The Table

BEING

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

EDITED BY

J. M. DAVIES

VOLUME XXXVII

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USUAL PARLIAMENTARY SESSION MONTHS

	Parliament.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
	United Kingdom		●	●	●	●	●	●				●	●
	Northern Ireland	●	●	●	●	●	●				●	●	●
	Jersey	●	●	●	●	●					●	●	●
	Isle of Man	●	●	●	●	●		●			●	●	●
Canada	Federal Parliament	●	●	●	●	●	●			●	●	●	●
	Ontario	●	●	●	●	●	●						
	Quebec	●	●	●	●	●	●						
	Nova Scotia			●	●								
	New Brunswick		●	●	●								
	Manitoba		●	●	●								
	British Columbia	●	●	●	●							●	●
	Prince Edward Island		●	●	●								
	Saskatchewan	●	●	●	●								
	Alberta		●	●	●								
	Newfoundland			●	●	●	●						
	Northern Territory												
Australian Commonwealth	Commonwealth Parliament		●	●	●	●	●		●	●	●	●	●
	New South Wales		●	●					●	●	●	●	●
	Queensland			●	●				●	●	●	●	●
	South Australia		●	●			●	●	●	●	●		
	Tasmania				●	●	●		●	●	●	●	●
	Victoria		●	●	●	●			●	●	●	●	●
	Western Australia				●	●		●	●	●	●	●	
	Northern Territory		●			●			●			●	
	Papua and New Guinea		●			●				●			
	New Zealand					●	●	●	●	●	●	●	
	Western Samoa					●			●	●	●		
	Ceylon	●	●	●	●	●	●	●	●	●	●	●	●
India	Central Legislature		●	●	●	●			●	●		●	●
	Andhra Pradesh			●			●	●				●	●
	Bihar		●	●	●				●				●
	Gujarat	●	●	●									
	Haryana								●	●			
	Kerala												
	Madhya Pradesh												
	Madras	●	●										
	Maharashtra			●	●				●				
	Mysore		●	●	●				●	●			●
	Orissa		●	●	●				●	●			●
	Punjab		●	●	●					●	●	●	●
	Rajasthan			●	●				●				
	Uttar Pradesh		●	●	●	●	●					●	●
	West Bengal								●	●	●		
Pakistan	National Assembly												
	East Pakistan												
	West Pakistan												
	Ghana												
	Malaysia			●					●	●			●
	Sarawak												
	Singapore												
	Sierra Leone	●	●	●	●	●	●	●	●	●	●	●	●
	Tanzania												
	Jamaica		●		●	●	●				●		●
	Trinidad and Tobago			●	●	●						●	
	Uganda	●	●		●	●	●	●			●	●	
	Kenya	●	●	●	●	●	●			●		●	●
	Malawi		●			●	●			●	●	●	
	Zambia												
	Southern Rhodesia	●	●	●			●	●			●		●
	Bermuda												
	Guyana												
	British Solomon Islands	●	●	●	●	●	●	●	●	●	●	●	●
	Gibraltar						●						●
	Malta, G.C.	●	●	●	●	●	●	●			●	●	●
	Mauritius												
	St. Vincent				●	●	●			●	●	●	●
	British Honduras	●	●	●	●	●	●		●	●	●	●	●
	Cayman Islands			●		●	●	●		●	●	●	●
	Lesotho		●			●	●		●		●		
	Cook Island		●	●	●				●	●	●		
	Seychelles												

No settled practice.

Dissolved.

Dissolved.

Dissolved.

No settled practice.

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CONTENTS

The Table

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

I. EDITORIAL

Last October, when Volume XXXVI of THE TABLE went to press, the future of the Society was uncertain. Since then it has become abundantly clear that there continues to exist a wide interest in the Journal, and that it is of great value to all those who work in parliamentary institutions. This interest has manifested itself in the measure of support for the recent proposals to strengthen the Society's financial position. And so, after some years of difficulty, the Society can again face the future with confidence.

When Owen Clough retired as Editor in 1952 and handed over his great venture to two clerks at Westminster there were inevitably changes; the Society benefited from a larger and more stable income; the Journal received its present title and was improved in certain other respects; and the Society's name was also altered. But after a considerable period of time these improvements were, of themselves, not enough; inflation had eaten into the Society's budget; and in an age when mergers are encouraged it was only to be expected that the need for two journals dealing with parliamentary affairs within the Commonwealth, albeit from different viewpoints, should be questioned.

THE TABLE has, however, survived a difficult time and now further changes can, perhaps, be made. One small improvement is possibly the earlier publication date for this Volume; but improvements can also be made to the Journal itself so as to increase its value to members of the Society. Indeed, it was suggested at the meeting of clerks at the Commonwealth Parliamentary Association Conference in Nassau that a small committee should be formed to consider ways of improving THE TABLE's format and make recommendations to the Editor. The Editor welcomes this suggestion and will also welcome any other advice on how the Journal can better serve the interests of the Society.

Mr. Leslie Graham McDonald.—On 12th December, 1968, Mr. McDonald retired as Clerk of the Parliaments and Clerk of the Legislative Council, Victoria, Australia, after forty years of parliamentary service.

Immediately prior to the close of business in the Legislative Council on 11th December, 1968, the Leader of the House (the Hon. G. L. Chandler, M.L.C., Minister of Agriculture) moved the following Motion:

> That on the eve of the retirement of Leslie Graham McDonald, Esquire, from the offices of Clerk of the Parliaments and Clerk of the Legislative Council, this House places on record its high appreciation of the long and valuable services rendered by him to the Parliament and the State of Victoria as Clerk of the Parliaments and Clerk of the Legislative Council, and in the many other important offices held by him during his 47 years of public service—of which 40 years were spent as an officer of the Parliament of Victoria—and its acknowledgement of the zeal, ability and courtesy uniformly displayed by him in the discharge of his duties.

In so doing, Mr. Chandler recalled that in 1928 he had, along with Mr. H. K. McLachlan and Mr. J. A. Robertson (two former Clerks of Parliament), entered an old Austin car and travelled to the country town of Kilmore to play cricket with Mr. McDonald. Since that time their acquaintance had been one of friendship on both sides.

He then spoke of Mr. McDonald's long service to the State of Victoria, which he summarised as follows:

> Mr. McDonald was born in Prahran in this State, and educated at the University High School. He was appointed to the advertising branch of the Government Printing Office on 25th February, 1921; transferred to the office of the Public Service Commissioner on 29th March, 1924; appointed to the Department of the Legislative Assembly on 16th September, 1928; held the following offices in the Legislative Assembly: Reader and Clerk of the Record from 28th July, 1937, until 26th April, 1951; Serjeant-at-Arms and Clerk of Committees from 27th April, 1951, until 16th February, 1955; Second Clerk-Assistant and Clerk of Committees from 17th February, 1955, until 11th September, 1961; Clerk-Assistant from 12th September, 1961, until appointed to the office of Clerk of the Legislative Council on 27th February, 1964; and Clerk of the Parliaments from 6th March, 1968. Mr. McDonald served as secretary to the following Parliamentary committees: House Committee, Committee of Public Accounts, Statute Law Revision Committee, Subordinate Legislation Committee, and various other Select Committees. Mr. McDonald also served as secretary to four Royal Commissions, including the Royal Commission into the 1944 Yallourn fire.

The Leader of the Labour Party (the Hon. J. W. Galbally, Q.C., M.L.C.) and the Leader of the Country Party (the Hon. Sir Percy Byrnes, M.L.C.) and other Members spoke with sincerity and admiration of the valuable services Mr. McDonald had rendered to them individually and to the Parliament as a whole.

In the concluding speech, the President of the Legislative Council (the Hon. R. W. Garrett, M.L.C.) said he counted himself fortunate to have had the advice of Mr. McDonald, first when he was the Chair-

man of Committees of the Council and since his occupancy of the President's chair. He concluded by reading a note which the retiring Clerk handed to him which stated:

Mr. President, before putting the question, would you please express my sincere appreciation of the kind words members have expressed regarding me this evening.

In reading the note, the President remarked that it was a pity that the Clerk himself could not make a speech on his last night in the Parliament.

The Motion was agreed to, Hon. Members signifying their unanimous assent by standing in their places.

Mr. Charles Kingsley Murphy, C.B.E.—Mr. Murphy retired as Clerk of the House of Assembly, Tasmania, on 17th January, 1969, after holding that post for almost twenty-eight years.

On 4th December, 1968, the Acting Speaker advised the House that he had received a letter from the Clerk of the House in the following terms:

Dear Mr. Speaker,

I have to officially advise you that I desire as from 17 January 1969, to resign the patent of the Clerk of the House of Assembly which I have been privileged to hold for almost twenty-eight years. I feel that I cannot lay down my office without expressing to you, Sir, and through you to your eleven immediate predecessors below whom I sat at the Table, my great appreciation for the support and encouragement so generously given to me during my long term of office.

To the Members of all Parties in the nine Parliaments I have known during my term of service as an officer of the House and to all of my colleagues, past and present, in all ranks, I tender my warmest thanks for the many marks of courtesy, kindness and consideration which they have shown me.

After almost forty-four years, the whole of which has been spent at the Table, it is with great regret that I leave the service of the House, but nevertheless the time must inevitably come when it is necessary to lay down the burdens of office. I am proud that almost the whole of my working life has been in the service of a Parliamentary democracy, a service which I sincerely pray will continue to be a blessing to this State.

Yours sincerely,
C. K. MURPHY
Clerk of the House

The Prime Minister (Honourable E. E. Reece) then informed the House that there would be opportunity to discuss the matter on another day when it was proposed to move a Motion. Accordingly on the last day of the Session, 20th December, 1968, the Prime Minister moved:

That Mr. Acting Speaker be requested to convey to Charles Kingsley Murphy, Esquire, C.B.E., on his retirement from the Office of Clerk of this House, an expression of Members' deep appreciation of the service which he has rendered to this House for forty-three years, their recognition of his wide knowledge of its procedure and practice and

their sincere gratitude for the help he has always so readily extended to them.

In doing so, he addressed the House as follows:

I move that Mr. Acting Speaker be requested to convey to Charles Kingsley Murphy, Esquire, C.B.E., on his retirement from the office of Clerk of this House, an expression of Members' deep appreciation of the service which he has rendered to this House for forty-three years, their recognition of his wide knowledge of its procedure and practice, and their sincere gratitude for the help he has always so readily extended to them.

It is fitting, I believe, that this House place on record the appreciation of all Honourable Members to the Clerk of the House who retires from his important office on 17th January next after a long and distinguished career in the service of this Parliament.

Mr. Murphy has been able to gather, in a most authoritative manner, a tremendous amount of knowledge of the practices and privileges of Parliament, and has made available to Honourable Members in a fair and unstinting manner the benefit of both his knowledge and his wisdom. He has truly been a friend and adviser to us all.

During his many years as the senior officer at the Table of the House he has been available at the elbow of the Speaker or the Chairman of Committees, ready to give advice if a sudden point arises. On so many occasions has it been necessary at split-second notice for the House to have advice given to its Chairman or Presiding Officer, and this has been given with a great deal of unobtrusiveness and with great benefit to the House because of the knowledge that has been available to the Presiding Officer. It is very seldom indeed that a decision made so suddenly by the Chair on the advice of the officers has been challenged by Members of the House, and this is an indication of the real value that officers have been able to give to the work of this House.

I think it wise that we should trace now the history of Mr. Murphy in his association with the Parliament. He came here in July 1925, as a member of the Staff of the House of Assembly. He was appointed Clerk of the House on 3rd April, 1941. He was the seventh Clerk of the House since Responsible Government in 1856. He served for almost 44 years, and for 28 years as Clerk of the House. He has only been exceeded in his term as Clerk of the House by the late J. K. Reid, Clerk for approximately 30 years. He has seen 203 Members and table officers enter Parliament out of 572 since Responsible Government. He has served under 12 Speakers out of 20 since Responsible Government, a matter of 112 years, under three as Clerk-Assistant and under nine as Clerk of the House. He has served in this Parliament within the term of seven Governments, and has also served the Ministries in the Parliament of Mr. Lyons, Mr. McPhee, Sir Walter Lee, Mr. Ogilvie, Mr. Dwyer-Gray, Sir Robert Cosgrove and myself. Although he did not serve him in the Parliament, he was here during the period that Mr. Brooker for a short term was Premier of the State. So that his term has extended over the period of eight Premiers. Outside of the House his interests have been associated with two organisations of some importance. He has been president of the Queen Victoria Home for the Aged for some years, and in that capacity has shown not only great ability but devotion to the purpose of the Home, and I think a great deal of appreciation can be extended to him by many people associated with that work. Further than that, he has had a long association with the Boy Scouts Association, both at State and at Commonwealth executive level, and here again he has been connected with a very worthwhile community organisation. Above all, he has been awarded by Her Majesty a C.B.E., and I would say one that was richly deserved. But apart from all these associations in the House as our adviser, as well as the senior officer at the Table, he has been connected for some years with Parlia-

mentary Committees as the secretary, and for a long term as the secretary of the Standing Committee on Public Works, and I think the standard of the reports that come to us from time to time are an indication of his efficiency. Sometimes there are quite complicated matters to be reported upon by the Committee to the Parliament, and one can see his hand running through these reports.

All of these perhaps can be regarded as connections with the office of Clerk of the House, but despite all the work that has been done here, and all the appreciation we can express in this resolution, I think we will all be sorry to lose Mr. Murphy because of his friendship with us. There has never been an appeal we have made to him as Members for assistance and advice when it has not been forthcoming in a straightforward and comprehensive manner, and he has been able to give it to us because of his profound knowledge of Standing Orders, the rules of Parliament and the practice of the Parliament handed down through the years, and for this we are not only very grateful indeed, but very sorry to see him go. Nevertheless, as he leaves to retire we want to express our appreciation in the tangible form of the resolution which has been handed to you, Mr. Acting Speaker, for consideration.

Finally, on behalf of my colleagues, all Honourable Members of the House past and present, we would wish to Mr. Murphy and his wife every happiness during their period of retirement. We would like to think from time to time he would come back to see us, if only for a few brief moments. We would like to think this association, built up on an official basis, would remain on a friendly basis, and we would like to say, finally, thank you for a very wonderful service rendered to this House of Parliament and the people of Tasmania.

I have a great deal of pleasure in moving the resolution.

The Motion was seconded by the Leader of the Opposition (Honourable W. A. Bethune), and supported by Mr. K. O. Lyons, a former Speaker.

Before putting the Question, the Acting Speaker said:

On behalf of myself I would like to say I am pleased that the motion has been put before the House for discussion and approval. Undoubtedly all persons in the House agree it is a sad moment, and no doubt there will be unanimity of support as the motion is finally put.

Mr. Murphy has endeared himself in many ways, particularly for his devotion to duty and his thoroughness in administrative matters outside the Chamber as well as matters inside the Chamber. We have been greatly indebted to him as a result of the great score of knowledge referred to today. During many points of procedure he has an uncanny knowledge to focus upon a particular problem. There have been occasions when there has virtually been an impasse in this Chamber, but Mr. Murphy has somehow been able to give his advice, and his suggestion has always been one which has solved the problem which has come before this Chamber, and on many occasions before me. Undoubtedly we do need people of calm and balance in this political arena of ours, persons of wise counsel and always ready to place this at the disposal of the Members of the House.

I wish that his wife and family will share a long retirement with him, because they, too, have made great sacrifices, brought about by the nature of his devotion to public office.

So, Mr. Murphy, you have our best wishes. May God bless you and continue to keep you calm and objective in all that you do.

The Motion being put, Members supported it by rising in their places, and it was resolved *nemine contradicente*.

At the conclusion of the day's sitting, which was the last of the Thirty-fourth Parliament, the Acting Speaker invited the Clerk to follow his procession, whereupon Mr. Murphy withdrew from the Chamber while all Members stood in their places.

Mr. Louis F. Tortell.—Mr. L. F. Tortell retired from the Office of Clerk of the House of Representatives, Malta, on 16th February, 1969. After Question time on 14th February. Mr. Speaker communicated to the House the letter which he had received from the Clerk:

Sir,

I have the honour to inform you that as from the 16th of this month, I am relinquishing the post of Clerk to the House which I held for the last three-and-a-half years.

I cannot leave the precincts of the House where I have served the Representatives of the people for the last thirty years, without expressing to you, Sir, my great gratitude for the support and encouragement so generously given to me by yourself, your ten immediate predecessors and five Governors as Chairmen of the Council below whom I have sat at the Table.

To the Members of all Parties I have served during this period and to all my colleagues in the service of the House, I tender my warmest thanks for the kindness and consideration which they have shown me.

After all these years it is with regret that I leave the service of the House, but I am proud and satisfied that for so many years I have been of some service to Parliamentary democracy.

I am, Sir,
Your obedient servant,
(sd) L. F. TORTELL,
Clerk of the House

(Cheers by Hon. Members.)

The Prime Minister, the Hon. Dr. Giorgio Borg Olivier, then addressed the House:

Mr. Speaker, unfortunately everything in this world has its limitations, including a man's period of activity. Today marks the end of Mr. L. F. Tortell's activities in this House, which, I feel all will agree with me, he has always served with the greatest ability, loyalty and rectitude, without fear or favour, for he is a person who likes to be straight and to speak his mind clearly. I feel that Mr. L. F. Tortell has earned everybody's respect.

Mr. Tortell and I were first in this House in 1939, 30 years ago. It is with great satisfaction that I say that in Mr. Tortell I have found ability, honesty, loyalty, rectitude and integrity. I am sure the House agrees with me.

I thank him for his services to the House, and I wish him a long life and that he shall continue to be of service to his country.

The Leader of Opposition, the Hon. D. Mintoff followed:

I, too, in the name of the Opposition, wish to thank Mr. L. F. Tortell for his work in the House, for the impartial service he has given to both sides of the House.

Mr. Tortell was one of the more active civil servants; he worked hard and for long hours and perhaps took an even greater interest in the Debates of this House than Hon. Members themselves. He is a self-made man. He did not belong to the class of civil servants normally in line to the higher promo-

tions. He earned his promotions more for ability than for seniority. Mr. Tortell earned his promotions by the ability he has shown in work connected with parliamentary procedure and practice.

Mr. Speaker, I have no doubt that if there is one person in Malta well versed in parliamentary procedure to meet all circumstances that may arise, and who knows the manner in which the business of the House should be conducted democratically, that person is Mr. L. F. Tortell.

We on this side of the House are sorry that he has reached retiring age and that he shall not continue in this work. We thank him and wish him luck and prosperity in the future. We wish him a long life and that, in one way or another, he shall continue his activities for the good of the nation.

Some days after, the Staff of the House gave a party in the Lobby in honour of Mr. L. F. Tortell, at which Mr. Speaker Bonnici made a short speech. Then, on behalf of the Staff, he presented Mr. Tortell with a silver salver.

Mr. R. L. Dunlop, C.M.G.—Mr. Dunlop retired as Clerk of the Parliament, Queensland, on 31st December, 1968.

Mr. W. P. B. Smart.—Mr. Smart retired from the Office of the Clerk of the House of Assembly, Territory of Papua and New Guinea on 13th May, 1969.

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.—H. N. Dollimore, Esq., Ll.B., Clerk of the House of Representatives, New Zealand.

M.B.E.—B. Georges, Esq., Assistant Secretary in Chief Secretary's Office, Seychelles.

M.V.O.—R. P. Cave, K.S.G., Fourth Clerk at the Table (Judicial), House of Lords.

II. THE SELECT COMMITTEE ON PARLIAMENTARY PRIVILEGE, 1966–67

By Eric S. Taylor, Ph.D.
A Deputy Principal Clerk in the House of Commons

The Select Committee was appointed on 5th July, 1966, " to review the law of Parliamentary Privilege as it affects this House, and the procedure by which cases of privilege are raised and dealt with in this House, and to report whether any changes in the law of privilege or practice of the House are desirable." In moving for the appointment of this Committee the Leader of the House (Mr. H. W. Bowden) mentioned that during recent sittings of the Committee of Privileges the members of that Committee had concluded " that it was obvious to us as members of that Committee that a rather longer and cooler look should be given to the whole question of Parliamentary Privilege". But he added, " that was confirmed at the time by articles in the newspapers, and I recall particularly one learned article by the Right Hon. Member for Enfield West (Mr. Iain Macleod) with which I considerably agreed "—and there is no doubt that there had been considerable pressure from Members generally, and some members of the Press Gallery, for a relaxation of the rules of Privilege which affected them.

The Committee contained some of the most senior Members of the House and five Privy Councillors. It continued sitting at intervals until 30th November, 1967, first under the chairmanship of Mr. Harold Lever, and when Mr. Lever had been appointed to a government post, under the chairmanship of Mr. S. C. Silkin. It was Mr. Silkin who finally made the Report of the Committee to the House.

Memoranda were called for from (among others) the Clerk of the House, the Clerk of the Parliaments, the Attorney General, the Bar Council, the Law Society, the Press Council, the Lobby, the Press Gallery, the B.B.C. and I.T.V. and several organisations representing the newspaper world. Mr. L. A. Abraham, C.B., C.B.E., an acknowledged authority on the law of Privilege was also asked to submit a memorandum, and a note was sent round with the Whip inviting Members generally to send in any observations on the subject that they cared to make. Only two of the Members of the House submitted letters in response to this note.

After two meetings of private deliberation the Clerk of the House was examined on his memorandum, and upon a supplementary memorandum containing the answers to questions formulated by the Committee in the course of deliberation. The Committee on a subsequent day heard evidence from various representatives of the press, the Lobby, the Press Gallery, Mr. Cecil King (then Chairman of the

International Publishing Corporation), two newspaper editors, a leader-writer of an eminent newspaper and a lobby correspondent. They then called Mr. Abraham, whose memorandum on the law of Privilege had deeply impressed them. A former Attorney-General, Sir John Hobson, Q.C., who had sent in a memorandum on the subject of justification was heard, and the final witness was Lt.-Col. P. F. Thorne, the Deputy Serjeant at Arms, since the Serjeant at Arms had submitted a memorandum on the penal jurisdiction of Parliament. This concluded the evidence taken by the Committee.

The Report which the Committee made was inevitably long and involved, and included a brief survey of the history of Parliamentary Privilege and the basic principles which the Committee derived from the evidence submitted to them. The chief criticisms of the existing system which had been brought to the notice of the Committee were severally considered and either accepted or rejected. The Committee then set out a complete code in the matter of Parliamentary Privilege, and as the details are rather important the summary of the Report will necessarily be rather long and detailed.

First of all, the chief criticisms made in the written evidence were summarised. Most of them were derived from memoranda submitted by the newspaper organisations, but there were also additional criticisms which appeared in the memoranda submitted by legal organisations. The criticisms were summarised by the Committee as follows:

(i) Members are too sensitive to criticism and invoke too readily the penal jurisdiction of the House; they do so not merely in respect of matters which are too trivial to be worthy of that jurisdiction, but also on occasions when other remedies (*e.g.* in the courts or by way of complaint to the Press Council) are available to them as citizens;

(ii) the procedure for invoking the penal jurisdiction encourages its use for the purposes of publicity, is inequitable to persons whose conduct is under scrutiny and fails to accord with the ordinary principles of natural justice;

(iii) the scope of Parliament's penal jurisdiction is too wide, too uncertain and too dependent upon precedent; the press and the public are wrongly inhibited from legitimate criticism of parliamentary institutions and of Members' conduct by fear that the penal jurisdiction may be invoked against them;

(iv) there is too great uncertainty about the defences which may legitimately be raised by those who are subjected to the penal jurisdiction; in particular it is a matter of doubt whether a person who has made truthful criticisms should be allowed to testify to their truth; this should be an undoubted right;

(v) it is contrary to principle that Parliament should be " both prosecutor and judge "; its penal powers should be transferred to some other tribunal;

(vi) the rules which govern the reporting of debates in the House and Standing Committee are obsolete and disregarded; those which govern the reporting of proceedings in Select Committee are obsolete, anomalous, uncertain and contrary to the public interest.

