell, Clerk-Assistant, House of Representatives, New Zealand.*)

A Parliamentary Dictionary. Second Edition by Abraham & Hawtrey. (Butterworths, 1964.)

This manual is not just *another* reference book on parliamentary procedure—it is much *different* as it cannot be grouped with most other such works. The book's practical format complements the alphabetical arrangement of a dictionary with the comprehensive explanation of an encyclopedia. The content is arranged in an index form, and this matter is also separately indexed—an index to an index. Among other helpful features are the many useful cross-references from articles under one heading to related entries elsewhere in the book.

The co-authors' revision brings up to date and outlines reforms in the law and practice of the Mother of Parliaments since the first edition was published in 1956. The changes of special significance

are those which relate to the control of the business of the Commons by the House itself and in the financial procedure, and more particularly the form of estimates and the operations of the Committee of Supply.

This publication is a reservoir of parliamentary terms common to most parliamentary bodies throughout the world and is studded with idioms, anecdotes and lore. Although usages and language may vary over so wide a stage, the material in the book can readily be adapted to the local scene. Any reader, from *Hansard* to the formidable 17th edition of May's *Parliamentary Practice*—be he layman, student, journalist, historian or procedural practitioner—will find no more useful or convenient reference handbook.

(*Contributed by Alexander Small, Third Clerk Assistant, House of Commons of Canada.*)

The Government and Politics of India. By Professor W. H. Morris-Jones. (Hutchinson University Library.)

Within the compass of just over 200 pages, *The Government and Politics of India*, by Professor Morris-Jones, is a much bigger book than its deceptive size or title would lead one to expect. There is often "an inside story" to the political life in a country and usually there is something more than what seems to be on the surface. This is what the book sets out to achieve.

Professor Morris-Jones has had the advantage of studying the Indian political life and its national institutions on the spot when he spent several months in India in 1953 and thereafter produced a highly praised book entitled *Parliament in India*. Since then he has paid several short visits to India and taken visual note of the developments and changes that have taken place. Simultaneously he has kept himself in close touch with the events as and when they have taken place by reading enormous materials in the shape of reports, publications, brochures, pamphlets, etc., produced by the Parliament, Government and other organisations in India. The bibliography at the end of his present book will be a proof, if one is needed, of his wide reading and knowledge of the literature on and about India. Indeed Professor Morris-Jones has by now become an accepted authority on Indian political affairs, not only in India but, what is much more important, to the people outside India. His chief merit lies in the fact that he brings to bear his own mind, close analysis, objectivity and sound judgment on what he sees, reads and writes. He discards extreme views and commonplace and trite observations. He loves to state facts *in extenso* and to record his observations like a true research scholar, and then having soaked himself in these, gives a penetrating analysis of the trends behind the seeming phenomena as a disinterested foreign observer.

In his present book Professor Morris-Jones sets about exploring and correlating the forces at play from different levels of the Indian polity in an attempt to project the Indian scene in its true depth and dimensions. And to this task he brings a rare combination of objectivity and understanding.

The book falls into a tidy scheme. The first two chapters set out the Indian scene and point to some of its distinctive features. The third sketches the events and issues since Independence—first during the period of transition, i.e. in the years 1947-52, and then, during the first phase of the "operational journey" which, according to the author, came to a close in 1962. The ground thus prepared, the next three chapters pass on to a detailed examination of the three mains factors in Indian politics—the Government, the political forces and the "ordering framework" of parliamentary and judicial institutions. The concluding chapter is devoted to some kind of stocktaking of current tendencies and ideas.

Professor Morris-Jones conceives of the Indian scene as one in which there is taking place a constant and continuing dialogue between two main inherited traditions—"Government" and "Movement"—within the mediating framework of parliamentary institutions and judicial processes, which themselves constitute yet another tradition. "Government" here stands for not only the tangible equipment and machinery of government but also the psychological sum capital of mental habits and attitudes in and towards government. "The observer from outside discovers in India", says the author, "an awareness of government, a sense of its importance, and a feeling of the need for its stability and strength which is found in some other countries." "Movement" likewise is a reference to the nationalist movement and includes, besides, all that goes with it in the form of faiths, beliefs, aspirations and attitudes. In the course of this dialogue, which is carried on in three idioms— the "modern", "traditional" and "saintly"—the converging elements have all been influencing and moulding one another and in the process themselves undergoing change.

Professor Morris-Jones in analysing the framework of the Indian Constitution and the parliamentary procedure brings out how the parliamentary institution acts as a mediating factor between party and Government, and explains the pivotal role which is played by the Speaker in preserving its independent character. He mentions the various factors and legacies which are responsible for the opposition groups in Parliament exerting far greater influence than their small numbers would warrant. According to him, one significant factor —a legacy of the independence struggle—is distrust of established political authority; and there is an atmosphere of "separation of powers" without any constitutional basis for it.

The author describes the role of parliamentary committees, specially the Public Accounts and the Estimates Committees, and

commends their activities as it inspires in the administration a feeling of accountability. He also observes, "the Government has continuously to act in the knowledge that scrutiny of any item may take place and that waste or impropriety may be widely exposed in the House and the Press. The fact that Government replies are often vague and cool is less important than that behind the reply there has often been embarrassment and some resolve not to let it happen again."