Before commenting on the criticisms, the Committee devote five paragraphs to dealing with the terminology of Privilege. The word " privilege " had itself, they thought, degenerated in modern usage.

They therefore propose that the terms " rights and immunities " should thereafter be used instead of " rights and privileges ", that it should become customary to refer to " contempt of the House ", rather than " breach of privilege " and to " penal jurisdiction of Parliament " rather than to the power of the House to punish for breach of privilege. For the same reasons, towards the end of the Report, (para. 192) they recommend that the Committee of Privileges should become the " Select Committee on House of Commons Rights ". They also affirm that the principle of Parliamentary Privilege formulated by Erskine May should be expanded into a general rule, and that this should be that the House should only exercise its power (*a*) as sparingly as possible, and (*b*) only when it was satisfied that it was necessary in order to provide reasonable protection for the House. Most of the criticisms made of the law of Privilege were, the Committee considered, exaggerated, and the fears of its operation did not seriously affect the conduct of the press or its ability to convey news. They agreed, however, that there was justice in the complaint that the law was clouded by uncertainty, and also that Members were over-sensitive to criticism. Some of the criticisms more strictly referred to day-to-day administration and practice of the House, and some complaints had already been dealt with by administrative action.

In the account of the historical development of Privilege which follows in the Report, perhaps, following the memorandum of the Serjeant at Arms, too much stress is laid on the acquisition by the House of the executive powers of the Serjeant at Arms in 1415. The Committee do however recognise the immense importance of the period of the Reformation in the development of the powers of Privilege, and the use of the House of Commons by King Henry VIII in dealing with the opposition of the peers. The first case which can definitely be described as an exercise of the Privileges of the House of Commons involves, in this case, the privilege of freedom from arrest—and is mentioned as occurring in 1543. In this context (freedom from arrest) Selden is quoted (following the memorandum of Mr. L. A. Abraham) as saying that breach of privilege is " only the taking away of a Member; the rest are offences against the House " *i.e.* contempt of the House. There is no doubt, however, that in exercising their privilege of punishing contempts of the House, the services of an officer of the Crown (the Serjeant at Arms) were (and are) extremely valuable.

The Committee then distinguish between the specific Privileges of the House of Commons, which are referred to by Mr. Speaker in his petition to the Crown at the beginning of each Parliament, which they call " rights and immunities " and the power of the House to punish for contempt.

The Committee consider, and reject, the proposal to " codify " categories of contempt—a proposal made for instance by the " Study of Parliament Group ", since contempt must by its nature be subject to the changes in circumstances, and would require legislative authority

to codify. Nevertheless, the Committee endeavour to lay down a series of proposed rules for the guidance of the House in its exercise of its powers in relation to contempt. It is here perhaps that they make one of the most controversial of their recommendations. They recommend (para. 42) that where a Member has a remedy in the courts in respect of any contempt (such as libel) he should not be permitted to invoke the powers of the House to protect him.

Arguments against this proposal before the Committee were that (*a*) the House is more competent to decide whether a contempt requires intervention of any sort than any other court,* (*b*) that (as shown in the memorandum submitted by the Clerk of the House) the number of cases referred to the Committee of Privileges in recent years which could have been dealt with in the courts of justice form a small proportion of the total, and (*c*) most important, the authority of the House itself is involved in libels upon its Members in their capacity as Members,† and that there is a question of such a libel being seditious.

The Committee, however, make certain exceptions to their general recommendation. The case of the constant repetition of an improper and unjustifiable attack by, *e.g.* a newspaper or group of newspapers upon a group of Members to the extent of it being a serious threat to " the free expression of their conscience and to their free Parliamentary action " must, they say, be a case in which the residual powers of the House should be used. Such powers, they consider, should also be used to protect the Speaker and other occupants of the Chair. On the other hand they make it clear (para. 46) that if an action in the courts would be liable to fail, the Member should not therefore be justified in calling upon the protection of the House.

The rules as adumbrated in this group of paragraphs are set out summarily in paragraph 48.

The Committee next, in paragraphs 50–59 consider the question of the admissibility of the plea of *justification* in cases of contempt. This issue had been brought before the Committee in a memorandum by Sir John Hobson, and his advice had been challenged on historical grounds by Mr. L. A. Abraham in two counter-memoranda. On this matter the Committee express the view (para. 55) that in deciding whether a statement amounts to a contempt of the House should take into account the truth of the statement. They agree that truth alone should not constitute a good defence to a complaint of contempt. Public interest must enter into the matter. But the Committee consider (para. 58) that even if the statement should upon investigation appear to have been ill-founded, " an honest and reasonable belief in the truth of the allegations . . . made only after all reasonable investigation " should be a good defence against a charge of contempt. There was some support for the Committee's view, however, in the debate on the Report.

* (Cocks, pp. 21–22, Q. 19, etc.)
† (Abraham, pp. 99–101, etc.)

The Committee had before them the arguments against this decision, which seem to be aptly summarised in the concluding paragraph of Mr. Abraham's second memorandum on the subject: " The principle on which the truth of a statement is a complete defence to an action for defamation is that a man is not entitled to compensation for a reputation to which he was not entitled. It is difficult to see how this principle can apply to proceedings for contempt of the House the function of which is to prevent or punish obstruction of the House in the performance of its functions." One of the consequences which might flow from the adoption of such a recommendation is the necessity for legal representation which is dealt with in another part of the Report.

The Committee next consider the case of contempt committed by Members of the House, as opposed to strangers. They were concerned at the fact that Members of the House might, in circumstances of absolute privilege, make defamatory statements about strangers. They were tempted to recommend some provision whereby such strangers might have means of redress against such Members. In the end they come to the conclusion (para. 67) that the principle of freedom of speech as enshrined in the Bill of Rights " must be a more paramount consideration ".

The following section of the Report deals with the specific privileges of the House, which the Committee, following its earlier recommendation, calls " rights and immunities ". In dealing with these privileges the Committee follow the classification used by Mr. Abraham (in his memorandum) to whose assistance they generously record their debt.

The discussion of the privilege of freedom of speech naturally involves the consideration of what constitutes a " proceeding in Parliament ", and is thereby protected under article 9 of the Bill of Rights. In this connection the Committee endorse the decision of the House of Commons in 1958 on the question whether the letter written by Mr. Strauss in the case of the London Electricity Board in 1957 was protected as a proceeding in Parliament. While agreeing that the letter was not in fact a " proceeding in Parliament ", they comment that the Committee of Privileges in considering that case had not directed their attention to the real point at issue. The point at issue was whether the threat of the London Electricity Board to issue a writ of libel was or was not a contempt of the House, and they consider that in so far as it was an attempt to obstruct a Member of Parliament in the exercise of his powers it might well have been adjudged to be a contempt of the House. As, however, the Committee of Privileges in that case attempted to declare whether the writing of the letter was a proceeding in Parliament—a matter upon which the courts might conceivably have different views—the Committee now feel that there should be a statutory definition of " proceedings in Parliament " and they recommend (para. 87) that legislation be promoted " to extend and clarify the scope of absolute and qualified privilege ".

They then recommend that absolute privilege should be conferred

by statute upon " anything said or done in the Chamber, or during the proceedings within the precincts of the House, of any Select Committee, Sub-Committee or other body or group of Members appointed by or with the authority of the House (*e.g.* a Speaker's Conference) ". This is an innovation, as Speakers' Conferences and other bodies not appointed by the House have not hitherto been protected by Privilege. They further consider that the House or any " such Committee " should be enabled to resolve to extend this privilege to meetings outside the precincts of the Palace of Westminster and abroad, and to informal meetings or discussion of business.

Absolute privilege should also, the Committee consider, be extended to cover any documents prepared, published or printed by order of the House, or by way of official record of the proceedings of the House or of its Committees " etc." (the " etc." being intended to refer to other bodies such as the Speaker's Conference). It should apply to Questions and Notices of Motions appearing on the Order Paper (and at any time prior thereto) and drafts of Questions and Notices of Motion, provided that they are published no more widely than is reasonably necessary.

They also consider that absolute privilege should cover written and oral communications between Members and Ministers, the Speaker and the Chairmen of various Committees; between Members and Officers of the House and the Comptroller and Auditor General, provided that in each case such correspondence is considered by the Member concerned to relate to the duties concerned. These provisions would have the effect of reversing the decision of the House in the case of the London Electricity Board, where a letter written by the Member to the Minister was decided not to be a proceeding in Parliament.

Qualified privilege, the Committee consider, already covers the wide area of communications with constituents, etc., subject to the obligation of avoiding malice in such communications: but this the Committee consider should be codified in the proposal legislation so that a reasonable belief in the official character of the communication should establish a right to protection.

Freedom from arrest, one of the earliest and most important of the privileges of the House, the Committee recommend should be abolished, but recommend that where a Member is arrested in the course of civil proceedings, Mr. Speaker should be informed. These recommendations seem to have caused the Attorney General some anxiety (Hans, 4 July 1969).

Then there is the question of privilege against attendance as witnesses in cases of civil or criminal law. The Committee recommend (para. 103) that only pressing needs of Parliament should be allowed to interefere with the attendance of a Member or an Officer of the House in the courts, and they propose that machinery should be set up whereby the Speaker should be informed of the service of a subpoena upon a

Member or Officer of the House and should be empowered to require the attendance of the Member or Officer in the House.

On the other hand, the exemption of Members from service as jurors should, the Committee consider (para. 101) be retained.

The Committee recommend that the exemption of Members and Officers of the House from appointment as Sheriffs should be abandoned, as an historical anachronism (para. 108).

The only remaining specific privilege attaching to individual Members is the debatable privilege of Freedom from Molestation, which the Committee, following the memorandum submitted by Mr. Abraham decided to be non-existent.

In dealing with the privileges of the House as a body the Committee again follow the classification of Mr. Abraham's memorandum:

(1) The right to have the attendance and service of its Members.
(2) The right to regulate its own internal affairs and procedures free from interference by the courts.
(3) The right to provide for its proper constitution.
(4) The right to institute enquiries and to require the attendance of witnesses and the production of documents.
(5) The right to administer oaths to witnesses.
(6) The right to punish by committal persons guilty of breaches of its privileges or other contempts.
(7) The right to direct the Attorney General to prosecute persons for contempts of the House which are also criminal offences and for offences connected with Parliamentary elections.
(8) The right to impeach.
(9) The right to publish papers containing defamatory matter.

In connection with these the only recommendations which the Committee make is that the right to impeach should be formally abandoned, " since it has long been in disuse ", although this would require legislation (para. 115).

The Committee next consider the question which particularly concerned the witnesses from the press; namely the reporting of parliamentary proceedings. They cite the Resolution of the House of 3rd March, 1762, which declared the law of Parliament forbidding such publications. The Committee consider that the reasons behind this declaration are no longer valid, and they consider that the law should be changed on this point. They are not, however, in favour of amending the law by a resolution in the terms of Lord Hartington's motion of 1875. They consider (para. 120) that this would act as a detriment to free speech. However, the Committee recommend (para. 130) that whenever strangers are admitted to the proceedings of the House or of any of its Committees, Sub-committees " or any other body " such proceedings should not be capable of being held to be a contempt; and that whenever strangers are excluded from the proceedings of the House or of any of its Committees, etc., the disclosure or publication of any of those proceedings without the authority of the House, its

Committees, etc., should be capable of being held to be a contempt: the question of whether it was a contempt to be decided by reference to the general rules of contempt in paragraph 48. The Commttiee following the recommendations of the Parliamentary Press Gallery recommend that any rule to the contrary " should be formally rescinded ". There are many resolutions of the House with regard to the publication of proceedings of the House being an offence, but they are nearly all declaratory and the Committee no doubt intended their recommendation to be considered in the light of this fact.

It is clear that the Committee wish to make it as much an offence to *disclose* the proceedings of Committees as to publish those proceedings. It was until recently clear that this was not the effect of the law of Parliament. But the recent decision of the House on the Report of the Committee of Privileges on the Dalyell case (24th July, 1968)* has rather obscured the issue.

Following this, the Committee recommend that the publication in advance of the contents of a Parliamentary Question or notice which has been tabled, but not yet published by the House, or the express intention of any Member to vote in a particular manner should not be regarded as a contempt of the House. They also recommend that the Speaker should have authority to authorise the publication of evidence submitted to a Select Committee, but not reported to the House, where it seemed to him to be appropriate. The position of documents submitted as evidence to Select Committees after the Select Committee has ceased to exist has always been a little uncertain (paras. 133 to 137).

The Committee next turn their attention to the question of punishment of offenders. Some of the witnesses before the Committee had suggested that the House of Commons itself should not exercise the function of judgement in cases of contempt of the House: that this function should be handed over to the Courts or some other body. This suggestion the Committee, after careful consideration reject. Only the House itself can properly judge of offences to itself of the nature of contempt (paras. 140 to 146).

They do, however, criticise the present procedure of raising complaints of privilege, on the grounds that it gives undue publicity to trivial complaints, and perhaps encourages the making of complaints, and occupies time at the most valuable period of the sitting.

The Committee therefore propose a radical alteration of the procedure for raising complaints of breaches of privilege and contempt.

They propose that the Member who intends to make a complaint should give notice, not to the Speaker but to the Clerk to the Committee of Privileges: not at the earliest possible moment but at a reasonably prompt opportunity. The matter will then be considered *prima facie* by the Committee of Privileges or by a small panel of the Committee. The Committee, or its panel will then decide whether

* See page 125.

the matter justifies full investigation by the Committee of Privileges and the decision will be communicated to the Member complaining, and, only if they decide in favour of investigating it, the Committee will report the fact to the House, in the briefest possible terms. If the Committee decide to investigate the complaint they will make their Report to the House in the usual way: if not, the Member may put a motion on the Order Paper that the Committee should investigate it, which motion, if signed by not fewer than fifty Members will be debated and voted upon (paras. 162–75).

The Committee recommend that the Committee of Privileges shall in every case make a recommendation as to the appropriate penalty to be imposed (para. 171).

Clearly the effect of this new procedure would be to deprive Members in most cases of the right to raise their complaints of breaches of privilege in the House itself, publicly, and many Members would find this a great diminution of their powers: and this feeling was made evident in the debate on the Report. It would also mean that cases of privilege would be initiated privately rather than publicly, although the practice in England has always been to make it possible to initiate appeals to justice in public, wherever possible. Whether or not the result of adopting this procedure would be to save the time of the House is not certain. It would very probably impose a much heavier burden on the Members of the Committee of Privileges.

The question of the procedure of the Committee of Privileges then arises. The Committee had been urged from various quarters (*e.g.* the Attorney General's memorandum) to consider the procedure of the Committee, and in particular to recommend alterations to the procedure in order to allow persons appearing before the Committee of Privileges to be represented by Counsel. This the Committee recommend (para. 183) should be done, although they recognise that persons before the Committee of Privilege appear as witnesses and not as accused persons. The Committee of Privileges, they consider, should have the same power to authorise representation by Counsel or solicitor as Tribunals set up under the Tribunals of Enquiry (Evidence) Act 1921. The Committee also consider that the complaining Member and the person against whom the complaint has been made should also have a right to attend all meetings of the Committee of Privileges at which evidence is taken (para. 186).

The recommendation that persons appearing before the Committee of Privileges should be represented naturally involves the question of providing legal aid for those appearing before the Committee; and the Committee recommend that legal aid should be available both for strangers appearing before the Committee, and for Members (para. 190). Some legislation to amend the available provision of legal aid would be necessary.

Following earlier recommendations about the nomenclature of privilege, the Committee then recommend that the name of the Com-

mittee of Privileges should be changed to become " Select Committee on House of Commons Rights " (para. 192): (this proposal was criticised in the debate on the Report).

The Committee consider that the penalties available to the House in respect of offences against the House are too circumscribed and inadequate, and they therefore recommend that legislation should be introduced to give the House power both to impose imprisonment of various lengths irrespective of the length of the Session (para. 194) and to impose fines (paras. 195–6): a proposal which the Attorney General, speaking in the debate, did not favour.

Finally the Committee recommend that the failure of any Member to disclose a personal financial interest in some topic in which he is speaking should be liable to be regarded as a contempt of the House (para. 203).

No action was taken by the House on the Report during 1968, and although the Government gave notice of Motions to deal with some of the lesser matters in the Report (chiefly in the field of reporting and publishing proceedings of the House), Members of the House expressed opposition to any consideration of these motions in isolation, and the motions were withdrawn.

The Report was eventually debated on 4th July 1969 on a motion to " take note " of the Report. In opening the debate, after paying tribute to the scope and importance of the Report, the Leader of the House made it clear that no legislation could be brought forward to give effect to the recommendations of the Committee during the next session of Parliament, but consideration would be given to preparing motions to deal with such of the recommendations as could be dealt with by Resolution of the House.

III. NEW ZEALAND "WASHING-UP" BILLS

By H. N. Dollimore, C.B.E., LL.B.
Clerk of the House of Representatives

Over a long period of years the New Zealand Parliament has been asked to consider and pass certain washing-up Bills which are usually introduced towards the end of the parliamentary session, and in which are included a series of clauses relating to a particular field of legislation. One such Bill is the Local Legislation Bill introduced by the Minister of Internal Affairs, who is in charge of Local Government. Its initiation and consideration is specifically provided for in a special section of the Standing Orders. This Bill contains clauses validating certain actions of local authorities or public bodies, or making some special provision in relation to them. The authorities concerned with this type of legislation are normally City and Borough Councils, Harbour Boards, Drainage Boards, and the like. An application is made in writing to the Minister of Internal Affairs for preliminary consideration and approval of a clause or clauses for inclusion in this Bill. Every such application must be accompanied by a draft of the proposed clause or clauses and by a certificate that members of the House whose constituents are likely to be affected by the proposed legislation have been supplied with a copy of the proposed clause or clauses, and with a written notice of intention to seek their inclusion in the Local Legislation Bill. All clauses provisionally approved by the Minister are included in the Bill which, when introduced and read a first time, stands referred to the Local Bills Committee. This Select Committee of ten members is required to consider whether any clause affects the rights and prerogatives of the Crown, and to have regard to the rights and interests of every person, corporation, local authority, or public body likely to be affected, the amount of notice or publicity given to the proposed legislation, including the prescribed notice to members whose constituents may be affected, and to any objections lodged or representations made. Departmental and other evidence may be called. It has become a convention that if, after the Bill has been reported to the House, the second reading debate reveals that a clause is still contentious and controversial, that clause is dropped.

The Reserves and Other Lands Disposal Bill is another type of washing-up Bill introduced towards the end of the session by the Minister of Lands to make miscellaneous provisions in respect of Crown and other lands, including public reserves and domains. The Standing Orders require that any Bill affecting or in any way relating to lands of the Crown shall stand referred after its first reading to the Lands and Agriculture Committee. This Select Committee, which

also comprises ten members, scrutinises the provisions of the Bill and may take evidence. Although the Standing Orders themselves do not so require, it is established departmental practice for the Lands and Survey Department to submit a proposed clause to the member in whose constituency the land affected is situated. In this case too, if during the second reading debate a clause appears to be contentious and controversial, it is dropped from the Bill.

Another type of washing-up Bill is the Finance Bill. It is often necessary for two of these Bills to be introduced during a session, the second Bill being introduced towards the end of the session. Unlike the two Bills previously described, they are frequently contentious, a fact acknowledged by successive Speakers who have ruled that the second reading debate of a Finance Bill opens up the widest possible opportunity for debate. A Finance Bill purports to make provision " with respect to public finance and other matters ". It is sometimes those " other matters " which arouse considerable controversy; for example, the life of Parliament has twice been extended by a clause in a Finance Bill—in 1918 during the first world war and again in 1932 during the economic depression. A New Zealand Finance Bill, unlike the British Bill, does not embody the whole of the Budget proposals; these are dealt with in separate Bills, *e.g.* the Land and Income Tax Amendment, the Social Security Amendment, the Death Duties Amendment, the Stamp Duties Amendment, or as the case may be.

Perhaps the most interesting washing-up Bill, at least from the point of view of procedure, is the Statutes Amendment Bill. Towards the end of the 1936 session and following the return in November 1935 of the first Labour Government, the Attorney-General (Hon. H. G. R. Mason) introduced a Statutes Amendment Bill containing what appeared to be eighty-two relatively unimportant and unrelated clauses covering fifty-one different matters ranging through various fields including Agricultural Workers, Bankruptcy, Cemeteries, Companies, Fire Brigades, Property Law, Stock Remedies, and Trade Unions. The novel nature and range of the Bill gave rise to some murmurings from the depleted ranks of the Opposition, but the Attorney-General's explanation of the miscellaneous character and relatively unimportant nature of the changes proposed was accepted and there was included in the statute book for that year one Act which amended fifty-one other Acts—a form of legislating which was to become the subject of more critical comment later. Similar omnibus Bills were introduced and passed in 1937 and 1938, the former containing 30 and the latter 60 clauses. In 1939 there was a demand that this Bill be referred to the Statutes Revision Committee, a Select Committee of some standing empowered to consider " all Bills containing provisions of a technical legal character which may be referred to it ". The request was acceded to and the Bill was referred to this Select Committee of twelve members before being passed by the House, a practice which has

continued with these Bills ever since. Over the years complaints had been received from members of the legal profession and from others concerning the difficulty of tracing amendments made to the law by this method of legislating, and of its untidy effect on the statute book. As the Labour Government came under increasing pressure, it was difficult to resist the temptation to avoid a series of contentious debates by including matters of substance and controversy in these omnibus Bills and this, in fact, was done on several occasions. In one case the inclusion of a clause relating to the consumption of liquor in or near dance halls occupied the House throughout the night and until breakfast time next morning.

In 1950, following the return of the National Government in November, 1949, and again in 1951, a Statutes Amendment Bill was introduced and passed, but in 1952, 1953, and 1954 no such Bill was introduced. In 1955 the Attorney-General (Hon. J. R. Marshall), the Law Draftsman, and the writer devised a new procedure which was acceptable to the Government and the House, and was welcomed by members of the legal profession. The Bill, as was the case previously, was introduced on motion by the Attorney-General and read a first time. With the leave of the House it was read a second time *pro forma* immediately and referred to the Statutes Revision Committee. The 1955 Bill like its predecessors had the various amendments of the law assembled in alphabetical sequence according to the subject-matter, *e.g.* Adhesive Stamps, Births and Deaths Registration, Fisheries, Secondhand Dealers, Valuation of Land, or as the case may be, but as far as possible the proposed amendment of any Act was to be confined to two operative clauses, the subject-matter of the amendment was to be non-controversial in the sense that it was unlikely to provoke controversy in Parliament, and the change proposed by that amendment was not to be a matter of such consequence as to justify the introduction of a separate Bill. The Bill was considered in detail by the Statutes Revision Committee and reported back to the House and set down for committal " next sitting day ". The Standing Orders provide that where a Bill has been read a second time *pro forma* with a view to its being referred to a Select Committee, the second reading debate is subsequently taken on the motion " That the Bill be committed ". On this occasion the Attorney-General, when speaking to this motion, explained that the Bill which contained fifty-two clauses made twenty different minor amendments to various Acts, that no amendment was of a policy nature or controversial, and that each had been considered in detail by a Select Committee, and that he was not aware of any dispute in relation to any clause. When the debate concluded, he moved " That it be an instruction to the Committee of the whole House on the Statutes Amendment Bill that it have power to divide the Bill into such separate Bills as it may think appropriate and to incorporate in such separate Bills an appropriate Title, enacting words, and Short Title, and to report such Bills separately to the House ".

When the House was ready to consider the Bill in Committee a Supplementary Order Paper was printed and circulated showing twenty amendments in the name of the Attorney-General, the first of which was in the following form:

Hon. Mr. Marshall, in Committee, to move the following amendments:

Auckland Transport Board

That clauses 2 and 3 be a separate Bill, and that for clause 2 there be substituted the following Title, enacting words, and Short Title:

AN Act to amend the Auckland Transport Board Act 1928

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. *Short Title.*—This Act may be cited as the Auckland Transport Board Amendment Act 1955, and shall be read together with and deemed part of the Auckland Transport Board Act 1928 (hereinafter referred to as the principal Act).

The Short Title so substituted took the place of clause 2 of the Statutes Amendment Bill which read as follows:

2. This section and the next succeeding section shall be read together with and deemed part of the Auckland Transport Board Act 1928 (in that section referred to as the principal Act).

Clause 3, which follows the substituted clause relating to the Short Title, was the operative clause.

The Chairman of Committees, on taking the Chair, indicated that the amendments on the Supplementary Order Paper were purely for the purpose of splitting up the Bill into separate Bills in accordance with the instructions given by the House, and the amendments were taken as read and the Committee directed its attention to the operative clauses of the separate Bills. When this discussion was concluded, Mr. Speaker resumed the Chair and the Chairman reported that the Committee, pursuant to the powers given it by the House, had divided the Statutes Amendment Bill into the twenty-one separate Bills enumerated in the " attached " list all of which were reported with amendment. Mr. Speaker read the Bills listed by the Chairman and when he reached the end of the list proposed as one question, " That the Bills be read a third time ". The Speaker added that should any member wish to debate the third reading of any particular Bill, he was invited to interpose at the appropriate point indicating his desire for a separate third reading of a particular Bill listed whose consideration would be temporarily deferred.

Under this procedure, which works very smoothly, minor amendments of the law, which though important are not of a controversial nature, are included in the one Bill which is the subject of one second reading debate (but carefully scrutinised by a Select Committee); and each amendment of the law is printed as a separate amending Act, and can thus be more readily located in the statute book.

IV. THE GENERAL ELECTION IN ZAMBIA, 1968

By N. M. Chibesakunda
Clerk of the National Assembly

In the Constitution (Amendment) (No. 3) Act 1967 the Parliament of the Republic of Zambia made provisions for altering the number of seats in the National Assembly. The President is required by section sixty-seven of the Constitution to establish an Electoral Commission for the purpose of reviewing the boundaries of the constituencies into which Zambia is divided. Consequently, by virtue and in exercise of the powers conferred upon the President by the Constitution, an Electoral Commission was duly established with the following members:

The Honourable Mr. Justice Pickett (Chairman)
Sir John Smith Moffat, O.B.E.
Edward Jack Shamwana.

The Electoral Commission's recommendation was adopted and the number of constituencies was increased from 75 to 105 to bring the full membership of the House to 110, including 5 nominated members. An Act to amend the Constitution to this effect was duly passed in the National Assembly. By the same Act the franchise was greatly extended by the deletion of the twenty-one-year-old qualification and the substitution thereof of eighteen years as the qualifying age for eligibility to vote.

His Excellency the President of the Republic of Zambia addressed the Parliament of Zambia on 2nd November, 1968, and in his concluding remarks he said that he had decided to dissolve the First National Assembly forthwith and hold General Elections throughout Zambia in December. He told a quiet and stern House that Nomination day for the Presidential Election would be 16th November, 1968; thereafter Nomination day for the Parliamentary Elections would be 26th November, 1968. Polling day would be on the 19th December, 1968, and Zambia's second Parliament would meet on or about 15th January, 1969.

Soon after the dissolution of Parliament, the two main political parties, the United National Independence Party (the ruling party), and the African National Congress mounted vigorous campaigns in various parts of the country. Generally, the campaigns were peaceful, although there was mud-slinging here and there, as can be expected in any country. On the eve of the polling day, President Kaunda said in a nation-wide broadcast that the General Elections were a test of maturity and stability, and a test of U.N.I.P.'s adherence to democratic principles and the people's love of freedom and justice.

The President further said that the responsibility after election lay in maintaining the unity of Zambia as one strong and peaceful nation. In that respect both U.N.I.P. and A.N.C. had an interest and a duty in the continued betterment of the conditions for economic and social progress of the people. He appealed strongly for calm on polling day and urged the people to make 19th December, 1968, the day of the first national elections, a truly peaceful and memorable day.

To the delight of every Zambian and all peace-loving people of the world, Zambia's first post-independence general election passed peacefully enough in spite of wild rumours that it would be marred by widespread violence. It is true to say that the election was one of the most peaceful on this earth. However, soon after the elections, there was rioting in the Copperbelt town of Mufulira, a former A.N.C. stronghold which had fallen to U.N.I.P. candidates; otherwise, there were no incidents. The results of the elections were a foregone conclusion—that U.N.I.P. would be returned with a comfortable majority, since thirty of the U.N.I.P. candidates were returned unopposed. Nevertheless, the A.N.C. showed surprising strength in some areas and the election was not without its upsets. Of the 105 seats in the new, enlarged National Assembly, the A.N.C., led by Mr. Harry Mwaanga Nkumbula, increased its strength from eight seats to twenty-three, mainly at the expense of U.N.I.P. candidates in Barotse Province, a former stronghold of the ruling party. Many arguments have been advanced as to the reasons for the swing there to A.N.C., but none has clearly emerged as the main one. As a final result, the state of the parties was as follows: U.N.I.P. 81; A.N.C. 23; Independent 1. The percentage of votes received by each party were as follows: U.N.I.P. 73·19; A.N.C. 25·40; Independents 1·41. The President himself was re-elected to lead the nation of Zambia for the next five years on Saturday, 20th December, 1968, and was sworn in at 9 a.m. on 21st December, 1968, by Chief Justice Blagden.

One of the surprises of the election was the defeat of three Cabinet Ministers and three junior Ministers—all in Barotse Province, where the A.N.C. won eight of the ten contested seats. The defeated Cabinet Ministers were: Mr. Arthur Wina (Education), Mr. Munukayumbwa Sipalo (Agriculture), and Dr. Kabeleka Konoso (Natural Resources and Tourism). A curiosity of the election was the return to the National Assembly of the former leader of the banned United Party, Mr. Nalumino Mundia, who stood on an A.N.C. ticket. However, he is at present in restriction and has been unable to take his seat in Parliament.

President Kaunda admitted at a post-election news conference that he was surprised by the defeat of his Ministers and said he would bear their names in mind when his intended reorganisation of his party in Barotse Province took place. He would, he said, have them stand again as candidates to regain their seats.

Thus, once again, the electorate gave President Kaunda and United

National Independence Party the mandate to guide the destiny of the four million people of Zambia for another five years.

In his address to Parliament on the opening of the First Session of the Second National Assembly on 22nd January, 1969, His Excellency the President opened by addressing the Chair:

Mr. Speaker, the Hon. the Vice-President, Hon. Ministers and Hon. Members of the National Assembly. Barely three months have passed since for the last time I addressed the first Independent National Assembly of Zambia, which was dissolved on the 2nd November, 1968. In accordance with the requirements of our Constitution, I have returned today to open the First Session of the Second National Assembly and to announce to this House my new administration which will direct the affairs of the nation for the duration of this Assembly.

He went on to say:

It is common knowledge amongst us that our enemies and those of Africa as a whole were not only feverishly at work with the intention of disrupting the Zambian election, but were preparing themselves and their propaganda machinery to scoff at yet another demonstration that Africans were unable to govern themselves properly. We all know that the first post-independence elections have spelt disaster for many Independent African States. It is no understatement, therefore, to say that the whole world was following our elections with the greatest interest. The efficiency and the peaceful spirit with which the elections were conducted have no doubt gratified our friends and confounded our enemies, depriving the latter of the opportunity to jeer. But now, of course, our ill-wishers have begun exploiting the results of our democratic process as a new way of disrupting our nationhood. I promise you, Mr. Speaker and Honourable Members, they will not succeed.

In his new reorganisation policy the President appointed nineteen Cabinet Ministers, with eight of them to be in the Provinces, and fifty-three District Governors to be responsible for their respective districts. This was aimed at " bringing Government down to the very roots of our Provinces, districts and villages. We shall be putting considerably more emphasis on rural development during the next five years, and this indeed must inevitably be so, since the majority of our people live in the rural areas."

His Excellency concluded his speech by saying: " May God bless you all and guide the work of Zambia's Second Parliament in the interests of all her people. Thank you."

V. RED AND GREEN

By The Editor

So traditional have the colours of Red and Green become in Parliaments of the Commonwealth that The Table has always been bound in a red and green cover. Indeed, in the Editorial to Volume I of the Journal Owen Clough drew attention to this fact, as follows: " As will be seen, the familiar colours of the Upper and Lower House are represented on the cover of the Journal. In most Parliaments of the Empire the idea of red as the distinguishing colour of the furnishings of the Upper, and green for those of the Lower, House has become established. In fact there are advantages in having the Journals, Standing Orders and *Hansards* of the Two Houses bound in the respective colours."[1]

Mr. Clough, in adopting what may conveniently be called " parliamentary colours " for the cover of the Journal, made an appropriate and distinctive choice; but apparently, until very recently, no attempts had been made to discover either the reason for, or the origin of, this colour scheme. It is an indisputable fact that both Houses of Parliament at Westminster have been distinguished in this way for over three hundred years, but this has only recently been shown in an article in *Notes and Queries* by Mr. George Chowdhary-Best.[2] That article, however, advances no reason why Westminster should have chosen these distinctive colours at least as long ago as the middle of the seventeenth century and, indeed, it is possible that no definitive answer will ever be arrived at. Professor A. F. Pollard, in his biography of Wolsey, mentions the legend " that even the benches in the Upper House were clothed in red to reflect the cardinal's glory ".[3] There is no basis to this legend, for the Upper House was decorated in red before Wolsey became Chancellor, as will be shown. A memorandum by the Clerk of the Records, House of Lords, entitled " The Colours of the Two Chambers "[4] states that ' the use of red or scarlet was traditionally royal ', but goes on to say ' No reason, legendary or factual, seems ever to have been given for the use of [green] by the Commons '.

If the use of red in the House of Lords is comparatively easy to explain, the use of green by the Commons has given rise to a number of theories. The philosophical ones, that green stood for envy of the Upper House, or for hope of elevation, can be discounted. And although green was a predominant colour in the Tudor emblem, there is no heraldic significance in the colour; on the other hand, some may associate green with the countryman or commoner. Even if these theories are too fanciful, as they surely must be, the question still

arises of whether the Commons deliberately chose to use green in their Chamber to distinguish it from the Upper House. If this be the case there are two periods of time when such a decoration might have been decided upon. The first is when the Commons returned to the Palace of Westminster between 1547 and 1550; as Pollard says, " They had gone forth in the Middle Ages merely as a group anxious for private debate, but carrying with them little of the glamour and authority of the High Court of Parliament which they left behind them in the seat of power. They came back as one of two houses, claiming an equal share in the dual control of parliament."[5] The second is during the Civil War and the period of the Commonwealth. These possibilities are discounted for the purposes of the present article, firstly because no evidence has been found for them and secondly, because there appears to be a much simpler answer.

This article advances the theory that the general decoration of the whole of the Palace of Westminster was green, and that the royal colour red was the interloper, confined solely to the *Chamber* of the House of Lords. This theory is difficult to substantiate with authoritative evidence because there is very little; rather, it is the very absence of references to the use of green in St. Stephen's Chapel, the ancient Chamber of the House of Commons, which makes it likely that green, as a decorative colour, was in common use in the old palace. It is surely odd that sixteenth-century observers were continually drawing attention to the red benches in the Upper House, but that it is not until the middle of the seventeenth century that the first mention of green benches in the Lower House is to be found.

It was stated earlier that the use of red in the Upper House is easier to explain. Its traditional association with royalty, dating from Classical times,[6] is certainly the reason why the Chamber of the House of Lords has been decorated in red from at least the beginning of the sixteenth century. But it would be dangerous, merely because it is an obvious association, to link the colour red with the royal presence on State occasions without at least two illustrations. The first is from a description of the Coronation banquet of Elizabeth I: " The banquet lasted till the ninth hour of the night, and I need not say that it was a stately one, as all persons may think for themselves. No one served but peers and the sons of peers. . . . Westminster Hall is 400 paces in length; in it four tables were prepared, but divided in the centre to facilitate the waiting of the servants, who all had red liveries; and no one was allowed, or at most but a few to enter the Hall, or to remain there, unless he was dressed in red."[7] The second is an Order in Council of James II made just before his Coronation: " Upon the petition of Philip Kinnersly, Peter Hume, and John Chase, the King's servants in the Removing Wardrobe, showing that at the Coronation of the late King [they] and divers others their predecessors had scarlet cloth allowed to make them robes in which they officiated at the altar and in several other places at that great solemnity: it is hereby ordered

that the Lord Treasurer grant them such quantity of scarlet cloth as he shall think necessary."[8] It is true that the sixteenth and seventeenth centuries saw a growing emphasis on the trappings of kingship which manifested itself in greater magnificence on State occasions, but there is little doubt that red is a royal colour of great antiquity.

Parliament did not originate as three estates of King, Lords and Commons. It began as the King's Court, existing only in his presence, and, therefore, meeting to discuss affairs of State in the King's Chamber. As time went on, the Lords and the Commons withdrew separately to discuss among themselves, and so they each found alternative accommodation. Thus the King's great chamber, later to be called the Painted Chamber, was the room in which Parliament was usually opened, right up to 1539. The Lords, from as early as 1350, regularly retired to the White Chamber which was to become known as the Parliament Chamber. The Commons found themselves a home first in the Chapter House of Westminster Abbey, and then in the Refectory, before moving back to the Palace of Westminster, into St. Stephen's Chapel where they sat until the fire of 1834.

An early reference to the decoration of the King's great chamber was on the occasion of Edward III being knighted. " For the preparation and decoration of the King's Chamber, the night before he was knighted in his palace at Westminster, . . . consisting of red carpets, with shields in the corners, containing the King's arms, five carpets . . . Also covers for benches for decorating the said Chamber, of the suit of the aforesaid carpets, with shields in the corners, containing the King's arms; four bench covers."[9] Thus the room where the King used to meet his court was decorated very largely in red, and illustrations of the throne in the Middle Ages show it draped in red or scarlet, decorated with gold.[10]

However, the first evidence of red in the Parliament Chamber itself, which was, in fact, not used for State Openings until about 1539, is that from at least 1512 it was customary to " dress and trim " the Chamber in red say (a fine cloth, part silk, part serge).[11] The legend mentioned by Professor Pollard is therefore without foundation, Wolsey not becoming Chancellor for another three years. After this date references to red benches in the Upper House are abundant. The Wriothesley Garter MS. at Windsor shows on fo. 60 woolsacks and benches all furnished in red for the Parliament of 1523.[12] The same scene was described in the following words: " The Bishop of Lincoln [John Longland], the King's confessor, said the mass, on the conclusion of which the procession returned to a hall prepared for the occasion, with three rows of benches; and for a fourth, in the centre, were placed four long woolsacks covered with red cloth, as were all the other benches likewise. At one extremity of the hall a platform was raised with a royal throne covered with cloth of gold. This the King ascended by four steps, and seated himself; Cardinal Wolsey being at his right hand, but on a lower level. The ambassadors were placed to the left,

not seated, but standing against the wall. The dukes and barons sat according to their grade on the King's right hand, and on the benches to his left were the prelates, and last of all the lawyers on the woolsacks. Including barons and prelates, we numbered 80 persons."[13] A few years later the Opening of Elizabeth's first Parliament is described by an observer as follows: " This sermon lasted an hour and a half, the peers standing the whole time, after which they went to the place prepared for the Parliament, which is a handsome chamber, furnished with very fine hangings and benches all round, as seats for the peers, and the royal canopy and throne, with its cushions of cloth of gold, for her Majesty; and in the centre there were some scarlet woolsacks, where the auditors, secretaries, Chancellor, and lawyers sit. This hall is separated from the Lower House, which is like a theatre, and in which the representatives of the cities, castles, boroughs, and unwalled districts assemble."[14] This particular report is of interest since it is one of the earliest mentions that the Commons have found permanent accommodation within the Palace of Westminster. But having described the Upper House in such detail the Commons' Chamber is merely compared to a " theatre ".

The Journal of Monsieur de Maisse, Ambassador from King Henry IV of France to Queen Elizabeth in 1597, records a great deal of parliamentary detail, including that of Royal Assent. Once again the furnishings of the Upper House are noted: " All the seats are covered with red cloth, and in the middle are four great mattresses, full of wool and covered in red, on which they sit; these are very high and well stuffed; they say that it signifies the prosperity in England which comes from wool. In the midst of these four mattresses there is a little table and a chair which is the place of the Clerk of the Estates. The tapestry is very rich and worked with gold."[15] But there is nowhere a description of the Commons Chamber. The number of times the red benches and woolsacks are mentioned in contemporary reports is so great that they are not again worth noting here until 1685 when the Lords' Chamber was refurnished in preparation for the Coronation of James II. The Earl of Arlington, the Lord Chamberlain, wrote to the Earl of Rochester, as follows: " There is great necessity of new covering the benches and woolsacks and seats in the House of Peers, the present furniture being old and unfit for further service: and the furniture of the Archbishop of Canterbury's room, the Lord Chancellor's room, the Lord Treasurer's room and the Lord Great Chamberlain's rooms are old and unserviceable. Please order the following to be delivered to Sir Tho. Duppa, Kt., Gentleman Usher of the Black Rod, for making ready the House of Peers against the Coronation on April 23rd next, *viz*: 22 pieces of say of the largest size, 160 ells of canvas to make sacks and cover stools and forms, 12 todd of wool for stuffing all the forms and stools which are appointed for the Lords and to pay for hay to fill the said sacks: and to provide thread, lyars and nails: and that the two seats on both sides the [chair of]

state be covered with crimson velvet, nailed down with silver and gold galloon lace: *and also as much green serge as will hang the Archbishop of Canterbury's room, the Lord Chancellor's, the Lord Treasurer's and the Lord Great Chamberlain's, to be done in all respects as they were before:* also nine great pewter candlesticks and four pair of snuffers for the House of Peers and Prince's lodgings, six lesser candlesticks and four pair of snuffers for the Archbishop's, Chancellor's, Treasurer's and Great Chamberlain's rooms; four large pewter candlesticks and one pair of snuffers for the Painted Chamber, nine close stools with double pans and nine pewter chamber pots; seven dozen of Turkey work chairs; one red cloth cushion for the bishop to kneel upon that reads prayers: and to pay for the workmanship of all the premises and to furnish what else shall be needful for that service against April 23rd next: these having been the particulars formerly allowed for furnishing the House of Peers and rooms adjoining and after this manner whensoever it was new furnished."[16] Apart from the care that was taken to ensure that the *Chamber* of the House should be furnished in red down to the smallest detail, the most interesting aspect of this letter is that rooms, obviously belonging to the House of Lords and used by such people as the Archbishop of Canterbury and the Lord Great Chamberlain, had previously been furnished in green. The ancient Palace of Westminster, of course, was not divided into two halves, one red and one green, as is Barry's. The two Chambers had, by this time, been used by the respective Houses for many years. But the surrounding rooms and buildings were only gradually acquired for parliamentary purposes. It is apparent from the above letter that there was no such thing as a House of Lords area in the Palace, distinguished from the Commons by reason of its red furnishings, such as we have now. Is it therefore too much to assume that the whole Palace, save the Lords' Chamber, had been decorated in green?

Apart from Westminster Hall a considerable proportion of the Palace of Westminster had been built and decorated by Henry III. One room on which he lavished especial care was that known as the Painted Chamber and which remained standing until 1823. This room was Henry's " Great Chamber ". Smith in his *Antiquities of Westminster* records that " In the twentieth year of his reign, Henry ordered that the King's great chamber at Westminster should be painted of a good green colour, like a curtain; that in the great gable, or frontispiece, of the said chamber, near the door, a French inscription, mentioned in the precept, should be painted; and that the King's little wardrobe should also be painted of a green colour in manner of a curtain ".[17] In 1702 there is an indication that green was still the predominant colour in the Painted Chamber. A warrant of the Earl of Lindsey, the Lord Great Chamberlain, ordered that the " Chamber [be] compleatly covered with Green Manchester Bays "[18] for a meeting of the Lords Commissioners. Henry's bed which stood in his ' great chamber ' was designed in the nature of a tabernacle with green posts

covered in golden stars. The bed certainly had hangings and these may also have been green. *The History of the King's Works* makes plain how extensive was the green decoration in Henry's Palace. " A pattern representing drapery hanging in folds was [a] form of over-all wall decoration of which the King was fond. . . . The colour specified was invariably green, and a fragment of plaster painted with green drapery was found by Capon in the ruins of the Queen's chapel at Westminster in 1823."[19]

Henry's liking for green was extended to St. Stephen's Chapel, which he had largely built. " On the seventh of February, in the 20th year of his reign, 1236, the king gave orders to H. de Patteshull, his treasurer, that the border on the back of the king's seat in this chapel, and the border on the back of the queen's seat on the opposite side of the same chapel, should be painted within and without of a green colour; and that by the side of the queen's seat should be painted a cross, with Mary and John, opposite the king's cross, which was painted by the side of the king's seat."[20] Henry's Palace twice severely suffered from fire. In 1263 the paintings in the Painted Chamber were destroyed and had to be replaced. In 1297 many of the rooms were damaged by fire, although both the Painted Chamber and St. Stephen's Chapel escaped. The Chapel was, however, already being replaced by a finer Chapel under the orders of Edward I. So, only parts of Henry's Palace remained until the nineteenth century, but it is possible that the colour green had been incorporated into the rebuilt palace of Edward II and Edward III. Certainly in 1289 Edward III built a new stone chamber and had it painted green. Taste in decoration appears to have changed very slowly.

The Commons adopted St. Stephen's Chapel as their new chamber sometime between 1547 and 1550, and it is astonishing that no contemporary recorded this significant move. Entries in the *Acts of the Privy Council*[21] show that in 1549–50 repairs were being carried out, no doubt in adapting the Chapel to its new function as a Parliament Chamber, but these give no details. John Vowell, *alias* Hooker and the member for Exeter, described the Commons Chamber in 1571 as follows: " This House, is framed and made like unto a theatre, being four rows of seats one above another, round about the House. At the higher end, in the middle of the lowest row, is a seat made for the Speaker, where he is appointed to sit; and before him sitteth the Clerk of the House, having a little board before him to write and lay his books upon."[22] There is, once again, no mention of any colour scheme, as though the furnishings were nothing out of the ordinary. In March, 1603, a warrant was issued by the Speaker " for erecting of new seats for more Ease and room in the House "[23] but the Commons Journals say nothing about their colour. From now on there are a number of references to the furnishings of the Chamber and especially to the need for curtains; the Chamber was apparently a draughty place! On 19th March, 1645, the Committee of Whitehall was ordered to " take

care to appoint some Hangings out of the King's standing Wardrobe at Whitehall . . . to be hung before the Window of this House as Curtains, for the defending and preserving this Place against the injury of this bitter Weather ".[24] The Commons were obviously more concerned with their comfort than with the details of their furnishings.