In the legal framework, the author takes note of the legal system which was evolved in the Imperial days as an "expansion" or "migration" of the English common law, and some principles of which have since been enshrined in the Indian Constitution. He mentions how the High Courts and Supreme Court have made bold pronouncements on the Fundamental Rights provisions of the Constitution which have forced the Government to amend the Constitution more than once to get over the difficulties. The author underlines the independent character of judiciary and concludes: "The political and moral values inherent in a system of rule by law have been sufficiently communicated to all parts of the poitical system to ensure considerable resistance to arbitrary action."

The presence of a single dominant party in India is a common enough point of criticism. But nowhere has the positive aspect of the situation been argued so convincingly as by Professor Morris-Jones. The dominant party, he points out, has been a unifying agent not merely in the obvious "horizontal" sense in which it holds together a range of opinions, but also in the more important "vertical" sense that it brings into contact and interpenetration all levels of politics from the most sophisticated to the most simple and traditional.

There is much to derive strength from the author's final conclusions. It is in itself a signal achievement of the Indian polity, says the author, that it has, over a relatively short period, acquired definable shape and form, which could hardly be said of all new States. Speaking of Parliament, he notes how in some of the countries "party and government have in one way or another become indistinguishable, so that the mediating role disappears and the parliamentary institutions if they exist constitute a meaningless survival". In India, on the other hand, he sees in Parliament an independent institution possessing a distinct character and performing a distinct role—an institution not to be regarded as an extension of government or party.

Professor Morris-Jones does not take too gloomy a view of separatist forces in the country. "A study of other federal states", he points out, "would reduce the dangers of India's regionalist tendencies to life-size. It only means that India is probably now more genuinely federal than ever in the past, that the units now are real lively centres of loyalty and distinctness. It also means, of course, that all-India Leadership has now to be negotiated, worked for and

created. It means that in the business of administration as well as in the life of political groups, the reconciliation of regional pressures is to be a large fact of public life."

(*Contributed by Shri S. L. Shakdher, Secretary, Lok Sabha, India.*)

XXI. THE LIBRARY OF THE CLERK OF THE HOUSE

The following volumes, recently published, may be of use to Members as well as the books of which this copy of THE TABLE carries reviews:

W. K. Hancock, *Survey of British Commonwealth Affairs*. Oxford University Press. Vol. 1; Problems of Nationality 1918-1936. 63s. net. Two parts, 50s. net each (Chatham House).

Kalu Ezera, *Constitutional Developments in Nigeria*. Cambridge University Press. Cloth 30s. net, paperback 17s. 6d.

Philip Marsden, *In Peril Before Parliament*. Barrie and Rockliff, 25s.

Lord Bossom of Maidstone, *Our House: an introduction to Parliamentary Procedure*. 18s.

R. M. Dawson, *Democratic Government in Canada*. University of Toronto Press. $1.95 (paperback).

S. B. Chrimes, *English Constitutional History*. Oxford University Press.

W. E. F. Ward, *Government in West Africa*. Allen and Unwin, 15s.

E. D. Awa, *Federal Government in Nigeria*. California University Press, 64s.

Nwabueze, *Constitutional Law of the Nigerian Republic*. Butterworth, 77s. 6d.

L. F. Maxwell Sweet and Maxwell, *A Legal Bibliography of the British Commonwealth: Vol. 7* (2nd edition), 84s.

L. S. Amery, *Thoughts on the Constitution (new edition)*. Oxford University Press, 7s. 6d. (paperback).

Lord Bridges, *The Treasury*. Allen and Unwin, 30s.

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A. Gledhill Stevens, *The Republic of India* (2nd edition). Stevens, 70s.

L. Rubin and P. Murray, *The Constitution and Government of Ghana* (2nd edition). Sweet and Maxwell, 57s. 6d.

D. C. Mulford, *The Northern Rhodesia General Election*. Oxford University Press, 30s.

XXII. RULES AND LIST OF MEMBERS

The Society of Clerks-at-the-Table in Commonwealth Parliaments

Name

1. The name of the Society is "The Society of Clerks-at-the-Table in Commonwealth Parliaments".

Membership

2. Any Parliamentary Official having such duties in any Legislature of the Commonwealth as those of Clerk, Clerk-Assistant, Secretary, Assistant Secretary, Serjeant-at-Arms, Assistant Serjeant, Gentleman Usher of the Black Rod or Yeoman Usher, or any such Official retired, is eligible for Membership of the Society upon payment of the annual subscription.

Objects

3 (*a*) The objects of the Society are:

(i) To provide a means by which the Parliamentary practice of the various Legislative Chambers of the Commonwealth may be made more accessible to Clerks-at-the-Table, or those having similar duties, in any such Legislature in the exercise of their professional duties;

(ii) to foster among Officers of Parliament a mutual interest in their duties, rights and privileges;

(iii) to publish annually a JOURNAL containing articles (supplied by or through the Clerk or Secretary of any such Legislature to the Joint-Editors) upon Parliamentary procedure, privilege and constitutional law in its relation to Parliament.