The earliest reference to the green benches in the Chamber of the House of Commons is in the Journal of a French visitor who saw the House in 1663 and recorded that the benches were covered in green serge.[25] In 1670 the Sergeant Painter was paid " for paynting green in oyle the end of the seates and a dorecase and some other things at the House of Commons in February last ".[26] In 1685 the following furnishings were required: " the Speaker's chair and footstool to be new covered with green velvet, with a green velvet cushion, all trimmed with silk fringe; the table to be covered with a carpet of green cloth, with a silk fringe and a leather carpet to cover it; six green cloth cushions; drum lyar to draw the window curtains; the seats of the House to be mended and repaired; green serge to hang the lobby where the messengers from the House of Lords retire; green serge curtain for the serjeant's window in his little room; 2½ dozen of pewter candlesticks; two dozen of snuffers; 1½ dozen of tin sconces; 1½ dozen of stands; one dozen of pewter chamber pots; one large close stool with two pans; three long brushes; three rou[n]d brushes; seven doz. of Turkey work chairs; three elbow chairs of Turkey work."[27] By the end of the seventeenth century the tradition of green furnishings in the Commons' Chamber and red in the Lords' is firmly established. Indeed, by 1698 it is apparent that both Houses have become so aware of their distinctive colours that Westminster Hall is decorated in both for State Trials. Two warrants of the Earl of Lindsey, the Lord Great Chamberlain, " authorise and impower you to take away and employ to your own use all the Red Hangings and Coverings of the Court [The Lords] erected in Westminster Hall for the intended tryalls of John Goudett and others " and similarly with " all the Green hangings and Coverings of the Galleries and Seats [for the Commons] round the Court. . . . "[28]

There remains one further clue to the proposition that green furnishings were not confined to the Commons Chamber, but were in general use throughout the Palace. As the principal residence of the Kings of Ehgland, Westminster had been from the first a place of justice. In 1259 during the reign of Henry III the Works accounts reveal that oak boards were supplied " for the common bench of the justices in the great hall ". At the same time the wall behind the justices was painted green.[29] By the fourteenth century the Court of Common Pleas was joined in Westminster Hall by the Courts of Chancery and King's Bench. Mid-eighteenth century aquatints of these courts, published by Ackermann in *The Microcosm of London* (1808), show that the hangings and benches were green. It is surely not a coinci-

dence that the decoration of these courts, meeting in the same hall as in the thirteenth century, should be still green.

However, a gap of four hundred years between Henry III's original decoration of the Palace of Westminster and the earliest subsequent report of green benches in the House of Commons is a tremendous obstacle to drawing any firm conclusions as to the origin of our present-day colour scheme. The facts are set out above and readers will, no doubt, be able to draw their own conclusions.

[1] *Journal of the Society of Clerks-at-the-Table in Empire Parliaments*, Vol. I, p. 8.
[2] "The Colours of the Two Houses of Parliament at Westminster", *Notes and Queries*, March 1969.
[3] *Wolsey*, 1965 ed. p. 57, n. 4.
[4] F. 538, House of Lords Record Office.
[5] *The Evolution of Parliament*, p. 334.
[6] The Greeks and Romans both tended to regard the wearing of red or purple as a sign of 'hubris'; the former because the colour was associated with the gods; the latter because of its association with the kings.
[7] *Ven. State Papers*, Vol. VII, p. 18.
[8] *Cal. Treas. Books*, Vol. VIII, p. I, p. 103.
[9] Smith, *Antiquities of Westminster*, p. 58.
[10] F. 538, House of Lords Record Office.
[11] *Letters and Papers, Henry VIII*, 2nd ed., Vol. I, p. 1, 1035; pt. 2, 2555.
[12] Reproduced on dust jacket of *The House of Lords in the Middle Ages*, by J. Enoch Powell and Keith Wallis.
[13] *Ven. State Papers*, Vol. III, p. 312.
[14] *Ibid.*, Vol. VII, p. 23.
[15] *De Maisse*, Journal 1597–98, p. 30.
[16] *Cal. Treas. Books*, Vol. VIII, pt. I, p. 103.
[17] P. 55.
[18] *L.G.C.*, XII, p. 5.
[19] Vol. I, p. 5.
[20] Smith, *Antiquities of Westminster*, p. 73.
[21] *Acts of Privy Council*, New Series, ii, 245.
[22] *The Elizabethan House of Commons*, Neale, p. 364.
[23] *C.J.*, Vol. I, p. 141.
[24] *Ibid.*, Vol. 4, p. 381.
[25] *Les Voyages de M. de Monconys*, iii, Paris 1695, p. 65.
[26] *Works*, 5.15. I am indebted to Mr. H. M. Colvin for this and the preceding reference.
[27] *Cal. Treas. Books*, Vol. VIII, pt. 1, p. 165.
[28] *L.G.C.*, XII, p. 52.
[29] *History of the Kings Works*, Vol. I, p. 543.

VI. POWERS AND FUNCTIONS OF SPEAKERS WITH PARTICULAR REFERENCE TO RECENT EVENTS IN THE STATES IN INDIA

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The Constitution of India defines the powers and functions of the main organs of government and the principal functionaries. The Constitution being the organic or fundamental law of the land, every power, executive, legislative or judicial—whether it belongs to the Centre or to the States—is controlled by the Constitution. It is the function of the judiciary, at the apex the Supreme Court, to interpret the Constitution and to uphold it whenever it is shown that the Constitution has been violated.

The Constitution contains indentical provisions relating to the Speaker and Deputy Speaker of the Lok Sabha and their counterparts in the State Legislative Assemblies. It lays down only the main duties and responsibilities of the Speaker. These may be broadly stated as under:

(1) To preside over the House, whenever he is present in the House, excepting when a resolution for his removal from office is under consideration. [Article 181(1).]
(2) To adjourn the House when there is no quorum. [Article 189(4).]
(3) To permit a Member who cannot adequately express himself in Hindi or English or the official language of the State, to address the House in his mother tongue. [Article 210.]
(4) To exercise a casting vote in the case of an equality of votes. [Article 189(1).]
(5) To determine whether a Bill is a Money Bill and to certify a Money Bill. [Article 199(3) and (4).]

The detailed duties and responsibilities of the Speaker are laid down in the Rules of Procedure which each House is empowered to make under Article 208 of the Constitution with, of course, the condition that such rules shall be " subject to the provisions of the Constitution ". Though the Rules of Procedure vary from State to State, the position in regard to the powers and functions of the Speaker is more or less identical, as generally the rules of Assemblies in this behalf are modelled on the Lok Sabha Rules. The more important powers and functions of the Speakers of State Assemblies in general are briefly noted below.

As the Principal spokesman of the House, the Speaker represents its collective voice and is its sole representative to the outside world. His position as the presiding officer of the House is one of great authority. He regulates the debates and proceedings of the House, is charged with

the maintenance of order in the House and is equipped with all powers necessary for enforcing his decisions. He also rules on points of order raised by Members and his decision is final.

Various powers are conferred on the Speaker in relation to Questions to Ministers. Though the guiding principles regarding admissibility of Questions are laid down in the Rules, their interpretation is vested in the Speaker. He has a general discretion in regard to the admissibility of resolutions and Motions also, similar to the one relating to the admissibility of Questions. He decides whether a Motion expressing want of confidence in the Council of Ministers is in order. The Speaker is also empowered to select amendments in relation to Bills and Motions, and can refuse to propose an amendment which, in his opinion, is frivolous.

Maintenance of order in the House is a fundamental duty of the Speaker. He derives his disciplinary powers from the Rules, and his decisions in matters of discipline are not to be challenged except on a substantive motion. He may direct any Member guilty of disorderly conduct to withdraw from the House, and name a Member for suspension if the Member disregards the authority of the Chair and persists in obstructing the proceedings of the House. He may also adjourn or suspend the business of the House in case of grave disorder.

To enable the Speaker to deal with unexpected situations and regulate matters of detail, the Rules expressly vest " residuary powers " in him.

In fine, the Rules of Procedure and Conduct of Business in the State Assemblies confer wide discretionary powers on the Speaker. The Rules have been codified on the premise that the Speaker's Chair would be occupied by scrupulously dispassionate and impartial persons. The Speaker's supreme authority inside the House is based on his absolute and unvarying impartiality and all the powers vested in him are intended to enable him to ensure the smooth functioning of the House. Therefore, in no case would it be justified for a Speaker to use his powers arbitrarily or in such a manner as to prevent the House from functioning. Commenting on the duties and responsibilities of the Speaker in India and his relations with the House, the Committee of Presiding Officers, headed by Shri V. S. Page, Chairman of the Maharashtra Legislative Council, observes in its report submitted to the Conference of Presiding Officers of Legislative Bodies in India, held in October 1968:

> The principal duty of the Speaker is to regulate the proceedings of the House and to enable it to deliberate on and decide the various matters coming before it. Thus in considering the various notices or points raised before him or adjournment of the sitting, or placing matter before the House and the like, the Speaker should always bear this in mind and where in doubt, he should act in favour of giving an opportunity to the House to express itself. The Speaker should not so conceive his duties or interpret his powers, as to act independent of the House, or to override its authority or to nullify its decisions. The Speaker is a part of the House, drawing his powers from the House for the

better functioning of the House, and in the ultimate analysis, a servant of the House, not its master.[1]

DEVELOPMENTS IN WEST BENGAL AND PUNJAB IN 1967–68

We may now consider certain developments in West Bengal and Punjab during 1967–68 which have focused public attention on the powers and functions of the Speaker and his relations with the Governor on the one hand and the House on the other.

In West Bengal

In West Bengal, a United Front[2] Ministry under the leadership of Shri Ajoy Mukherjee was sworn in on 2nd March, 1967. On 2nd November, 1967, the State Food Minister, Dr. P. C. Ghosh, resigned his post and the resignation was accepted by the Governor with effect from 6th November, 1967. Simultaneously, Dr. Ghosh, with seventeen other Members of the State Legislative Assembly, resigned from the ruling United Front and informed the Governor in writing that they had withdrawn their support to the Ajoy Mukherjee Ministry. On the day his resignation was accepted by the Governor, Dr. Ghosh claimed that the United Front had ceased to command majority support in the State Assembly[3] and, therefore, had no right to continue in office. On the same day, the Governor wrote to the Chief Minister, Shri Mukherjee, urging that doubts having been raised about the support of the majority of the Members of the State Assembly to the United Front Ministry, it was necessary to call the Assembly into session as early as possible, and not later than the third week of November, to seek a vote of confidence in the Ministry. Later, the Governor repeatedly requested the Chief Minister to agree to the Legislative Assembly being summoned on 23rd November, 1967. This was not acceptable to the Council of Ministers, which had decided to call the Assembly into session on 18th December, 1967, and stuck to that date. His efforts to persuade the Chief Minister to agree to an earlier summoning of the House having failed, on 21st November, 1967, the Governor removed the Ajoy Mukherjee Ministry from office and appointed a new Ministry headed by Dr. P. C. Ghosh.[4]

Summoned on the advice of the new Chief Minister, the Assembly met on 29th November, 1967, for a trial of strength. Two Motions expressing full confidence in Dr. P. C. Ghosh and his Council of Ministers had been tabled by 129 Members of the Congress Party and 14 Members of Dr. Ghosh's newly formed Progressive Democratic Front. However, immediately after the Assembly met, the Speaker made a statement *suo motu* and adjourned the House *sine die* on the triple ground that the dissolution of the United Front Ministry, the appointment of Dr. P. C. Ghosh as Chief Minister and the summoning of the House on Dr. Ghosh's advice were " unconstitutional and invalid ". The Speaker also said that he was adjourning the House in exercise of his powers under rule 15 of the Assembly Rules.[5] After

the adjournment by the Speaker, the Governor prorogued the Assembly. On 29th January, 1968, the Governor summoned the West Bengal Legislature to meet on 14th February, 1968, for its Budget Session.

Meanwhile, a petition challenging the appointment of Dr. P. C. Ghosh as Chief Minister was moved in the Calcutta High Court. Upholding the Governor's action in appointing Dr. P. C. Ghosh as Chief Minister, Justice Mitra in his judgment delivered on 6th February, 1968, observed:

> I do not see anything in the language of Article 164(1), which imposes any restriction or condition upon the power of the Governor to appoint a Chief Minister. As to the appointment of other Ministers, the Governor is required to act on the advice of the Chief Minister. . . . In appointing a Chief Minister therefore the Governor must act in his own discretion. It is for him to make such enquiries as he thinks proper to ascertain who among the Members of the Legislature ought to be appointed the Chief Minister and would be in a position to enjoy the confidence of the majority in the Legislative Assembly of the State.[6]

Further, rejecting an argument that the Council of Ministers being collectively responsible to the State Assembly, only the Assembly and not the Governor, could remove it from office, Mitra J. said:

> Article 164(1) provides that the Ministers shall hold office during the pleasure of the Governor. . . . The right of the Governor to withdraw the pleasure during which the Ministers hold office, is absolute and unrestricted. Furthermore, having regard to the provisions of clause (2) of Article 163 the exercise of the discretion by the Governor in withdrawing the pleasure cannot be called in question in this proceeding.
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> Collective responsibility contemplated by clause (2) of Article 164 means that the Council of Ministers is answerable to the Legislative Assembly of the State. It follows that a majority of the Members of the Legislative Assembly can at any time express its want of confidence in the Council of Ministers. But that is as far as the Legislative Assembly can go. The Constitution has not conferred any power on the Legislative Assembly of the State to dismiss or remove from office the Council of Ministers. If a Council of Ministers, refuses to vacate the office of Ministers, even after a motion of no-confidence has been passed against it in the Legislative Assembly of the State, it will then be for the Governor to withdraw the pleasure during which the Council of Ministers holds office.

Finally, Mitra J. observed that in view of the circumstances and the factual position in West Bengal, the impugned orders of the Governor could not be said to be tainted with *malafide*.[7]

When the West Bengal Legislature met on 14th February, 1968, as scheduled, the Governor, amidst great pandemonium, read out only a portion of his address to the Members of both the Houses of the Legislature. Later, at the separate session of the Assembly, the Speaker immediately after entering the Chamber again adjourned the House *sine die*, repeating his ruling of 29th November, 1967, questioning the legality of a session summoned on the advice of the P. C. Ghosh Ministry.

Now, even though the Calcutta High Court had clearly upheld the

constitutionality as well as the *bona fides* of the West Bengal Governor's action, it can perhaps be argued that he need not have precipitated matters by insisting on summoning the Assembly on a date earlier than the one suggested by his Ministers when the interval between the two dates was only a few days. The Speaker, on his part, should have, in conformity with the traditions of impartiality and aloofness associated with his office, avoided entering the controversy. That apart, by adjourning the Assembly *sine die*, the Speaker rendered the very House, which alone could settle the rival claims of the United Front and the P. C. Ghosh Ministry to majority support, ineffective. If a controversy arises, whether a Ministry is " legal " or not, the proper forum to settle the matter is the Court. But the House is not helpless; for, even if the Court upholds the appointment of the Chief Minister and the other Ministers, the House can vote them out of office if it wants. To quote the Speaker of the Lok Sabha, Dr. N. Sanjiva Reddy:

> The Speaker does not come into the picture at all, and if he takes upon himself to pronounce on the legality of the Ministry and precludes the House from expressing its views in the matter, he is arrogating to himself the functions of the House and the Courts. Not only that, if the Speaker just does not allow the House to function, he is, in effect, releasing the Ministry from its obligations and responsibility to the House.[8]

In the Punjab

In the Punjab, the United Front Ministry, headed by Shri Gurnam Singh, tendered its resignation on 22nd November, 1967, following the defection from the United Front of Shri Lachman Singh Gill and seventeen other Members who together formed a new party—the Punjab Janta Party—under the leadership of Shri Gill. With the support of the Congress, a new Ministry was formed under Shri Gill on 25th November, 1967. The State Legislative Assembly was then summoned for its budget session to meet on 22nd February, 1968, and on 4th, 5th and 6th March the Financial Statement was discussed.

On the last day—*i.e.* 6th March, amidst unruly scenes, the Speaker named an Opposition Member of the United Front and ordered the Marshal to remove him from the House. Subsequently, on an assurance of good conduct from the Deputy Leader of the United Front, the Speaker, however, agreed to drop the matter. This led to uproarious scenes and the Speaker adjourned the House for half an hour. When the House reassembled, two identical Motions were tabled expressing lack of confidence in the Speaker for his failure to maintain the dignity and decorum of the House and also his failure in getting his orders enforced. The House granted leave to move the Motions. Some time after, the House was adjourned to the next day.

When the House met on 7th March, 1968, the leader of the Opposition, Shri Gurnam Singh, raised a point of order that the no-confidence Motions moved on the previous day and admitted for discussion contravened the provisions of Article 179(c) of the Constitution, as the re-

quired 14 days' notice of the intention to move a resolution for the removal of the Speaker had not been given. Secondly, the Constitution provided only for the " removal " of the Speaker and there was no provision for a no-confidence motion against him. His contention was strongly opposed by some Congress Members. After discussion at some length the Speaker ruled that the motions expressing no confidence in him were " unconstitional, being violative of the clear provisions of Article 179(c) of the Constitution " and that, therefore, they were " deemed to have not been moved at all ". Another resolution for the removal of the Speaker was then moved. There was pandemonium in the House, and observing that the House was in " a very rowdy mood " and " the work cannot be done ", the Speaker, purporting to act under Rule 105,[9] adjourned the Assembly for two months. Having given his ruling, the Speaker left the Chamber.[10]

The adjournment of the Assembly for two months created a serious crisis in the Punjab, as the Budget had to be passed before 31st March and no expenditure in the State could therefore be made from 1st April, 1968. In order to overcome this unprecedented situation, the Governor took a number of steps. On 11th March he prorogued the Assembly; the order of prorogation was caused to be printed in the *State Gazette* the same day by the Chief Secretary and copies of the *Gazette* were despatched to the Secretary of the Assembly, the Speaker and other Members on the following day. On 13th March, 1968, the Governor, in exercise of his powers under Article 213[11] of the Constitution, read with Article 209,[12] promulgated the Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance, 1968. Section 3 of the Ordinance provided that notwithstanding anything contained in the Rules of Procedure or Standing Orders, the sitting of either House of the Punjab Legislature shall not be adjourned until completion of the pending financial business " unless a motion to that effect is passed by majority of the Members of that House present and voting ", and that any adjournment of either House in contravention of this provision " shall be null and void and be of no effect ". On 14th March, 1968, the Governor summoned the Legislative Assembly, fixing 18th March, 1968, for its sitting. He further sent a message under Article 175(2) of the Constitution directing the Assembly to consider with all convenient despatch the Punjab Appropriation Bills, Demands for Grants and other financial business. When the Legislative Assembly met on the appointed day, the leader of the Opposition, Shri Gurnam Singh, raised, under Rule 112,[13] a point of order regarding the constitutionality of the 13th March Ordinance which had been placed on the Table of the House. His contention was that the Ordinance was null and void because it had been promulgated when the Assembly was in session. He argued that the order of the Governor of 11th March, proroguing the Assembly, was sent by the Secretary of the Assembly, under Rule 7,[14] for printing and publication to the Government Press on the night between 14th March and 15th

March, and the notification was received by the Members, because of intervening holidays, only on 18th March—*i.e.*, on the very day on which the House was meeting on being summoned by the Governor. He added that only the notification issued by the Secretary of the Assembly, who alone was the proper authority for the purpose, could be regarded as proper notification in the eye of the law, and not the one issued by the Chief Secretary on 11th March.

After a prolonged discussion, Mr. Speaker gave his ruling on the point of order. He held that the House was prorogued not on 11th March but on the 18th, and gave the ruling in the following words:

> The order of the Governor dated 14.3.68 summoning the House is also illegal and void and he had no power to resummon the House once adjourned under Rule 105. Therefore, in accordance with my earlier ruling dated 7.3.68, the House stands adjourned for two months from that date.

The ruling of the Speaker, as recorded in the proceedings, was necessarily brief because he was in the circumstances obliged to give his decision immediately. In his detailed ruling, recorded on the same day, the Speaker also held that the Ordinance promulgated by the Governor on 13th March was " null and void " as it contravened Article 213 of the Constitution.[15]

Immediately after giving his ruling the Speaker left the Chamber. However, the House continued to sit as directed by the Ordinance, with the Deputy Speaker in the Chair, and transacted its business. The two Appropriation Bills, which were passed by the Assembly, were then transmitted to the Legislative Council (Upper House), certified by the Deputy Speaker that they were Money Bills. In the Council an objection was raised that a certificate under Article 199(4), declaring that a particular Bill is a Money Bill, must be signed by the Speaker of the Assembly. This was overruled by the Chairman and Bills were passed by the Legislative Council. They were then placed before the Governor with another certificate by the Deputy Speaker, and the Governor signified his assent. The two Appropriation Bills thereupon became the Punjab Appropriation Acts 9 and 10 of 1968.

Two writ petitions were then filed in the Punjab and Haryana High Court, questioning the validity of the Ordinance promulgated by the Governor of Punjab on the 13th March, 1968, and Punjab Appropriation Acts 9 and 10 of 1968. A Full Bench of the High Court unanimously held that the prorogation and resummoning of the Legislature were regular and legal, but that the ruling given by the Speaker on 18th March made the subsequent proceedings in the House illegal.[16] The Full Bench also unanimously held that the impugned Punjab Appropriation Acts were unconstitutional. There was a difference on the point that the certification by the Deputy Speaker in place of the Speaker was valid. The majority held that only the Speaker, and not the Deputy Speaker, was entitled to certify a Money Bill, and the certification having been made by the Deputy Speaker was not valid.

Similarly, a majority of the Judges held that section 3 of the Ordinance was unconstitutional and invalid, as it impinged on Article 189(4) of the Constitution, which enjoins the Speaker to adjourn the House when there is no quorum.

The Supreme Court on appeal set aside the judgment of the High Court on 30th July, 1968. The Constitution Bench of the Court unanimously held that the financial business transacted before the Punjab Assembly on 18th March, 1968, had legal foundations; that the Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance was validly enacted; and that the two Punjab Appropriation Acts were valid and duly certified.[17]

Let us consider the arguments and the Court's opinion on the main issues. Briefly, the arguments on behalf of the Speaker and others were: Prorogation took effect only on 18th March and so the summoning of the Assembly before prorogation was invalid; the prorogation being invalid, the House continued to be in session although adjourned, and hence the Ordinance promulgated by the Governor, when the Legislature was " in session ", was a fraud on the Constitution; the ruling of the Speaker given on 18th March was not open to challenge in a court and all proceedings in the Assembly thereafter were illegal; and that the two Acts were *ultra vires* because the Speaker alone could endorse a Money Bill and certify a Bill as such.

Now, according to the sequence of events in the Punjab, the first point at issue was whether the Governor's action in proroguing the Assembly on 11th March, 1968, was justified and valid. In the circumstances obtaining in the Punjab, where the Assembly had been " put in a state of inaction " for two months by the adjournment and no money could be drawn from the Consolidated Fund after 31st March, the court held that in proroguing the State Assembly on the 11th March, the Governor acted " not only properly but in the only constitutional way open to him ", there was " no abuse of power by him ", nor could " his motive be described as *malafide*". The Court also observed that the Governor's power of prorogation " being untrammelled by the Constitution and an emergency having arisen ", the action of the Punjab Governor was " perfectly understandable ".

Posing a question whether a Governor will be justified in exercising his power of prorogation when the Legislature is in session and in the midst of its legislative work, the Court observed:

> That does not fall for consideration here. When that happens the motives of the Governor may conceivably be questioned on the ground of an alleged want of good faith and abuse of constitutional powers.

As regards the contention that only the Secretary of the Assembly could notify the order of prorogation and as such the prorogation came into effect on 18th March or on 16th March at the earliest, the Court observed:

> Article 174(2), which enables the Governor to prorogue the Legislature,

does not indicate the manner in which the Governor is to make known his orders. He could follow the well-established practice that such orders are ordinarily made known by a public notification which means no more than that they are notified in the *Official Gazette* of the State. There was such a notification on the 11th March and prorogation must be held to have taken effect from the date of publication. It was not necessary that the order must reach each and every Member individually, before it would become effective. . . . The action of the Secretary (of the Assembly) in sending copies of the Gazette to the Members is merely ministerial. Rule 7 cannot be read as a condition precedent for the efficacy of the Governor's order provided it was duly notified.[18]

As regards the constitutionality of the Ordinance which was promulgated by the Governor on 13th March, the Court observed that after the prorogation of the Assembly " there was no further curb on the legislative powers of the Governor ". Maintaining that the power of legislation by Ordinance " is as wide as the power of the Legislature of the State ", the Court saw no force in the submission that the Ordinance-making power of the Governor did not extend to the " regulation by law of procedure in the Legislature in relation to financial business " provided for in Article 209 of the Constitution.

The Court held that the Ordinance in question was validly enacted under the power derived from Articles 209 and 213 and observed that, if ever there was an occasion for the regulation of procedure in the Legislature by a law under Article 209, it was this. As the Court put it, " Article 209 is intended to speed financial business in the Legislatures so that attempts to filibuster, adjourn or otherwise delay such business may be avoided. . . . The Legislature could not be allowed to hibernate for 2 months while the financial business languished and the constitutional machinery and democracy itself were wrecked." The Court further maintained that by enacting a law for the speedy disposal of financial business the Ordinance had actually left matters in the hands of the Legislature with the only restriction that the Legislature would not adjourn except when a House by a majority desired it (*vide* section 3 of the Ordinance). " This ", the Court observed, " respected the democratic right of the Legislature but put down the vagaries of action calculated to delay the business." The Court also rejected an argument that Section 3 of the Ordinance was *ultra vires* as it conflicted with Article 189(4) of the Constitution which enjoins the Speaker to adjourn the House when there is no quorum. It held that Article 189(4) was outside the law-making power of the Governor and his Ordinance must be read to harmonise with it.

As regards the arguments that the Speaker's ruling of 18th March was valid and binding, the Court observed " that the ruling was based on the wrong assumption that the Assembly was prorogued on 18th March and not on 11th March." The Ordinance of 13th March being a valid law binding on the Assembly (including the Speaker) by virtue of Article 209, the Court maintained that the Speaker was " powerless " and " his adjournment of the session without taking the mandate of the

Assembly as required by section 3 of the Ordinance was null and void and of no effect ".

Reference was made before the Court to Rule 112 of Punjab Assembly Rules of Procedure, which says that a point of order once raised must be decided by the Speaker and his decision thereon is final. It was urged that " whatever the merits of the Speaker's ruling it must be treated as final ". The Court held that this claim was " unfounded ". According to the Court, " points of order can only be raised in relation to the interpretation and enforcement of the rules and the interpretation of the Articles of the Constitution regulating the business of the House and the question which is to be decided by the Speaker must be within his cognizance.[19] The finality of the ruling applied subject to this condition." The exact point of order in the present case concerned the validity of the Ordinance. The Speaker, the Court pointed out, did not attempt to interpret the relevant constitutional provisions, that is, Articles 208, 209 and 213; " he did not confine his ruling to matters within his cognizance "; but " asserted himself against a law which was binding on him ". " If the Ordinance was to be questioned this was not the method," the Court said. A resolution had to be passed under Article 213(2)(*a*) disapproving it. But, the Court observed, not being sure that the majority would support such a resolution, " the Speaker proceeded to nullify the Ordinance by a ruling which he was not competent to give. Therefore, his ruling was not only not final, but utterly null and void and of no effect."

In view of its findings that the prorogation and subsequent resummoning of the House were valid and the Ordinance was validly enacted, the Court held that the continuance of the proceedings under the Deputy Speaker on 18th March, after the Speaker had given his ruling and left, was valid, " complying as it did with the law promulgated by the Governor ", and that each item on the agenda was properly passed.

The last point raised before the Court related to the validity of the certificate issued by the Deputy Speaker under Article 199(4) in respect of the two Appropriation Bills. The argument was that the provisions of Article 199(4) were mandatory and, if this was so, only the Speaker could certify a Money Bill. The Court, however, took the view that the provisions of Article 199(4) were directory and not mandatory and hence the certificate given by the Deputy Speaker was in the circumstances of the cases, effective and could not be questioned in view of Article 212 which provides that the validity of any proceeding in the Legislature of a State " shall not be called in question on the ground of any alleged irregularity of procedure ". The Court also observed in this connection that as the Speaker was not present when the Bills were passed and as, under Article 180(2), the Deputy Speaker acts as the Speaker when the Speaker is absent, the Deputy Speaker of the Punjab Assembly " was validly acting as the Speaker of the Assembly which continued to be in session ".

In conclusion, the Court observed that the situation created in the

Punjab was unique, and though the action of the Governor appeared to be drastic, it was " constitutional and resulted from a desire to set right a desperate situation ".

The Supreme Court judgment is undoubtedly of great significance from the point of view of the development of parliamentary institutions in India, as the whole controversy in the Punjab centred round certain actions of the Speaker and certain measures taken by the Governor which directly affected the House.

A good deal of circumspection is needed in considering the implications of the Supreme Court judgment and applying the same in relation to the powers of the Governor and the Presiding Officers of the Legislatures. Hence a distinction may be made between opinions of the Court which may be of general applicability, such as those involving the interpretation of a constitutional provision, and those which may relate to the permissibility of a particular action in a particular set of circumstances.

Let us first take the question of the Governor's power of prorogation. The Court has held that in the circumstances of the case the prorogation of the Assembly by the Governor on 11th March, 1968, was not only proper, but was also the only constitutional way open to the Governor, if the impasse created by the adjournment of the House for two months was to be ended. It may be mentioned that Article 174(2) of the Constitution which enables the Governor to prorogue either House does not indicate any restrictions on this power. This was noted by the Court. All the same, the Court indicated that in certain circumstances—that is, when the Legislature is in session and in the midst of its legislative work—the motives of the Governor in proroguing the House may conceivably be questioned on the ground of want of good faith and abuse of power. So the judgment cannot be said to have armed the Governor with absolute power to prorogue the House at his sweet will. However, as suggested by the Speaker of the Lok Sabha, the possibility of the abuse of this power—which the Supreme Court itself has recognised—needs to be minimised by developing a convention that in all matters relating to the House, such as summoning and prorogation of the House, the Speaker should be consulted by the Government.[20]

The Supreme Court's view that the Ordinance-making power of the Governor extends to the regulation of procedure in the Legislature in relation to financial business, contemplated in Article 209, is obviously a declaration of law which is binding. Although there will always be need to guard against any attempts by the Executive to erode the autonomy or powers of the Legislature through Ordinances, it may be pointed out that there are in the Constitution certain built-in safeguards against abuse of the Ordinance-making power. First, an Ordinance, like laws, cannot transgress constititutional requirements. Secondly, if an Ordinance is subsequently disapproved by the Legislature, it immediately ceases to have effect.

Though the Speaker's ruling given on 18th March was held by the Court to be null and void, it cannot be concluded that as a result of this judgment, all rulings of the Chair have become subject to judicial review or that the judgment has upset the equation between the Legislature and the Judiciary to the disadvantage of the former. On the contrary, by holding that the proceedings in the House on 18th March after the Speaker had left the Chamber and the certification of the Appropriation Bills by the Deputy Speaker could not be questioned because of the provisions of Article 212[21] of the Constitution, and by pronouncing that if the Ordinance was to be annulled it was for the House to do so by a resolution under Article 213(2)(*a*), the Supreme Court has upheld the supremacy of the House and reaffirmed the well-established principle that the Speaker cannot arrogate to himself functions which properly belong to the House.

As regards the question of certification, the Court has held that the provisions of Article 199(4) of the Constitution are only directory and not of a mandatory character. According to the judgment, in the particular circumstances of the Punjab, certification by the Deputy Speaker was in order, as " the Speaker in his then mood might have declined to certify and a second impasse would have ensued ". However, it does not follow from the judgment as a general proposition of law that in every case certification of a Money Bill by the Deputy Speaker would constitute due compliance with the provisions of Article 199(4). In the peculiar circumstances, the Deputy Speaker had to act in the manner in which he did. In this connection, it is interesting to note that in England, the Parliament Act of 1911 has an identical provision enjoining certification of Money Bills by the Speaker. However, May's *Parliamentary Practice* gives instances of Money Bills (from 1914 onwards) certified by the Deputy Speaker.[22]

As noted earlier, under the Rules, the Speaker has considerable discretion in regard to adjourning the House and other vital matters, but this discretion has to be exercised within reasonable limits and in a manner so as to enable the House to function and ensure adequate opportunities to all sections for participation in the deliberations of the House. As observed by Mr. Speaker Reddy, in his inaugural address to the emergent conference of Presiding Officers of Legislative Bodies in India specially convened to consider the development in West Bengal and the Punjab, " The House is paramount, not the Speaker who can claim no inherent right to override or by-pass the House or to arrogate to himself powers and functions which properly belong to the House." Further, emphasising that all the powers and the supreme authority of the Speaker are based on his absolute and unvarying impartiality, he said:

> To inspire confidence in his impartiality it is not enough that the Speaker should formally renounce membership of the party to which he belonged. He should also scrupulously refrain from entering into political controversies or

giving an impression that he is helping one section of the House, even though it may be a minority section, in their struggle for power.[23]

It is true that the practice of the Speaker divesting himself completely of all party affiliations is yet to be firmly established in India. This, in turn, is mainly because proper conventions ensuring uncontested return to Speakership, both in the constituency and the House, have not been developed so far. However, even though most Speakers in India have retained their political affiliations, they have as a rule scrupulously adhered to the high standards of impartiality and independence expected of their office. Indeed, against these two instances, many others can be cited where Speakers of State Assemblies " have kept their balance, cool judgment and acted impartially " in the midst of " changing political scenes and pressures ".[24]

Moreover, there is now growing recognition in India of the need to ensure the complete political neutrality of the Office of the Speaker. The Speaker of the Lok Sabha, Dr. N. Sanjiva Reddy, was the first holder of the office since Independence to have publicly and categorically severed his affiliations with the political party to which he belonged.[25]

It is to be hoped that Mr. Speaker Reddy's example will help in the development of suitable conventions ensuring the complete independence and impartiality of the chair in India. Earnest efforts to build up such conventions are already being made through the institution of the Conference of Presiding Officers of Legislative Bodies in India. At the last annual meeting held at Trivandrum in October 1968, the Conference adopted the report of the Committee of Presiding Officers (Page Committee) which, among other things, sets out a procedure for establishing a convention whereby the seat from which the Speaker stands for election or re-election remains uncontested in elections.[26]

We have noted earlier the Committee's views as regards the powers and functions of the Speaker and his position *vis-à-vis* the House. The Committee has also suggested certain conventions to be observed by the Speakers in the conduct of the day-to-day business of the House. One of the suggestions is that the Speaker should not on his own raise a matter and then give his decision thereon. He should give his ruling when a point of order is raised and after he has heard the Members, if necessary.[27]

The proposals made by the Page Committee for ensuring uncontested election to Speakership can fructify only if certain assumptions or conditions are fulfilled. To quote Mr. Speaker Reddy:

> First, by and large, political parties and groups in the country should agree to the need of insulating Speakership from the pressures or compulsions of party politics. Secondly, Speakers and aspirants for Speakership should be imbued with a genuine faith in the noble traditions of impartiality, aloofness from political controversies, and independence that are associated with this office. It is also obvious that if they are to maintain their impartiality and independence they should accept the office with a sense of fulfilment, regarding

it as a rare privilege to be called upon to serve the cause of Parliamentary democracy in the unique way which is open only to a Speaker.[28]

There are good grounds for hoping that political parties in India will see the wisdom of developing appropriate conventions to insulate Speakership from the " pressures or compulsions of party politics " Reactions to the developments in West Bengal and the Punjab have shown how keen public opinion in India is on safeguarding the dignity of the Speaker's Office and its essential qualities, namely, impartiality and independence. After all, no political party, whatever its ideology, can afford to ignore the expectations of the people. The earnest efforts of Presiding Officers themselves to build up healthy conventions and practices pertaining to their office also hold out hope for the development of Speakership in India on the right lines.

[1] *Report of the Committee of Presiding Officers* (Con. No. 201), Lok Sabha Secretariat, New Delhi, September 1968, para. 35.

[2] The " United Front " was a coalition formed after the 1967 General Election by fourteen political parties whose Members were elected to the two Houses of the West Bengal Legislature. The Congress, which though the largest single party, did not have a clear majority in the State Assembly, constituted the Opposition after the United Front took office.

[3] Immediately after the resignation of Dr. Ghosh and others from the United Front, the party position in a House of 283 was: U.F., 134; Congress, 131; Dr. Ghosh's Group, 18. See *Hindustan Times*, New Delhi, 6.11.67. According to a Press announcement issued from Raj Bhavan (Government House) after the resignation of Dr. Ghosh, the leader of the Congress Party in the Assembly wrote to the Governor extending his party's support to a new Ministry if formed by Dr. Ghosh. See *Asian Recorder*, 1967, pp. 8060–61.

[4] Facts based on judgment of the Calcutta High Court in M. P. Sharma *v.* P. C. Ghosh and Others, dated 6th February, 1968; and *Asian Recorder*, 1967, pp. 8060–61.

[5] Rule 15 provides, *inter alia*, that " The Speaker shall determine the time when a sitting of the House shall be adjourned *sine die* or to a particular day, or to an hour or part of the same day ".

[6] M. P. Sharma *v.* P. C. Ghosh and Others, *op. cit.*

[7] *Ibid.*

[8] Address by Dr. N. Sanjiva Reddy at the Emergent Conference of Presiding Officers held on 6th April, 1968, p. 5.

[9] Rule 105 of the Rules of Procedure (Punjab Assembly) reads: " In the case of grave disorder arising in the Assembly the Speaker may, if he thinks it necessary to do so, adjourn the Assembly or suspend any sitting for a time to be named by him ".

[10] *See* Baldev Parkash and Others *v.* The State of Punjab, Judgment of the High Court of Punjab and Haryana, dated 10th May, 1968; State of Punjab *v.* Sat Pal Dang and Others, Judgment of the Supreme Court of India, dated 30th July, 1968; and *Statesman*, New Delhi, 8.3.1968.

[11] When the State Legislature is not in session, the Governor is empowered under Article 213 to promulgate an Ordinance if he is satisfied that circumstances exist which render it necessary for him to take immediate action. The duration of such an Ordinance is six weeks from the reassembly of the Legislature unless it is earlier disapproved by the Legislature by adopting a resolution to that effect. The Ordinance may also be replaced by an Act, if necessary.

[12] Article 209 of the Constitution provides that, for the purpose of timely completion of financial business, a State Legislature may regulate by law the procedure in relation to any financial matter.

[13] The provisions of Rule 112 of the Rules of Procedure (Punjab Assembly), relevant to the present study, are:

(1) A point of order shall relate to the interpretation or enforcement of these rules or such Articles of the Constitution as regulate the business of the House and shall raise a question which is within the cognizance of the Speaker.

(2) A point of order may be raised in relation to the business before the House at the moment.

(3) Subject to conditions referred to in sub-rules (1) and (2) a member may formulate a point of order and the Speaker shall decide whether the point raised is a point of order and, if so, give his decision thereon, which shall be final.

[14] Rule 7 of the Rules of Procedure (Punjab Assembly) reads: " When a session of the Assembly is prorogued the Secretary shall issue a notification in respect thereof in the *Gazette* and inform the Members. On prorogation, all pending notices subject to the provisions of the Constitution and these Rules shall lapse."

[15] See Baldev Parkash and Others *v.* State of Punjab, *op. cit.*

[16] All the judges agreed that the ruling given by the Speaker on 18th March, was final and could not be challenged. The effect was that, according to the Constitution and the law, there was no sitting of the Assembly on 18th March, 1968, and nothing could be done or contended in it. As observed by Mehar Singh C. J., " The Two Appropriation Acts are not constitutionally valid statutes because the same were not passed by the Legislative Assembly summoned and sitting according to the Constitution and the law in terms of the ruling of Mr. Speaker." Baldev Parkash and Others *v.* State of Punjab, *op. cit.*

[17] State of Punjab *v.* Sat Pal Dang and Others, *op. cit.*

[18] *Ibid.* In this connection the Court also pointed out that " Even in England where prorogation used to be through a writ or writ patent or a commission under the Great Seal of the United Kingdom read in the House, now a proclamation by the Queen suffices under the Prorogation Act of 1967 ".

[19] See Rule 112(1) (2) (3), reproduced in f.n. 13 *ante.*

[20] Address by Dr. N. Sanjiva Reddy at the Conference of Presiding Officers held on 5th October, 1968, *Lok Sabha Secretariat*, New Delhi, October 1968, p. 19.

[21] Article 212 (1) provides that " 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 ".

[22] See Erskine May: *Treatise on the Law, Privileges, Proceedings and Usages of Parliament* (17th ed.), 1964, p. 842, f.n. (c).

[23] Address by Dr. N. Sanjiva Reddy at the Emergent Conference of Presiding Officers held on the 6th April, 1968, pp. 8–10.

[24] Address by Dr. N. Sanjiva Reddy at the Emergent Conference of Presiding Officers held on the 6th April, 1968, p. 11.

[25] The first Indian Speaker to take such a step was Mr. President Vithalbhai Patel, who resigned from his party immediately after his election as the President of the Central Legislative Assembly. Among Mr. President Patel's successors in the pre-independence period, only Mr. Speaker Shanmukham Chetty followed his example of renouncing his political affiliations publicly and unequivocally.

[26] Report of the Committee of Presiding Officers, *op. cit.*, para. 34.

[27] *Ibid.*, para. 40.

[28] Address by Dr. N. Sanjiva Reddy at the Conference of Presiding Officers held on the 5th October, 1968, p. 7.

VII. WESTMINSTER—SASKATCHEWAN: A FURTHER EXCHANGE OF CLERKS

By C. B. Koester

Clerk of the Legislative Assembly of Saskatchewan

Earlier issues of The Table have reviewed the development of the programme of exchanges of Clerks between Westminster and other Commonwealth legislatures, Michael Ryle, Gordon Combe, John Taylor and Kenneth Bradshaw all having contributed. Since I had the good fortune to participate in this programme in May, June and July of 1967, it is now my pleasant duty to join this distinguished company and add a further chapter to follow Bradshaw's very interesting account of his tour of duty as my replacement at the Table in Saskatchewan during the 1966 session.

First, however, I think it is important to the whole concept of exchanges of Clerks to comment, as Kenneth Bradshaw did somewhat modestly, on the genuine delight of all Members of the Saskatchewan legislature in having the services of a Clerk from Westminster. His very presence at the Table was a confirmation of the unique relationship within the Commonwealth which is more easily proclaimed than defined. From my own point of view, too, his service was most helpful, not only in making possible my leave of absence, but in confirming in a very practical way the role of a Clerk as a professional servant of parliament. For this alone I am deeply indebted to him and to Sir Barnett Cocks who made Mr. Bradshaw's services available. I am further indebted to Sir Barnett for inviting me to complete the exchange by serving for a similar period on his staff at Westminster.

My professional pilgrimage to the Mother of Parliaments began on 4th May, 1967, when I boarded an east-bound Air Canada flight on the first leg of the journey overseas. It had been preceded, of course, by an exchange of correspondence with Sir Barnett Cocks and a variety of interdepartmental memoranda out of which eventually issued an Order in Council authorising me to accept an appointment to serve as a temporary Clerk in the House of Commons, United Kingdom, for a three-month period. Such was my elation at the prospect ahead of me that even an unexpected charge for excess baggage which rather severely depleted cash-on-hand failed to dampen my usually controlled spirits. Nor for that matter did the rain which greeted me on my arrival in England on Friday morning some twelve hours later. I must confess, however, that the usual stresses of travelling, plus the drastic alteration in time zones which changed night into day, were so far as my constitution was concerned, beginning to exert a rather depressing

effect. I was, therefore, particularly grateful that Kenneth Bradshaw, who met me at the airport, brought with him instructions from Sir Barnett that I was not to report for work until Monday morning.

It was something of a coincidence to find that accommodation had been arranged for me in South Kensington, an area of London in which a club for Canadian officers had been located during the war and with which I was consequently reasonably familiar. I was not exactly overcome with nostalgia, however, for the actual location of the club was not precisely identifiable and the clientele of the local pub had changed markedly, but the South Kensington tube station not at all.

After a weekend during which I innocently embarked on a schedule of entertainment and hospitality which was to grow to astounding proportions in the weeks ahead, I was duly launched on my career as a temporary House of Commons Clerk. Life began in the Public Bill Office where first as a junior and then as a senior committee Clerk the complexities of Westminster procedures began to reveal themselves. I was overwhelmed at first by the magnificence of the Palace of Westminster and the impressive standard of appointments, as well as by the appalling lack of office accommodation and secretarial services for both Members and Clerks. Gradually, however, I became more familiar with the geography of the Palace and the conventions of rank and title, causing, I might say, considerable amusement to my colleagues in the process. All the while, however, the essential similarity of procedure and the hospitable reception I received from all quarters made me fee very much at home.

I must dwell a moment on this matter of colleagues, for it raises what for me was the most satisfying aspect of my three months at Westminster. All Clerks are aware by instinct of the subtle differences in mentality between themselves and civil servants. Only those who have served a small legislature can know the solitude of the parliamentary officers surrounded by even the most genial government employees. It is one thing to adapt Westminster procedures to local conditions; it is quite another to avoid, in the process of simplification and adaptation, doing violence to the principles embodied in those procedures. To defend the parliamentary faith alone in a world which ranks parliament a poor third after government and politics is a task which can be unduly fraught with doubt and sorrow. How refreshing it is, then, for the Clerk of a small legislature to find the same struggle being waged at Westminster, the same tactics employed, the same object sought! How encouraging it is for him to know that others share his burden!

The Public Bill Office provided perhaps the most fruitful experience of my tour of duty; as a result of which I was able to prepare an article for *The Parliamentarian* on the standing committees at Westminster. These committees were only slightly smaller than my own legislature of fifty-nine Members, and the responsibilities of the Clerks in the Public Bill Office were such that an overseas Clerk could easily be fitted in and could quickly become effective. This was not the case in

the Committee Office and the Table Office, where the nature of the work and the relatively short period of attachment made it almost impossible for the visitor to be anything more than an observer, albeit willing and welcome as he was. The Journal Office fell somewhere between these extremes. There is a clear distinction, then, between a tour of Westminster and detached duty at Westminster, depending upon the visitor's interests and experience and the time available. It would be well, I think, for a Clerk on detached duty to concentrate his efforts where he can be most useful, rather than attempting to spread himself thinly throughout the whole organisation.

In addition to making the rounds of the offices, I was assigned a place on the roster of Clerks at the Table. I am very conscious of the privilege extended to me in thus becoming the first Commonwealth Clerk to sit at the Table of the House of Commons at Westminster. I was conscious, too, of the responsibility, and grateful for the reassuring presence of an experienced colleague at my side, as well as the availability of instant aid from the Table Office nearby. And, of course, I shall remember the twinkle in Sir Barnett's eye when he leaned across one night as I was preparing to record the results of a division: " Don't forget, Bev," he said, " if you get those figures the wrong way around, the United Kingdom Government will fall."

I shall remember, too, the first occasion when I acted as the Public Bill Office Clerk in preparing for a private Members' ballot. Following precisely my instructions to print the name of the member alongside any indecipherable signature in the ballot book, but of course not knowing all six hundred and thirty Members by sight, I had to ask the names of those whose signatures appeared to me would cause the Speaker some difficulty. To my misfortune, one signature which was absolutely unreadable happened to be that of a prominent Member who was also a well-known television personality. When I asked his name he could not resist the reply, " Ah! New boy I see". New boy indeed!