(*b*) It shall not, however, be an object of the Society, either through its JOURNAL or otherwise, to lay down any particular principle of Parliamentary procedure, or constitutional law for general application; but rather to give, in the JOURNAL, information upon those subjects which any Member may make use of, or not, as he may think fit.

Subscription

4. The annual subscription of each Member shall be 25s. (payable in advance).

List of Members

5. A list of Members (with official designation and address) shall be published in each issue of the JOURNAL.

Records of Service

6. In order better to acquaint the Members with one another and in view of the difficulty in calling a meeting of the Society on account of the great distances which separate Members, there shall be published in the JOURNAL from time to time, as space permits, a short biographical record of every Member. Details of changes or additions should be sent as soon as possible to the Joint-Editors.

Journal

7. One copy of every publication of the JOURNAL shall be issued free to each Member. The cost of any additional copies supplied to him or any other person shall be 35s. a copy, post free.

Joint-Editors, Secretary and Treasurer

8. The Officials of the Society, as from January, 1953, shall be the two Joint-Editors (appointed, one by the Clerk of the Parliaments, House of Lords, and one by the Clerk of the House of Commons, in London). One of the Joint-Editors shall also be Secretary of the Society, and the other Joint-Editor shall be Treasurer of the Society. An annual salary of £150 shall be paid to each Official of the Society acting as Secretary or Treasurer.

Account.

9. Authority is hereby given the Treasurer of the Society to open a banking account in the name of the Society as from the date aforesaid, and to operate upon it, under his signature; and a statement of account, duly audited, and countersigned by the Clerks of the two Houses of Parliament in that part of the Commonwealth in which the JOURNAL is printed, shall be circulated annually to the Members.

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XXIII. 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.

Alagarswamy, G. M., B.A., B.L.—Secretary, Legislative Council, Madras; *b.* on 4.6.1926 in Madurai, Madurai district, Madras State; *ed.* in the Madurai College High School, Madurai College and American College, Madurai and Law College, Madras (Madras University); enrolled as an Advocate in 1949 and was practising in the Original and Appellate Sides of the High Court of Judicature, Madras. Joined as Assistant Secretary to the Madras Legislature in 1955 and promoted as Deputy Secretary in 1959. Appointed to the present position on 19th October, 1964.

Anya, O. U., B.A. (Hons.) London, D.P.A. (Postgraduate).—Clerk Assistant, Eastern Nigeria Legislature; *b.* 27.9.1926; *ed.* in University College, Ibadan, and in London School of Economics and Political Science; joined the Eastern Nigeria Public Service in 1956 as Administrative Officer, and the Eastern Nigeria Legislature on 8th February, 1965, as Clerk Assistant.

Kermeen, Thomas Edward, F.C.C.S.—Clerk of Tynwald and Secretary of the House of Keys, Isle of Man; *b.* 1915, *m.* 1946; 1 *s.* 1 *d.*; *ed.* Douglas High School; joined Isle of Man Civil Service, 1933; served in Manx Regiment and Intelligence Corps 1939-45 (East Africa, Western Desert, Italy); Private Secretary to Lieutenant Governor of Isle of Man, 1957; appointed to present position, 1964.

Khaliq, M. A., M.A., LL.B. (Cal.).—Secretary to the East Pakistan Assembly; holds the degrees of Master of Arts and Bachelor of Law of the Calcutta University; appointed to the Bengal Civil Service (Judicial) on 7th July, 1947; after the partition of Bengal on 15th August, 1947, served in the East Pakistan Civil Service (Judicial) and also as Assistant Secretary, Law Department, in 1956-7 and subordinate and Assistant Sessions Judge (1957-62); appointed Secretary to the East Pakistan Assembly on 26th April, 1962.

McLaughlin, Sybil Ione.—Clerk of the Legislative Assembly and Executive Council, Cayman Islands.—*b.* 1928; *ed.* George Town Government School, Grand Cayman, and Baptist College, Managua, D.N., Nicaragua, Central America; *m.*; 2 *s.*; appointed clerk-typist Grand Cayman, Cayman Islands, 23rd July, 1945; Secretary to Commissioner, 1958; Clerk of the Legislative Assembly and Executive Council 1959; superintendent South Sound Presbyterian Sunday School and church organist; treasurer, Boy Scouts' Association; chairwoman, George Town Public Library Committee; president, Grand Cayman Tennis and Sports Club; member of the Young Wives' Club; keenly interested in youth organisations.

Thompson, Frederick Keith Mannering.—Clerk Assistant, Northern Territory Legislative Council; *b.* 7th April, 1923; *ed.* Royal Australian Naval College; served in Royal Australian Navy 1937-44; joined Commonwealth Public Service in Darwin 1957; appointed Editor of *Hansard* 1962; Clerk-Assistant 1964.

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ABBREVIATIONS

(**Art.**) = Article in which information relating to several Territories is collated. (Com.) = House of Commons.

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