Little more need be reported of my day-to-day activities as a member of the staff of the Clerk of the House of Commons, but I want to acknowledge the very kind reception I received wherever I appeared as a visitor. The officials in the Vote Office took pains to describe their procedures to me. The Official Reporters took me carefully through the process of recording, editing and printing the Debates. The Clerk of the House of Lords arranged a very interesting tour of the Upper House, including the facilities in the Victoria Tower for the restoration and conservation of parliamentary records.

Lest I leave the impression that a Clerk on detached duty at Westminster is expected to work day and night, I turn now to pay tribute to my many colleagues who extended to me a truly extravagant measure of hospitality. I am most grateful to them, for in this way they added the immeasurable quality of friendship to a fascinating professional experience. My wife, who joined me for the last few weeks of my visit,

was no less overwhelmed than I, and she joins me now in this public acknowledgment of our debt to them all, particularly to Kenneth Bradshaw, who went out of his way to make us feel at home in London.

Of course, there can be no conclusion to an experience of this nature. There is a continuing reaction far beyond the immediate events themselves. It is instructive to participate in the life of another legislature; it is stimulating to associate with professional colleagues; it is comforting to find the staff of the Mother of Parliaments struggling with problems similar to one's own. For these reasons alone the exchange programme has much to offer overseas Clerks, particularly from small legislatures. More significantly, however, the programme lays the foundation of an easy professional relationship, it intensifies one's fascination with the idea of parliament, and it develops firsthand a confidence in one's understanding of that institution in all its variety. A tremendous personal satisfaction and an unexcelled oppportunity to broaden one's professional experience are therefore to be gained by such an exchange. The programme is consequently of immense value not only to the Clerk participating, but to his legislature as well.

VIII. BROADCASTING THE PROCEEDINGS OF THE HOUSE OF LORDS

By D. Dewar

Private Secretary to the Leader of the House and Government Chief Whip, House of Lords

On Monday, 5th February, 1968, Members of the House of Lords entering the Chamber found it already occupied. Two large, manned, television cameras were within the Bar, and other similar cameras were placed without the Bar. In addition a number of extra lights had been installed, making the Chamber markedly brighter than it normally is on sitting days. The closed-circuit experiment in sound and television broadcasting, agreed to by the House on 18th July, 1967, had begun.

The last article on the subject, which appeared in Volume XXXV of The Table described the progress towards this experiment from the initiating Motion by Lord Egremont on 15th June, 1966, to the agreement by the House to the Second Report of the Select Committee on Televising the Proceedings of the House of Lords on 18th July, 1967. The present article takes the story up to 20th March, 1969, when the Second Report of the Select Committee on Broadcasting the Proceedings of the House of Lords was debated by the House. This and the previous article cover then a period of some two years and eight months and at the time of writing the consideration of the whole matter has still not been fully resolved.

Following the Second Report of the Television Committee a further Committee was set up in session 1967–68, and this Committee was called the Broadcasting Committee. The reason for the change of title was of course that the Committee of the previous session had recommended a closed-circuit experiment in both sound and television, and it was thought appropriate that the new committee, which had been appointed both to supervise the conduct of the experiments and to evaluate them, should reflect this in its title. The Broadcasting Committee made two reports, the first on 4th December, 1967,* and the second on 27th June, 1968.† The first Report was confined to setting out the detailed proposals for the closed circuit experiments to be held the following February, and it further recommended (para. 10) that during the broadcasting experiments an experiment in still photography by the press should also be conducted. The First Report is set out in full below:

* H.L. (27) 1967–8.
† H.L. (159) 1967–68.

Introductory

1. The Committee were appointed in accordance with a recommendation of the Select Committee on Televising the Proceedings of the House of last Session to continue the work of that Committee, to arrange and supervise the closed-circuit experiment and to report to the House as soon as practicable after the experiment had taken place. The Committee have met on five occasions and have heard evidence from representatives of the Newspaper Conference, the British Broadcasting Corporation and Independent Television. They have given some preliminary consideration to the manner in which the proceedings of the House could best be publicly broadcast but, since they are aware that their views on this may be modified in the light of the closed-circuit experiment, they have decided to confine this First Report to the details of the experiment itself. A Final Report will be made to the House after the experiment has taken place.

The Closed-circuit Experiment

2. During the course of last Session the House authorised a closed-circuit experiment for both television and sound to take place in February, 1968. It will be recalled that the purpose of this experiment is to give the House and the broadcasting authorities an impression of how the proceedings in the Chamber will appear on television, and how they will sound on the radio in live and edited form. For reasons that were set out in the First Report of the Committee of last Session the experiment will not serve in any way as an indication of the physical conditions that might be expected to obtain if the Chamber were to be permanently equipped for public broadcasting. For the purposes of the experiment it will be necessary to use conventional manned cameras which will take up a certain amount of space in the Chamber and also to raise the level of lighting, although not to a degree likely to cause inconvenience to members of the House. The House is urged to take the special circumstances into account when considering broadcasting in the long term.

3. The experiment will be of two weeks' duration, the first week involving the operation of cameras in the Chamber, and the second the viewing and hearing of edited programmes. In the first week, members of the House will be able to see and hear the proceedings on closed-circuit by means of television monitor screens and loudspeakers situated as indicated in paragraph 9 below. At the same time, the proceedings of the House will be continuously recorded for television and radio, and from the material obtained in this way the broadcasters will prepare a series of specimen radio and television programmes. Arrangements will be made for these programmes to be played back to members of the House in the second week.

4. The plan on which the specimen programmes are to be prepared is set out for television on pages 21 and 22 of the First Report of the Committee of last Session, and for radio on pages 22 and 23 of the Second Report of that Committee. It is based on the assumption that one of the three days on which recording will take place will be occupied by a debate of major interest. On that day both broadcasting organisations will record the whole of the proceedings, and both will prepare edited television versions, based on that day's recorded material. These will consist of two half-hour versions, one prepared by the B.B.C. and one by Independent Television, and two ten-minute versions, one by each organisation. On one of the remaining days the B.B.C. alone, and on the other Independent Television alone, will record and edit a television version of five minutes duration. If suitable material of regional interest arises specimen items illustrating the use of edited recordings in regional television programmes may also be offered. In radio the B.B.C. will prepare specimen programmes of fourteen minutes and of four to five

minutes on the basis of the material recorded during the day of the major debate, and of four to five minutes on the basis of the material recorded on one of the other days. They will also offer a specimen of the use of recordings in a regional radio programme if relevant material arises. Both organisations will seek opportunities in the course of the experiment, either by the adaptation of the scheduled items of five minutes duration, or by other means, of illustrating in both television and radio the manner in which recorded extracts might be used as an item in a regular news transmission. The specimen television programmes of both organisations, when played back in continuous sequence may be expected to occupy a total of one and a half to two hours. The specimen radio programmes when played back in sequence may be expected to occupy a total of thirty to thirty-five minutes.

5. A timetable of the experiment has been drawn up in consultation with the broadcasting authorities. While it may be necessary to make minor modifications to this at a later stage, the Committee feel that it will be useful for the House to have an early indication of what is being arranged. Final details will be circulated nearer the time. The timetable is as follows:

Saturday, 3rd February ..	Installation
Sunday, 4th February ..	
Monday, 5th February ..	Rehearsal while House is sitting
Tuesday, 6th February ..	Continuous closed-circuit transmission of proceedings throughout the period when the House is sitting
Wednesday, 7th February ..	
Thursday, 8th February ..	
Tuesday, 13th February ..	Playback of edited television and radio programmes at 4 p.m. and 6 p.m. on each day
Wednesday, 14th February..	
Thursday, 15th February ..	

6. Formal undertakings have been obtained from both the British Broadcasting Corporation and Independent Television that they will not rebroadcast, or cause to be rebroadcast in any way, any part of the proceedings of the House which are televised or sound recorded for the purposes of the closed-circuit experiment except with the express permission of the House. The two organisations have also given assurances that they will preserve a sound and visual record of the experiment, at least until the House has come to a final decision on public broadcasting.

The House of Commons

7. The House has given authority for a closed-circuit experiment and these words, interpreted in their strictest sense, would mean that the audience would be restricted to members of the House and the broadcasting authorities alone. However, during the course of last Session an approach was made to the Chairman of the Committee by the Chairman of the Select Committee of the House of Commons on Broadcasting to ask whether members of that House could have an opportunity of seeing and hearing the experiment. The Committee have considered this request and are of the opinion that it should be granted. Subject to the approval of the House arrangements have been made for both the closed-circuit transmission and the edited programmes to be made available to members of the House of Commons at their end of the Palace of Westminster. If any additional cost arises in this connection it will be borne by that House.

The Press

8. The Committee have also considered the position of the Press in relation to the experiment and have come to the view that informed public comment from journalists would be likely to assist the House in assessing public demand for the broadcasting of the proceedings of the House. However, since pressure on the space available will be great, the Committee are of the opinion that a

limit on the numbers involved is unavoidable. In view of this they recommend that invitations should be limited to the Parliamentary Lobby and the Parliamentary Press Gallery. They accordingly recommend that arrangements should be made for members of the Lobby and the Gallery to have access to the closed-circuit transmission and to the edited programmes.

Accommodation

9. During the period of the experiment three rooms will be required to provide facilities for hearing and seeing the broadcast. The Committee recommend that the Queen's Ante-Room, the Moses Room and Committee Room 4 should be made available for this purpose and that the accommodation should be allocated in the following manner:

Room	*First Week*	*Second Week*
Moses Room	Live television for Peers	Edited television for Peers
Queen's Ante-Room	Live radio for Peers	Edited radio for Peers
Committee Room 4	Live television and radio for Press	Edited television and radio for Press

The Lord Great Chamberlain has kindly given his consent to the use of the Queen's Ante-Room in this connection. In addition, one room will be required on the ground floor of the Palace for the accommodation of broadcasting personnel and equipment. Arrangements have been made for the Refreshment Department to cater for the broadcasting staff.

Press Photography

10. The Committee have considered a memorandum from the Newspaper Conference on the subject of press photography in the Chamber. This memorandum raises matters which are outside the scope of this Report. The Conference did, however, request that facilities should be provided during the course of the closed-circuit experiment for still photographs to be taken by the Press. The Committee are of the opinion that it would be useful to the House if it could have an opportunity of estimating the effect that press photography would have on conditions in the Chamber and also of seeing examples of such photography. The Committee accordingly recommend that the necessary facilities should be provided during the closed-circuit experiment. The newspaper interests concerned have given undertakings that the following conditions will be observed if the facilities are granted:

(*a*) that no more than three single-manned cameras should be placed in the galleries of the Chamber; and

(*b*) that none of the photographs taken should be published.

Following the closed-circuit experiment the Committee will deal with the question of the desirability or otherwise of press photography in the Chamber in their Final Report.

On 19th December, 1967, this Report was briefly debated in the House.* Introducing the Report the Chairman of Committees, Lord Listowel, who was also Chairman of the Select Committee, reminded the House that it was not envisaged that the types of camera and the level of lighting used for the experimental period would be then used for any permanent public broadcasting. He also pointed out that the

* *Lords Hansard*, Vol. 287, No. 25, cols. 1382–1386.

broadcasters had undertaken to retain a permanent sound and visual record of the experiment " at least until the House has come to a final decision on public broadcasting ". In fact a film copy of the continuous television " signal " throughout the experiment has already been made available to the House and now forms a part of the archives of Parliament. The other speakers welcomed the Report, which was agreed to without a division.

The preparations for the experiment went on behind the scenes during December and January, and it should be mentioned here that these preparations required close co-operation, not only between the two broadcasting authorities but also with the Ministry of Public Building and Works, and the authorities of the House, including the House of Lords Refreshment Department which had to provide catering facilities for the broadcasting staff who would be working in and around the Chamber. The smooth running of the experiment when it took place was in large measure due to this co-operation. Of the First Report nothing further requires to be said except that its recommendations were carried out to the letter when the experiment took place.

Although the experiment was " closed circuit ", that is to say the general public were not given access to it, beyond being able to see the cameras at work from the public galleries, the week of 5th February, 1968, was something of an historic occasion; for the first time in the history of either House television cameras and wireless microphones were being used to capture the day-to-day proceedings of the House of Lords—and it is worth stressing just how day-to-day the proceedings of the House were during that week. The only thing out of the ordinary was that the House sat to deliver judgments every morning of the week of the experiment. The purpose of this was partly to ensure that prayers had already been read in the morning so that there was no need to exclude the cameramen from the Chamber shortly before the business of the day began; this was important since the image orthicon cameras being used for the experiment require a warming-up period, and had prayers been read as usual at 2.30 p.m. it might not have proved possible to have televised the first and second of the Starred Questions with which business began.

As the Report printed above shows, the first day of the experiment, Monday, 5th February, was used by the broadcasters as an occasion for rehearsing, while for Peers it provided a useful opportunity to become acclimatised to the presence of the cameras and to the high-level of lighting. After Questions Monday's business started with the Third Reading of the Consumer Protection Bill—a Lords' Bill; during the Third Reading the title of the Bill was amended, on a Division, to the Trade Descriptions Bill. The Leader of the House (Lord Shackleton) then repeated a Statement that was being made in the Commons on Release Rights of Boy Servicemen and Conscientious Objectors, and the business was concluded by two Unstarred Questions, the first on

Factory Accidents and the second on the control policy for Foot and Mouth Disease. The House rose shortly after 9 p.m.

On Tuesday, 6th February, after Starred Questions there was a debate on the Second Reading of the Trustee Savings Banks Bill, followed by the Committee Stage of the Administration of Justice Bill when, rather unusually for the House of Lords, debate took place on the admissibility of two Amendments tabled by Lord Goodman, who then withdrew them. There followed debate on an Unstarred Question about winter sports in the Cairngorms, the House rising at 7 p.m.

On the Wednesday business began with the Introduction of two Life Peers and after Starred Questions the House spent the rest of the day debating a Motion by Lord Willis on British Sport and the work of the Sports Council. The House rose shortly before 9 p.m.

Thursday's business was more varied; it started after Questions with a Motion to approve a Ploughing Grants Scheme, and the House then went on to discuss, on Second Reading, a Private Member's Bill sponsored by Lord Chorley, the Street Offences Bill. On a division, an Amendment by the Earl of Arran that the Bill be read a second time " this day six months " rather than " now " was carried by 50 votes to 29, thus effectively killing the Bill. After this the House gave a Second Reading to a Government Bill, the Civil Evidence Bill, and a Third Reading to the Administration of Justice Bill. The House adjourned shortly before 8 p.m.

From this brief account it will be seen that while the business during the week in question was varied, and from a procedural point of view comprehensive, it was scarcely dramatic and lacked political excitement. To this extent it may well have been unrepresentative of the sort of material which the broadcasting authorities would be likely to wish to make use of for public broadcasting.

On the Tuesday, Wednesday and Thursday the proceedings were, as recommended by the Committee, transmitted continuously and were seen by Peers, M.P.s and the press. In the following week edited versions were shown to the same people on Tuesday the 13th, Wednesday the 14th and Thursday the 15th February. Most observers were agreed that despite the bright lights and obtrusive cameras there was very little self-consciousness or " playing to the gallery " shown by the Peers. In fact the House seemed to settle down extremely quickly to the technological demands placed upon it. Following the experiments the Committee met on a further six occasions, and reported to the House on 27th June, 1968. Those sections of the second Report which deal with the television experiment alone are set out below, together with the recommendations of the Committee on a number of other matters:

The Closed-circuit Experiment

The Committee have now reviewed their earlier consideration of the question of broadcasting the proceedings of the House in the light of the closed-circuit experiment in television and radio that took place in February. The Committee

would like to take this opportunity of paying tribute to the B.B.C., the I.T.A. and the Ministry of Public Building and Works for the expert manner in which it was conducted. The experiment itself and the memorandum in relation to it subsequently submitted by the broadcasting organisations have proved of the greatest value to the Committee in clarifying their minds as to the form that experimental public broadcasting should take. Before dealing with the physical means required for mounting coverage in television and radio the Committee think that it would be helpful to set out certain general principles which should be adopted if such broadcasting were to be authorised.

Selection and Editorial Control

The terms of Lord Egremont's motion precluded the consideration by the Committee of any proposal for continuous broadcasting of the proceedings of the House. However, anything less than continuous broadcasting inevitably raises the problem of selection and editorial control. Two possible courses were considered by the Committee: the proposal to create for the purpose a Broadcasting Unit employed by the House and the proposal to leave the details of selection to the broadcasters themselves, subject to the ultimate control of the House.

The creation of a Broadcasting Unit would involve the direct employment by the House of a staff whose function it would be to have charge of the broadcasting equipment, to select material from the proceedings and to make it available to the broadcasters. At first sight such an arrangement would appear to have certain advantages. However, from the evidence that they have heard, the Committee believe that, for television, the recruitment of the necessary personnel would involve considerable difficulty and expense. The House would have to employ not only an editorial staff but also a technical crew which would in effect have to be borrowed from the broadcasters themselves. While the broadcasters indicated that they would be prepared to accept an official picture of the proceedings produced by the House, they were of the opinion that it would be better for them to retain editorial control themselves. Sir Geoffrey Cox, Editor of Independent Television News, said, " I think . . . that the House would find the task of editing a report themselves . . . almost impossible for a public body to take on; they would have to delegate this to somebody and I think it would be a much more practicable way, even from the House's own point of view, to delegate this to the organisations which are engaged in this type of work throughout the year (H.L. 190 (1966–67) . . . it would be more in Parliament's own interest and more in the House of Lords' own interest if the actual task of making (the) original pictures were left to us from the beginning, rather than Parliament taking upon its shoulders the beginning of what is in a sense a technical and, to some extent, an artistic process ". The experience of the closed-circuit experiment has confirmed the broadcasters in this opinion. The Committee accept these views and, while they were put forward in the context of television, they are of the opinion that they apply equally to sound broadcasting.

The Committee recommend, therefore, that if public broadcasting of the proceedings of the House is to take place the position of the broadcasting authorities should, so far as possible, be analogous to that of the public and the Press. The right to broadcast any part of the proceedings ought, in the opinion of the Committee, to be as clear as is that of the public to watch the proceedings from the galleries and of the Press to report and comment on those proceedings. The Committee believe, therefore, that no attempt should be made on the part of the House to exercise detailed control over the content or duration of what is broadcast. The Committee are aware that, at first sight, this approach may appear over-permissive. They would, however, point out that the Press has operated for many years with a comparable freedom

and that, unlike the Press, the broadcasting organisations are under specific obligations to see that what they report is accurate and free from political partiality. Nevertheless it is clearly necessary that the House should retain ultimate control over the broadcasting of its proceedings. The Committee are of the opinion that the privileges of the House would extend to television and sound broadcasting as they do to press reporting and that these privileges are sufficient to ensure that the necessary action could be taken to deal with any breaches that might occur in the field of broadcasting.

Copyright

The Committee have considered the question of copyright in relation to the broadcasting of the proceedings of the House. In their memorandum the Law Officers state that, unless provision is made to the contrary, the copyright in all broadcast material, whether live or recorded, vests automatically in the person preparing it. An additional copyright resides in edited programmes made up from such material and this copyright similarly vests automatically in the person who undertakes the editing. Consequently, if the recording and editing of the proceedings were left to the broadcasters, as the Committee have recommended, they would possess the copyright in any material they produced. If it were felt to be desirable, it would be possible for the broadcasting organisations to assign this copyright to a person selected by the House to exercise it on its behalf. While the Committee are conscious that this course might appear to have certain advantages, particularly in terms of control of the use of the material abroad, they do not favour it. They incline to the view expressed by Mr. Edwards of the B.B.C. that "it would be rather inadvisable . . . if the House of Lords applied, under the guise of copyright, what would clearly be censorship " (H.L. 190 (1966–67). Problems that may arise in the control of the broadcast material emanating from the House would, in the opinion of the Committee, more appropriately be dealt with by the B.B.C. and I.T.A. acting in concert with the authorities of the House. If experience should indicate that such a course was necessary it would be open to the House and the broadcasting organisations to enter into contractual relationships for the purpose of controlling the use of this material.

Experimental Public Broadcasting in Television

In their consideration of the practical means by which the proceedings of the House could be televised the Committee have given particular attention to the need to keep to a minimum the interference caused by the necessary equipment to the normal functioning of the House and the convenience of its members. In earlier discussions with the broadcasting organisations it became clear that the most satisfactory course to follow from this point of view would be to install permanent equipment in the House to use miniaturised plumbicon cameras for televising the proceedings. These cameras would have a number of advantages over the outside broadcast image orthicon cameras used during the closed-circuit experiment. The plumbicons would be smaller and less obtrusive; they would not have to be placed on platforms sited on the floor of the chamber but could be slung beneath the galleries. Since they would be remotely controlled no cameramen would need to be present in the chamber. The level of lighting required for their operation would be less high than that which obtained during the closed-circuit experiment.

The broadcasting organisations submitted to the Committee a memorandum giving details of the equipment necessary for installations of the kind outlined above. From this memorandum it was clear that their total capital cost would be in the region of £360,000. Running costs would obviously vary with the frequency of use but would be likely to be substantial.

While the Committee recognise that, in the long term, permanent installa-

tions may prove to be the best means of televising the proceedings of the House, they are unable to recommend them for an experiment in public broadcasting on grounds of cost. The broadcasting organisations have indicated that they would not be prepared to contribute to such cost, at least so long as the televising of the House of Lords alone was envisaged. In the circumstances the only alternative would be for the necessary sum to be provided from public funds. However the Committee do not think that this would be a proper charge on such funds.

The Committee are of the opinion that, in its initial stages, public television broadcasting of the proceedings of the House must inevitably be of an experimental character, as is recognised in their terms of reference. One of the factors that must be taken into account before any long term decisions can be taken is the degree of public interest in such broadcasting. On this point the Committee received some valuable expressions of opinion from four parliamentary journalists to which they would direct the attention of the House. However it will not, in the nature of the case, be possible to make any accurate assessment of the extent of public demand for television programmes covering the proceedings of the House until the public have actually had an opportunity of seeing them. In the meantime the Committee think that the House should be guided by the opinion of the broadcasters that " in programme terms . . . . a nightly comprehensive report of proceedings, based on videotape extracts derived from the House of Lords alone, . . . could not be justified " and that, in these circumstances, " the capital cost of such (a permanent) installation would . . . remain disproportionately high in relation to its potential use ".

The Committee have also felt bound to take into account the future prospects for colour television. They have been informed that the bulk of television output from the B.B.C. and the I.T.A. will be in colour by 1970–71 (H.L.27, 1967–68). Opinion is divided as to the speed with which the public will acquire colour sets but there seems little doubt that the ownership of such sets will become more and more widespread over the next few years. While colour sets are capable of receiving programmes in monochrome, such programmes can be expected to decline in relative popularity. No colour camera has yet been developed which would be suitable for use in the chamber but, as technical advances continue, the possibility of such a camera becoming available must be taken into account. The Committee were informed that, if the House installed permanent equipment for monochrome television and decided at a later date to go over to colour there would be little opportunity for economies in adapting the original equipment to the new requirements.

In view of these considerations the Committee do not feel able to recommend that permanent equipment should be installed in the House for the purposes of public television at this stage. On the other hand, the Committee have taken note of the view expressed by the broadcasters that " the experiment has confirmed our impression that occasions suitable for television coverage of the House of Lords, of which the broadcasting organisations would wish to avail themselves, are likely to occur from time to time. These might afford the House opportunities of testing the effect of the public transmission of its proceedings. We suggest, therefore, that, pending any future re-consideration of the question of a permanent installation, the broadcasting organisation should have right of access to the proceedings of the House, to mount television coverage, either jointly or separately on such occasions as either or both may feel it to be justified for the purposes of public broadcasting ". The committee have given careful attention to these views of the broadcasters and are convinced that the course which they propose represents the most satisfactory solution to the problem of public television broadcasting in present circumstances and they accordingly recommend its adoption by the House.

Should this arrangement prove acceptable it would be for the broadcasters

to decide when they came to the House and what form the programmes should take. In their evidence to the Committee they stated that they would not expect to come to the House very frequently. Mr. Whitley of the B.B.C. said, however, that " we could hardly expect the House of Lords to allow an experiment in public broadcasting on this drive-in basis with any enthusiasm unless we expressed a hope to make use of the facilities at least two or three times during the year concerned ". The broadcasters stated that the " coverage would take a variety of forms, ranging from brief news extracts to extended reports for news purposes or special programmes ".

The equipment used for these purposes would be similar to that used during the closed-circuit experiment. The cameras would be of the same image orthicon type and would have to be manned. While it might prove possible to reduce the total number of cameras from five to four, two would in any event be required on the floor of the chamber within the Bar. In certain circumstances film cameras might be used. A commentary box would be required but it would probably be possible for it to be withdrawn to a less prominent position than that occupied by the commentary box during the closed-circuit experiment. The image orthicon cameras, and film cameras if they were used, would require lighting of approximately the same level as that which obtained during the experiment, although it is probable that the discomfort caused on that occasion could be reduced by rearranging the sources of light. The broadcasters informed the Committee that they would be prepared, at a cost to the House of approximately £300, to arrange a demonstration to indicate the degree to which it would possible to mitigate the effects of the lighting required for these cameras. While the Committee think it right to place this offer on record for consideration by the House, they do not themselves recommend that such a demonstration should be arranged since it is clear from the evidence that the mitigation would not be likely to be great enough to be a material factor in the House's decision on the principle of " drive-in " broadcasting.

The Committee are conscious that, in recommending the televising of the proceedings on a " drive-in " basis, they are asking the House to accept a higher degree of dislocation and discomfort than would be the case if permanent equipment were installed in the chamber. They would, however, like to record their opinion that members of the House seemed to adjust themselves to the conditions of the closed-circuit experiment much more readily than might have been expected. In particular the presence of large cameras and their operators on the floor of the chamber seemed to cause little disruption or difficulty. They recognise that lighting remains a problem. Nevertheless they would urge the House to adopt the view of the broadcasters on this question that " if required only at rare intervals and for brief periods, . . . such lighting might prove acceptable, in the interests of securing, both to the broadcasters and the House, some experience of the public transmission of proceedings ".

Television coverage on a " drive-in " basis would in most cases have to take place at short notice and consequently it would be necessary for certain adaptations to be made in the Palace of Westminster to enable the required equipment to be " plugged in " with the minimum of delay. The cost of these adaptations is estimated at £16,000. If £2,000 could be provided by the House, representing the cost of the non-recoverable fixtures and installation charges, the broadcasters have stated that they would make themselves responsible for the balance. The Committee recommend this as a reasonable apportionment of cost in the circumstances of an experimental period of public broadcasting although they do not consider that it should be regarded as a precedent for any future arrangement that may be made. All running costs arising in the context of " drive-in " coverage would be borne by the broadcasters. . . .

Summary of Recommendations

The Committee recommend that:

1. If the House wishes to authorise an experimental period of public broadcasting, that period should last for one year during which time the B.B.C. and I.T.A. should be permitted to come to the House on occasions chosen by themselves on a " drive-in " basis for the purpose of obtaining material for broadcasting either in television or sound.
2. Questions of selection and editing should be left to the broadcasting organisations themselves.
3. In the case of broadcasting on this basis in television and sound the contribution of the House of Lords to the capital cost (approximately £16,000) should be limited to £2,000, the remainder of the capital cost and all running costs being borne by the broadcasting organisations.
4. In the case of broadcasting on this basis in sound alone the contribution of the House of Lords to the capital cost (approximately £4,000) should be limited to £1,000, the remainder of the capital cost and all running costs being borne by the B.B.C.
5. For the experimental period the House should appoint a Broadcasting Committee whose function it would be to deal with all aspects of broadcasting.
6. A Joint Committee of both Houses should be appointed to which the whole subject of reporting parliamentary proceedings should be referred.
7. The taking of still photographs of the proceedings of the House by the Press should not be permitted "

The following summary of press comments on the experiments was published as an Appendix to the Report:

All the national daily newspapers, leading provincial ones and a number of the serious periodicals devoted a great deal of space to the experiment and the interest of the Parliamentary corps of journalists—Lobby and Gallery—was maintained throughout the fortnight. The novelty of the project made a great appeal to them (and also to the cartoonists) and although many of the articles were descriptive and written with a light touch, the general approach was sympathetic, even generous, and the comment was constructive.

The leader writers, however, were silent except in one case, the *Glasgow Herald* (although the *Daily Telegraph* had published an editorial in December which appeared to assume that edited programmes would come and commenting that the job of editing would not be an enviable one). The Glasgow paper supported the idea of televising Parliament on the ground, " the need to put the political debate back where it belongs, off the television screen into the two Houses of Parliament ".

Reports in the first week included references to the physical appearance of the broadcasting equipment in the Chamber and to the behaviour of Peers in the presence of the cameras. On the first day, it was reported, there was a larger attendance than the business of the sitting would normally have attracted. Members were said to be " unusually talkative ", but they appeared to take no notice of the cameras and their normal behaviour was not inhibited. There was, however, some irritation at the intrusion of the paraphernalia of television and particularly at the extra lighting.

Commenting on the continuous transmissions in the first week, journalists reported that many of the exchanges made good television—one found them " compulsive viewing " and another " intriguing ". There was a rich vein of debate for television to tap, it was stated. A report in the *Sun*, however, said the picture that came through was exactly the image their Lordships wanted to destroy; while a writer in *The Scotsman* thought the cameras accentu-

ated idiosyncrasies to an absurd degree and remarked upon the noise of coughs and crumpling paper as picked up by the microphones. Technically, it was reported that the screen picture was of exceptional tone and quality, that the camera work was skilful, and that the cameras did not seek for the sensational or embarrassing.

In the second week, reports concentrated on some assessment of the experiment in the light of the play-backs of the edited versions. There was a fairly general conclusion against any continuous broadcasting of the proceedings. *The Times* Political Correspondent, David Wood, declared that any idea of a continuous broadcast should be buried without delay and the case based on nightly edited versions, preferably less than 30 minutes and on news bulletin spots based on news value. On the other hand, Norman Shrapnel, *The Guardian* sketch-writer—in one of a number of pieces he wrote about the experiment—said he found the full broadcasts exciting and was a little disappointed with the edited ones. However, he stated that the experiment showed what good television Parliament could be. "The cameras must be given play; they must be trusted", said Shrapnel—and he prophesied that Parliament would soon be on the air in both sound and vision. A similar forecast was made by a Member of the House, Lord Kilbracken, in an article in the *Evening Standard*: "The general impression has been so favourable that I have little doubt the decision will soon be reached to allow the public showing of such programmes." But he was against continuous broadcasting.

A *Yorkshire Post* report said continuous televising would often be embarrassing and could reduce Parliament to a laughing stock. David Harris, of the *Daily Telegraph* political staff, said there were few criticisms of the way in which the editors had compressed the material: though his view was that the experiment did not swing many Peers either way . . . "just confirmed them in their support or opposition to permanent televising". James Thomas, a *Daily Express* television writer, liked the 10 minute versions best. William Wolff, of the *Daily Mirror*, also supported edited versions and came out strongly in favour of them being broadcast regularly: "It is time we made use of twentieth century inventions and allowed the electors to see and hear their representatives at work." In the *Sunday Mirror*, Matthew Coady, declared the experiment a major success and added: "The showing of the edited programmes should have convinced all but the most obdurate that the camera can do a first class job in Parliament."

A journalist Member of the House of Commons, Mr. W. F. Deedes contributed two articles during the period. In the *Daily Telegraph*, he used the experiment to point the need for a closer understanding between politics and broadcasting. In the *Sunday Telegraph*, he declared: "Parliament would be barmy to admit cameras . . . television is a goddess of great power to propitiate which otherwise sane men and women will gladly make extraordinary sacrifices, undergo any metamorphosis."

In the periodical field, the *Spectator* thought the experiment was a great success but had reservations about public acceptance. The *Economist* was unenthusiastic: "Television just makes everything brighter and hotter."

The following comments were attributed to individual Peers in a number of newspapers.

Lord Shackleton: I am a little disappointed—it was pretty slow.

Lord Moynihan: An edited version could make a jolly good evening show. The House ought not to run a television unit of its own. He was against continuous broadcasting.

Lord Willis: The salient points were picked up very well.

Lord Brockway: Results were very good but there would have to be extensive editing.

Lord Chorley: Fairly good, but I would not be ecstatic.

The Earl of Iddesleigh: Competently done but should not have been done at all—it would give a false impression of the House.

Baroness Burton of Coventry was complimentary about the programmes but doubtful about public interest.

Lord Inglewood favoured short items in news bulletins.

It will be seen at once from the summary of recommendations in the Report, that the Committee were not prepared to recommend the installation of any permanent miniaturised equipment for the purpose of an experimental period of public broadcasting; instead they recommended a year's experiment on a " drive-in " basis which would necessitate the use of conventional cameras. The Committee also recommended (para. 30(6)), as had the previous Committee, that a Joint Select Committee be appointed to consider " the whole subject of reporting Parliamentary proceedings ". This Committee has now in fact been appointed and is still meeting.

As stated earlier, the Second Report was not debated at all during the session 1967/8, and it was not until March, 1969, that a member of both Committees, Lord Ferrier, put down a Motion " drawing attention " to the Second Report. This Motion was debated on 20th March, 1969. Moving his Motion Lord Ferrier gave the House a background account of the events leading up to the Report, and suggested that the televising of the proceedings of the Lords might well become inevitable because of the failure of the press to give adequate coverage to the Lords. The Leader of the House, Lord Shackleton, intervened briefly to say that the Government had as yet no view on the matter, and that any views he expressed later would be purely personal.

Generally speaking the tenor of the debate was in favour of the proposed experiments; particularly perhaps to a sound-only experiment in public broadcasting, but certain Peers, including Baroness Emmet of Amberley, Lord Balfour of Inchrye (who were members of the Committee) and Lord Boothby, expressed their opposition to the whole idea. Many speakers, too, laid emphasis on the impracticability of the Lords starting a public experiment whether in sound or television without the other House joining in.

Speaking at the end of the Debate Lord Shackleton was reserved in his reception of the Report and was particularly against the " drive-in ' basis proposed for the public experiment by the Committee. He said that his " personal preference at this stage would be to carry out some live experiments in sound before we went on television ".

Since the debate took place there has been no further action, though if any form of public broadcasting experiment is to go on the air the agreement of both the Government and of the House of Lords will be necessary. From the tone of the debate of 20th March it is however reasonable to guess that no further uni-cameral action is likely in this sphere, and that an experiment in public sound broadcasting is likely to take place before any experiment in public television broadcasting.

IX. RADIO BROADCASTING OF THE PROCEEDINGS OF THE HOUSE OF COMMONS*

By H. R. M. Farmer, C.B.
Clerk/Administrator, House of Commons (Services)

On 11th December, 1967, the House of Commons resolved that sound recordings of its proceedings should be made for an experimental period for the purpose of providing for Members specimen programmes. The Select Committee on House of Commons (Services), through a specially appointed Sub-committee, accordingly made arrangements for the experiment, in conjunction with the B.B.C., and decided the contents and types of such broadcasts.

The experiment lasted four weeks, from 23rd April till 17th May, 1968. A continuous broadcast of the proceedings in the House was not provided. A complete recording was, however, made daily, and edited summarised programmes, lasting either 30 or 15 minutes, were then compiled. These summarised programmes were broadcast in a committee room in the afternoon of the following day for Members to hear. During the last two weeks of the experiment a summarised programme of the day's proceedings was also broadcast at 11.15 p.m. the same day. This was arranged chiefly to enable the B.B.C. to try out the practice which will presumably have to be adopted, if public radio broadcasting of the proceedings of the House is ever allowed.

Experiments were also conducted of broadcasting the proceedings of two Standing Committees. These were not so successful as the broadcasting of the proceedings of the House itself, owing to the bad acoustics in the Committee Rooms. The B.B.C. also provided some experimental programmes, covering items of special interest to certain regions, such as Scotland and northern England.

Little additional equipment was necessary for the experiment to be made. The existing Tannoy microphones were used. It was necessary, however, for space on a level with the floor of the House to be provided for commentators, whose primary duty was to identify the speakers. For the period of the experiment, therefore, three seats in "Under the Gallery" were screened off and a lip-microphone provided for the B.B.C. staff. This arrangement proved satisfactory for the experiment but would be neither adequate nor desirable for permanent use.

The Services Committee, with the help of a report from the B.B.C., considered the results of the experiment later in the year. The Sub-

* See also The Table, Vol. XXXV, p. 69.

committee reported that in their view the experiment showed that radio broadcasting of the proceedings of the House was feasible and would be a most effective method of bringing Parliament to the public. They recommended against a continuous live broadcast, except very occasionally, but that summaries on the lines of " Today in Parliament " should be made. The material should also be made available for news bulletins, regional programmes and current affairs programmes. They also recommended that, in spite of the problems involved, arrangements should be made to include the broadcasting of committee proceedings.

The Sub-committee recommended that the Services Committee should act as a liaison body between the House and the B.B.C., able to make suggestions, critical or otherwise, on the contents of the programmes, and to consider any complaints from Members. They also considered that editorial control should rest with the B.B.C.

The Sub-committee gave some estimate of costs. For permanent and regular public broadcasts the installation of a greater number of more sensitive microphones will be needed and also a new enlarged mixing desk. This might cost about £40,000. If committee rooms were to be fitted and made acoustically suitable, the cost would be of the order of £30,000 per room. Finally the provision of a suitable commentator's box, although not expensive (about £4,000) will mean structural alterations in the division lobbies. In addition to these capital costs in the House of Commons the B.B.C. estimated that their capital costs would amount to about £60,000. The Sub-committee recommended that the capital costs at Westminster should fall on public funds and that the B.B.C. should bear their own capital costs and the running costs.

The Services Committee presented the report of the Sub-committee to the House (H.C. 1967–8, 448) in the first place without comment. In another Report at the beginning of this Session (H.C. 1968–9, 48) the Committee by a majority considered that present financial circumstances precluded any recommendation for expenditure on a project which was known to be controversial. They recommended, however, that further consultations with the B.B.C. should be held, to see whether a less costly scheme could be devised and awkward accommodation problems overcome. They also hoped that it might be possible to co-ordinate proposals with any proposals for broadcasting the proceedings of the House of Lords.

There the matter rests. There is undoubtedly a strong division of opinion between Members about the desirability of broadcasting their proceedings, a division which in no way follows party lines. Even if the House decided this year to allow their proceedings to be broadcast it will clearly be impossible to do so before a new Parliament is elected. It seems more likely that the problem will be shelved until after the next General Election.

X. THE FINANCE BILL OF 1968 IN STANDING COMMITTEE

By D. Scott

Clerk of Standing Committees, House of Commons

During the Session of 1967–68, a major procedural innovation took place, when on 24th–25th March, 1968, the Finance Bill was committed to a Standing Committee. That this followed an unsuccessful attempt by the Opposition to have the Bill committed to a Committee of the whole House is evidence of the controversial nature of what happened. Nevertheless, proposals for committing the Finance Bill to a Standing Committee had been canvassed for some years before, and it was indeed a former Conservative Leader of the House, Lord Butler, who in 1958 had expounded the merits of such a step in a memorandum submitted to the Select Committee on Procedure of 1958–59.*

The following quotation summarises his views:

". . . as conditions change tradition ought not to stand in the way of reform While many of the Budget proposals embodied in the Finance Bill are admittedly of major importance, it seems probable that discussion of the detailed provisions of the Bill could be carried out at least as effectively in a smaller forum as in the Committee of the whole House. Provided that the House has an early opportunity to debate the broad principles of proposed tax changes (in the Budget debate and on Second Reading) and to discuss, and if necessary reverse (on Report stage) any decisions taken in Committee of which it may not approve, it is not easy to see that any vital principle would be breached if the Committee stage of the Finance Bill were taken in a suitable Standing Committee rather than on the Floor of the House."

The Procedure Committee of 1966–67 in their Fourth Report (*H.C.* 382 (1966–67)) considered various methods of dealing with the Finance Bill:

(*a*) Committing the whole Bill to a Standing Committee.
(*b*) Dividing the Bill and sending part of it to a Standing Committee.
(*c*) A voluntary time-table with safeguards against breakdown, and
(*d*) Retaining the existing procedure.

The proposals for committing the Bill to a Standing Committee were summarised as follows in paragraph 11 of their Report:

To sum up the proposals for sending the Bill to a Standing Committee would involve:

(i) Second Reading, followed by committal to a Standing Committee. A division permitted without debate on Motion to commit the Bill to a

* *H.C.*, 92 (1958–59).

Committee of the whole House. Motion that the Committee on the Bill be instructed to report the Bill by a certain date; two speeches permitted.

(ii) Standing Committee of 50 Members appointed. A business Sub-Committee, which would consist of the Chairman of the Standing Committee and seven members of the Standing Committee, would be appointed to make recommendations about a time-table for the Bill which would be confirmed or rejected by the Standing Committee without debate (See S.O. No. 67).

(iii) On being reported from the Standing Committee the Bill would stand re-committed to a Committee of the whole House. Proceedings on re-committal would be limited to two days.

(iv) Consideration on report.

Paragraphs 12 and 13 set out respectively the arguments in favour and against the proposal to divide the Bill (which had earlier been recommended by the Procedure Committees of 1958–59 and 1964–65) and they are of topical interest, since this Session's Finance Bill has in fact been divided, as a result (to quote from paragraph 12) of " the agreed decision of the Chancellor of the Exchequer and his opposite number on the Opposition Front Bench ". Four days have in fact been spent this year on the Clauses committed to a Committee of the whole House.

The Voluntary time-table is described in paragraphs 14 to 17 of the Report, and the advantages of retaining the existing procedure were set out in paragraphs 18 and 19. These and other procedural changes were debated in the House on 14th November, 1967.

Following this debate, the authorities of the House began to study the administrative arrangements which would be needed. At first sight, it might be asked why a Standing Committee on a Finance Bill, consisting of fifty Members, should differ in points of procedure and management from a committee on any other Bill, for it is not many years since Standing Committees were normally of similar size. It was, however, realised that, since Finance Bills had for so long traditionally provided a forum in which backbenchers in all quarters of the House could propose and listen to a wide variety of suggestions relating to taxation, special methods would be needed to keep Members throughout the precincts of the House of Commons aware, at least, of the progress of divisions. It was accordingly arranged that divisions in the Standing Committee should be indicated on the closed circuit television annunciators for two minutes.

Another change of which account had to be taken was the installation in certain committee rooms of microphone recording apparatus. And it was realised that recourse would have to be had to such contrivances because it was understood that the Finance Bill would be considered at afternoon and evening sittings, resuming contemporaneously with the sittings of the House. So there would be a serious shortage of shorthand writers to overcome. On the other hand, none of the committee rooms wired for tape-recording was large enough for a fifty-Member Committee, together with reasonable accommodation for officials, press

and public. After considering the various possibilities it was decided that Standing Committee Room 10, opening off the Upper Waiting Hall, should be wired for recording; and this was fitted up during the Easter Adjournment.

The next problem to be resolved was that of the chairmanship. Standing Committees normally sit for two and a half hours in the mornings, whereas the Procedure Committee envisaged (in paragraph 8) the committee on a Finance Bill sitting for some six hours at a time. It was decided that a system similar to that in Committee of the whole House should be made possible, whereby several chairmen share the duties of the Chair. A simple amendment was (on 14th December, 1967) accordingly made to Standing Order No. 65 extending the powers of a chairman of a Standing Committee to " chairmen ". This opened the way to the appointment by Mr. Speaker of " additional " chairmen to Standing Committees. It has in fact proved a useful reform in the management of all Standing Committees. After appropriate consultations, Mr. Speaker decided to appoint one member of the Chairmen's Panel to be Chairman of the Standing Committee, and that the "additional Chairmen " should be appointed a few days later, in order to indicate which member of the Panel should be regarded as in charge of the Bill, and of the selection of amendments, in the same way that the Chairman of Ways and Means used to conduct the selection conferences for the Finance Bill in Committee of the whole House (as he does for all Bills so committed). Accordingly, immediately following the committal of the 1968 Finance Bill and its allocation to Standing Committee A on 24th–25th April, Mr. J. C. Jennings was, the same day, appointed Chairman. Dr. A. D. D. (now Sir Alfred) Broughton, Mr. Bryant Godman Irvine and Sir Barnett Janner were appointed additional Chairmen on 26th April. In the meantime, fifty Members were nominated to serve on the Standing Committee, one Liberal, 22 Conservative, and 27 Labour, including four Ministers. But provision had also been made by an amendment made to Standing Order 68 on 6th December, 1967, for other Ministers to attend Standing Committees on Bills brought in upon a Ways and Means resolution, in fact, generally Finance Bills. As a result, Mr. Bob Brown, Parliamentary Secretary to the Ministry of Transport, was able to attend Standing Committee A on 8th May, and Mr. Norman Buchan, an Under-Secretary of State at the Scottish Office, attended on 12th June.

The Chairman fixed the first meeting of the Committee for half-past three on Wednesday, 1st May. He opened the proceedings by making an announcement about the arrangements for taking divisions, which he understood met the wishes of the Committee generally. He would allow the same time for divisions as is prescribed under Standing Order No. 34 for divisions in the House, namely six minutes. At the second sitting, he modified this so that if a second division were to follow immediately, he would allow two minutes for such a division. In both cases if a division in the Committee were interrupted by one in the

House, the question would be put again on the resumption of the Committee and the time would run afresh. This arrangement contrasts with the normal practice in Standing Committees, where by long practice, the Chairman allows " a reasonable time ". Mr. Jennings also announced that he would suspend proceedings from 7.30 to 8.30 p.m. for dinner. To this he also added one extra quarter of an hour at the second sitting.

After the Chairman had made this announcement at the first sitting, the Chancellor of the Exchequer, Mr. Roy Jenkins, moved a sittings Motion providing for the Committee to meet on Tuesdays and Wednesdays at half-past three, and on Thursdays at four (to give Members an opportunity to hear the weekly business statement of the Leader of the House). But it soon became clear that the Opposition were in no mood to agree to this. On the Motion of Mr. Jenkins, debate on the sittings section was adjourned at 12.34 a.m., and the Chairman fixed the following afternoon at 4.30 p.m. for the next meeting. After further debate lasting till about 5.30 p.m., an amendment was moved by Mr. Iain Macleod, leading for the Opposition, to alter the sittings to Mondays and Wednesdays at four, and Wednesday at half-past ten in the morning. The customary motion setting out the order in which the Bill should be considered was then agreed to.

Progress on the Bill was slow. By 15th May, after eight sittings, occupying about 49 hours, the Committee had only reached Clause 15. Accordingly, the Government tabled a Motion on 17th May, invoking the provisions of Standing Order 43A (Allocation of time to Bills), which was debated on Tuesday, 21st May. After two hours' debate, during which Mr. Deputy Speaker announced (Col. 435) that the Speaker had asked him to inform the House that formal notification had been received from the Chancellor of the Exchequer that no general agreement on the number of days for considering the Finance Bill had been reached, the House ordered the Standing Committee to report the Bill on or before Thursday, 13th June, and ordered the Business Committee to make recommendations to the House on any re-committal and on report. The Speaker thereupon nominated five Members (drawn from the Standing Committee) to be members of the Business Committee, which in addition includes all members of the Chairmen's Panel. The Business Committee met the following day under the chairmanship of the Chairman of Ways and Means, and its recommendations were reported forthwith to the House. They provided 13 days in all, including the 1st May (the first sitting of the Standing Committee) for completing the committee stage. As the first day on which the guillotine could bite would be Monday, 27th May, that would be the 9th allotted day. Days 9, 10, and 11 were to cover proceedings up to the end of Part IV of the Bill (including related schedules), and days 12 and 13 covered the remainder of the Bill, and related Schedules, New Clauses, Schedule 20 and New Schedules. The House approved this Report on 23rd May, on a division.

On Monday, 27th May, a fresh sittings Motion was agreed to, settling the remaining allotted days in relation to the Whitsun adjournment—*viz.*, Tuesday, 28th and Wednesday, 29th May, at 10.30 and 4.00; Tuesday, 11th June, at 4.00 p.m. and Wednesday, 12th June, at 10.30 a.m. and 4.00 p.m. The first guillotine accordingly fell at 11.20 p.m. on Wednesday, 29th May, while Clause 33 was under discussion. As a result, no Opposition amendments between that clause and Clause 45 inclusive were debated. After the Whitsun adjournment, the Committee began discussion of Clause 46 on Tuesday, 11th June, but at the second sitting the following day the guillotine again fell while Clause 47 was under discussion. No further Opposition amendments, nor new clauses, nor new Schedules were therefore discussed.

As a result of the guillotine the Chairman announced at the beginning of the sitting on Monday, 27th May, a further alteration to the arrangements for taking divisions. At morning sittings, usual Standing Committee practice would be followed and the Chairman would allow " a reasonable time ". In the afternoon sittings, three minutes would be allowed, to be reduced to two, as previously arranged, whenever divisions followed one another immediately (Standing Committee *Hansard*, Col. 1405–6).

The final stages of the Bill comprised a recommittal stage, as well as report and Third Reading. It was explained in the House on the recommittal Motion on 11th June that the Government and Conservative Opposition operated a self-denying ordinance by refraining from putting down official amendments at that stage, with the object of giving an opportunity to back-benchers who had not been members of the Standing Committee to put down amendments. The Business Committee therefore met again on 13th June to make further recommendations on the proceedings on recommittal and report. The Government proposed two days on recommittal, with a guillotine at 11.20 p.m. the second day, and three days for report, with a guillotine at the end of Clause 49 at 7 p.m. on the third day, and the final guillotine at 11.20 p.m. However, by a majority, the Business Committee prescribed two and a half days for recommittal and three and a half on report, each half-day to end respectively at 7 p.m. It must be remembered that the Business Committee, consisting of the Chairmen's Panel with the addition of three Ministerial and two Opposition Members, has a preponderance of members who, by reason of their impartial duties in the Chair, are accustomed to regard proceedings on Bills with a less partisan view, and it would appear that they felt a responsibility to secure greater opportunities for back benchers to take part in these concluding stages, than were offered by the Government. The significance of the break at the end of Clause 49 was that Clause 50 provided for a national lottery and the Government had promised a free vote on it.

On 1st July, the Order of the House of 18th June, agreeing to this Report of the Business Committee was varied to permit any

amendment to leave out Clause 50 and any other amendment to that Clause to be considered on report before New Clauses. The Clause was defeated by 166 votes to 76. In the event, few amendments proposed by back benchers who were not on the Standing Committee were debated.

In conclusion it may be significant to state that as these pages are going through the press the proceedings on the 1969 Finance Bill have been conducted, not on the pattern tried out in 1968, but on the lines recommended by the Procedure Committees of 1958–59 and 1964–65. Six clauses and a schedule, comprising what were considered, by mutual consultation through " the usual channels ", to be the key clauses covering the main topics of the Bill, were committed to a Committee of the whole House and were debated on four days, before the remainder of the Bill was considered in Standing Committee. So far proceedings seem to have followed a notably smoother course than last year, with no recourse to any form of guillotine, and the following remarks by Mr. Macleod in his closing speech in the Standing Committee on 26th June, 1969, may be regarded as a fitting comment on this new procedure:

> If I may, Mr. Jennings, I will make one long-term and one short-term observation. The long-term observation is that, although it is dangerous to push too much on to the experience of only one year, I think that we may have taken an important and decisive step for the future in the handling of Finance Bills. I think that people will acknowledge that this year has been a great improvement on any other year that they can remember. The idea of having what amounts to four economic Supply days on the Floor of the House, followed by a discussion in a small and very knowledgeable Committee before returning to Report, may well form a pattern for the future. I personally hope that it does.

XI. LEGISLATION BY REFERENCE

By T. G. Talbot, C.B., Q.C.
Counsel to the Chairman of Committees, House of Lords

The language of legislation should in the first place be certain. It should also be lucid, but lucidity must take second place to certainty. Legislation by reference is usually far from lucid and it is for that reason that it has a bad name. The purpose of this note is to suggest that the obscurity of legislation by reference is in some cases at any rate preferable to the prolixity that would be entailed by a system of drafting that eschewed it. Examples have been taken at random from the Public General Acts of 1968.

Section 1 of the Caravan Sites Act 1968 defines " residential contract " for the purposes of Part I of the Act as a licence or contract under which a person is entitled to station a caravan on a protected site and occupy it as his residence or to occupy as his residence a caravan stationed on a protected site. Then comes the legislation by reference:

(2) For the purposes of this Part of the Act a protected site is any land in respect of which a site licence is required under Part I of the Caravan Sites and Control of Development Act 1960 or would be so required if paragraph 11 of Schedule 1 to that Act (exemption of land occupied by local authorities) were omitted . . .

Part I of the Caravan Sites and Control of Development Act 1960 runs to 32 sections and two schedules. If you want to know when a site licence is required under that Part you must look at subsections (1) and (4) of section 1 and at section 2 of the Act. You must also look at the definition of " caravan " in section 29(1) and at the First Schedule which contains a list of the cases where a caravan site licence is not required. In order, therefore, to redraft subsection (2) of section 1 of the Caravan Sites Act 1968 without referring to the Act of 1960 it would be necessary to say something like this:

For the purposes of this Part of this Act a protected site is any land—

(*a*) used as land on which is stationed for the purposes of human habitation any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed or by being transported on a motor vehicle or trailer) or any motor vehicle so designed or adapted, but not being in either case—
  (i) any railway rolling stock which is for the time being on rails forming part of a railway system; or
  (ii) any tent; or

(*b*) used in conjunction with land on which any such structure or motor vehicle is stationed for the purpose of human habitation.

This takes no account of the exemptions contained in Schedule 1 to the Act of 1960. The redraft is not an improvement.

It is clear that legislation by reference can save space and that if the practice were abandoned the statute book would grow a good deal faster than it does already. But what about this? Section 16 of the Caravan Sites Act 1968 provides that in that Act " local authority " has the same meaning as in section 24 of the Caravan Sites and Control of Development Act 1960. The definition of " local authority " is in section 24(8) of the Act of 1960 and is as follows: " ' local authority ' includes the council of a county and a joint planning board constituted under section 4 of the Act of 1947 for an area which consists of or includes a national park as defined by subsection (3) of section 5 of the National Parks and Access to the Countryside Act 1949 or any part of such a national park." Here you have legislation by reference in two stages. In the first the reader is referred back to an Act of 1960. Then, when he gets that Act from the shelf, he is referred back to Acts of 1947 and 1949. Leaving that aside, " section 4 of the Act of 1947 " is a reference to a repealed section of the Town and Country Planning Act 1947. By a legislative process which it is not necessary to describe, the reference includes a reference to section 2 of the Town and Country Planning Act 1962 under which joint planning boards are now constituted. Perhaps " local authority " could have been defined more happily in the Caravan Sites Act 1968 somewhat on these lines: " ' local authority ' includes the council of a county and a joint planning board constituted under section 2 of the Town and Country Planning Act 1962 or section 4 of the Town and Country Planning Act 1947 for an area which consists of or includes a national park or part of a national park."

Take another example. In the First Schedule to the Clean Air Act 1968 amendments are made to the Clean Air Act 1956. Paragraph 2 makes the following amendment: " In section 7(2)(*a*) (of the Clean Air Act 1956) for the words ' grit and dust ' there shall be substituted the words ' grit, dust and fumes '." This kind of amendment can be made in several ways. Section 7 of the Clean Air Act 1956 provides that if a furnace in a building is used to burn certain fuels in a certain way the local authority may serve notice on the occupier of the building containing the furnace directing that the provisions of subsection (2) of the section shall apply to the furnace. Subsection (2) requires the occupier of the building to comply with the Minister's requirements as to " making and recording measurements from time to time of the grit and dust emitted from the furnace ". The amendment made in 1968 is, of course, to require measurements not only of grit and dust but also of fumes. It would be possible to make the amendment read as follows: " In section 7(2) for paragraph (*a*) there shall be substituted the following paragraph:

> " (*a*) making and recording measurements from time to time of the grit, dust and fumes emitted from the furnace."

But if you do this it does not appear whether the amendment is to insert grit or dust or fumes or something else in the paragraph. The amendment could be made clearer if it were in the following form: " In section 7(2)(*a*) (which requires the occupier of a building containing a furnace to which that subsection is applied to comply with such requirements as may be prescribed by regulations made by the Minister as to, among other things, making and recording measurements of the grit and dust emitted from the furnace) for the words ' grit and dust ' there shall be substituted the words ' grit, dust and fumes '." The draftsman has preferred conciseness to complete lucidity and it seems that he was right to do so.

The example taken from the Clean Air Act illustrates two objects in the drafting of amendments which are not always compatible. If you want to make it clear what changes are being made it is much easier to do this by reference. If on the other hand you want the amending Act to read intelligibly you will substitute complete clauses for those in the amended Act. If you want to achieve both objects you may find that you need more space than you would require to achieve one of them only.

XII. GIFTS TO THE LEGISLATURES OF THE ASSOCIATED STATES

By David Pring
A Deputy Principal Clerk in the House of Commons

The House of Commons resolved on 22nd May, 1968, that they would like to present gifts to the five Associated States which had recently achieved complete internal self government. The States, all of them in the Leeward or Windward Isles, were St. Christopher/Nevis/Anguilla, Antigua, Dominica, St. Lucia and Grenada; and the gift chosen for each State was a complete library of parliamentary and constitutional works of reference. Mr Frank Tomney, Member of Parliament for Hammersmith North, was the leader of the small delegation chosen to make the presentation of the books. He was accompanied by the late Mr. David Webster, then Member of Parliament for Weston-super-Mare, and myself. The delegation left Heathrow on 1st July.

The organisation of a trip like this, mounted at short notice at a time (as it happened) when both B.O.A.C. and British Railways were on strike, was naturally somewhat difficult. But thanks to the help and kindness of a number of people too numerous to mention by name the delegation was greeted and looked after at every stop on their extensive tour. The delegation flew via New York and experienced the usual delay in sweltering heat at the airport, where aircraft queue up in their twenties in order to get on to the runways. We came down at night on the island of Antigua, where we were met by the British Government Representative in the Associated States, Mr. Stuart Roberts, who was thereafter to be our agreeable companion on the journey.

On the following morning we presented the library to the House of Assembly and delivered the letter which the Speaker of the House of Commons had sent with us to the Speaker of the State legislature. The books had been sent on in advance and had been arranged on a table in the Assembly Building. The ceremony, which was to be repeated in similar form on the other Islands, commenced with the delegation being summoned into the Chamber, on the instructions of the Assembly, by the Serjeant-at-Arms. Mr. Speaker Hurst, who was to do so much later to make the trip enjoyable, then welcomed the delegation, read out the letter from the Speaker of the House of Commons, and called upon Mr. Tomney and Mr. Webster in turn to address the House. A reply was made by the Premier. Mr. Tomney

unveiled the books and presented an Erskine May to the Speaker. The delegation was then ushered out and the House adjourned. It was a short, good-humoured and in its way moving ceremony.

The delegation made a formal visit to the Governor, Sir Wilfred Jacobs, who entertained us in the cool attractive rooms of his residence, and on the Premier, Mr. Vere Bird. After an official lunch at a beach hotel, we had a splendid drive around the island; Clarence House, a fine Regency building furnished by the National Trust and looking down over the dockyard, sticks in the mind as does the dockyard itself, with its memories of Nelson. That evening the Governor gave a party for us in the garden of his House.

We left the next morning for St. Kitts, where we stayed at Government House as the guests of the Governor, Sir Fred Phillips, and his wife. We went to call on the Premier, Mr. Robert Bradshaw, at Government Headquarters, who described to us the problems of his State, and afterwards took us for a drive in his yellow vintage Rolls Royce. In the afternoon we drove round the island and visited the new General Hospital and also Brimstone Hall, with its relics of a far-gone military age. The presentation ceremony took place in the cool of the evening. Mr. Speaker Allen brought the delegation into the House of Assembly and called on the Premier to welcome us. This he did in an admirable speech which recalled many of the historic moments of the Westminster Parliament. (It included a reference to the conflict that led to the execution of King Charles; and when Mr. Tomney came to reply for the delegation, he was able to recall that one of the principal regicides had been a man called Bradshaw.) After the presentation the Speaker replied and then adjourned the House, in order to lead the delegation to the reception given in their honour at the House of Assembly. On the next day we travelled by police launch to the Island of Nevis, which we toured in the company of the Attorney-General, and again saw many Nelsonian relics. On our return from this splendid excursion, we went back to the airport in order to fly back to Antigua. It was typical of the hospitality we had received that the Speaker and the Clerk should have come to see us off, and to present us with mementoes of our trip.

Looking back, it is interesting to recall how coming events cast a shadow upon us. The delegation considered the possibility of a trip to Anguilla, the third island in the State, as had been suggested in the debate that sanctioned our trip. This was not, as it transpired, practicable; but in St. Kitts we were able to meet Mr. Lee, who a few months later was to become Commissioner there. Later we were to wonder if a visit could not have done a little to assure the Anguillans of British goodwill towards them.

We left early on the morning of 5th July for Dominica where a long drive across the island brought us to the capital, Roseau, through wild jungle scenery of a kind quite different from that which we had seen on the other islands. Dominica is a country of mountains, forests and

rivers in great contrast to the gentler scenery which we saw elsewhere in the Caribbean. When we arrived in Roseau, our car was held up by crowds in the streets shouting and carrying banners. Our first thought, that this show of excitement was in honour of our visit, was rudely dashed by seeing banners stating " Freedom is at an end ": we had arrived in the middle of an animated political demonstration, which was to delay the presentation in the House of Assembly later that morning. When the time came, the delegation were sorry to find the ceremony being boycotted by opposition Members, but accepted the political realities of a situation like this. (Later in the visit we were to receive messages from opposition supporters, assuring us that no discourtesy was intended to us.) That afternoon and on the following days the delegation made extensive tours that enabled them to see much of the development that is taking place on the island. The spectacular scenery, the steep mountain roads and the river torrents were in striking contrast to the long boat trip over placid seas which the delegation also made. We were accompanied on many of the visits by Mr. Speaker Winston, whose hospitality was memorable, and were also handsomely entertained by the Governor, Sir Louis Cools-Lartigue.

We flew to St. Lucia on 7th July and were met at the airport by the Speaker, Mr. Daniel, the Clerk, Mrs. Raveneau, and a party of Members. We later called on the Governor and his new son-in-law, the Premier, Mr. Compton; this led us to an amusing discussion with the Governor on the question whether or not, when asked for the hand of his daughter, he was bound to act on the advice of his Premier. The presentation ceremony took place on 8th July, and went off in a very pleasant manner. It led, happily enough, into a short debate on a resolution congratulating the Premier on his marriage. The way in which this resolution was supported by the Leader of the Opposition spoke well for the parliamentary manners of this small state.

Our stay in St. Lucia was all too short, though it gave time for drives around the island, parties where we met many of the islanders, and a few restful hours spent on technicolor beaches. Then we flew on to Grenada where our programme was comparatively relaxed, with the presentation ceremony not taking place until the second day. As a result we had time to explore this colourful and aromatic island, the so-called Island of Spice, and its steep-streeted capital, St. George's. The delegation also had an interview with the Premier, Mr. Gairy, and attended a number of functions in their honour. One of the most memorable of these was the banquet given by the Governor, Mrs. Hilda Bynoe, followed by a reception which took place to a background of music from a steel band.

As one looks back on a tour of this kind, one is struck by the friendly and informal enthusiasm which the ceremonies evoked wherever we went. The collection of books which we gave to each of the legislatures should undoubtedly prove useful and valuable to them. But

perhaps of even more significance was the opportunity it gave to the countries concerned to consider how they hoped to develop in their future as independent States. Mr. John Compton, Premier of Saint Lucia, mentioned some of the principles of the British parliamentary system in his speech at the presentation ceremony. He went on to say:

> These are the intangible things that have been left behind as the tides of British influence receded. But these are the pillars on which we intend to build our nation, because, without them, there is the turbulence that we see around us in the north, in Cuba, in the south, in the republics of Latin America; these are much too near us to ignore; and, consequently, parliamentary democracy becomes something much more dear to us than if revolutions and wars were merely academic interests.
>
> Because of these things, Mr. Speaker, this gift from the House of Commons—part of their written history to which we can make reference—is all the more fitting.

XIII. PRESENTATION OF A CLERK'S TABLE AND CHAIRS TO THE NATIONAL ASSEMBLY OF LESOTHO

By S. C. Hawtrey, C.B.
Clerk of the Journals, House of Commons

On 4th October, 1966, the territory of Basutoland became the independent kingdom of Lesotho. To celebrate this event the House of Commons on 11th December, 1967, agreed to an Address to the Queen, praying for the presentation of a Clerk's Table and Chairs to the National Assembly of Lesotho. The Queen gave a favourable answer on the following day. On 25th January, 1968, Dr. David Kerr and Mr. Richard Hornby were given leave of absence by the House to make the presentation formally on the House's behalf. The writer of the article was appointed Clerk to the Delegation.

The Delegation left London by air on 18th February and, after a change of aircraft and a wait at Johannesburg, arrived at Maseru, the capital of Lesotho, the following afternoon. There they stayed the next four days; Dr. Kerr, leader of the Delegation, stayed with the Speaker of the National Assembly, Mr. Walter Stanford, and Mrs. Stanford, Mr. Hornby with the British High Commissioner, Mr. Ian Watt, and Mrs. Watt, and the writer with Mr. Mark Chapman (Deputy High Commissioner) and Mrs. Chapman.

That evening the Delegation attended a reception given by the British High Commissioner at which they met members of the Government and other persons of distinction in Lesotho.

On the following morning the Members of the Delegation were shown the National Assembly and discussed the forthcoming ceremony of presentation. They then went to call on His Majesty King Moshoeshoe II with whom they had a long and interesting conversation, the King showing much interest in British politics as well as in those of his own country. After this the Delegation returned to the National Assembly, in which a debate on the speech from the throne was in progress. The visitors were much impressed with the force and vivacity with which the proceedings were being carried on (in Sesutu) by the members of the Assembly, almost all of whom appeared to be present.

The afternoon was devoted to visits to an experimental farm near Maseru and to the new broadcasting station not far away, followed by a reception given by the Prime Minister, Chief Leabua Jonathan, at which the Delegation met many chieftains and members of the National Assembly and of the diplomatic Corps.

On the following morning the Delegation called on the Prime Minister, with whom they had a long conversation. Chief Jonathan talked frankly to them of the difficulties which his country was facing, notably in its dependence on an agriculture that was subject in a marked degree to the vagaries of the weather and suffered in particular from drought and soil erosion. Some hopeful undertakings were nevertheless in progress, notably the Oxbow water development scheme which would, on completion, enable Lesotho to sell both water and electric power to South Africa.

The Delegation then went on to the National Assembly where the ceremony of presentation, simple but impressive, took place. Speeches were made by the Prime Minister, by Dr. Kerr on behalf of the Delegation, by Mr. S. R. Mokhehle (the Deputy Leader of the Opposition) and the leaders of the other two opposition parties (Mr. Leanya and Mr. Mofeli). In answer to Chief Jonathan's speech of welcome, Dr. Kerr said that he hoped the gifts from the House of Commons would be accepted not as farewell gifts but " as a guarantee of Britain's continuing interest in Lesotho's welfare and our concern for your future ". He recalled the Prime Minister's reference to the " peace, stability and unity for which we Basotho are famous " and said that " it was these qualifications in political life which we are anxious to promote ". We in Britain, he said, looked with confidence to the future of Lesotho.

The Delegation then left on a visit to the University of Botswana, Lesotho and Swaziland, accompanied by the Deputy Speaker, Mr. G. Manyeli, and were entertained to lunch by Professor and Mrs. John Blake and met some of the staff. They also had an interesting discussion with a group of students.

The following day was devoted mainly to an expedition to see various agricultural development projects in the company of Mr. John Rhodes, the agricultural adviser, notably the irrigation scheme at Thaba-Phats'oa in the north of the country. Here they were shown how the valuable help provided by Oxfam and other national and international agencies is beginning to show results in the greatly increased yield of such staple crops as maize and sorghum. They also saw on their journey the serious extent to which soil erosion has impoverished the land in some places. In the evening the Delegation were entertained to dinner by His Majesty the King.

On the last morning of their stay the Delegation paid a short visit to the offices of the British Council. They then divided their forces. Dr. Kerr joined the flying doctor in one of his visits, by aeroplane, to the south of the country. Mr. Hornby and the writer formed part of an expedition to Mafeteng, also in the south, where they met local officials and saw the serious effect on the crops of the bad drought which was afflicting the land.

The Delegation finally left for home from Maseru airport the same afternoon. Their visit to Lesotho had been a short one; but they

gained a firm impression of the vigour and promise of its parliamentary institutions as well as of the beauty of the country and the friendliness of its people. There are certainly difficult political and economic problems to be overcome; but this sturdy and independent people will surely succeed in solving these in their own way.

XIV. CONSOLIDATION AND STATUTE LAW REVISION AT WESTMINSTER

By J. V. D. Webb
Chief Clerk, Committee and Private Bill Office, House of Lords

There has recently emerged a new type of Consolidation procedure following the enactment of the Law Commissions Act 1965. This provides an opportunity to survey the work currently being performed by the Joint Committee on Consolidation Bills, which was first set up in 1892 and has been appointed in most sessions since then, with the notable exception of the period 1899–1912.

Section 3 (1)(*a*) of the 1965 Act enjoins the Law Commissioners " to prepare from time to time at the request of the Minister comprehensive programmes of Consolidation and Statute Law Revision, and to undertake the preparation of draft Bills pursuant to any such programme approved by the Minister ". To date one Bill only has been introduced under this procedure, which became the Sea Fisheries (Shellfish) Act 1967, but it is instructive to consider how the Joint Committee have interpreted their new function and how the scope of the consolidating process has been enlarged by the Law Commissions Act.

Before that Act, the following types of Bill were referred to the Committee (which incidentally now consists of twelve members from each House with a quorum of three from each House):

(1) All Consolidation Bills whether public or private.
(2) Statute Law Revision Bills.
(3) Bills prepared pursuant to the Consolidation of Enactments (Procedure) Act 1949, together with any memoranda laid pursuant to that Act and any representations made with respect thereto.

Since the Act, the following class of Bill has been added:

(4) Bills to consolidate any enactments with amendments to give effect to recommendations made by one or both of the Law Commissions, together with any report containing such recommendations.

For many years consolidation proceeded on the basis that existing law had to be reproduced exactly. On the Second Reading of a Consolidation Bill debate was restricted to the need or otherwise for the Bill, and its contents could not be probed. Amendments could be

moved in Committee of the Whole House to reproduce existing law if a member was of the opinion that the Committee had failed in this respect. But the certificate from the Committee effectively restricted debate in the Houses and the practice gave rise to difficulties in cases where consolidation of the existing law proved difficult, if not impossible, without the inclusion of minor alterations to that law.

An attempt was made to overcome this difficulty by the enactment of the Consolidation of Enactments (Procedure) Act 1949, which set up a new procedure whereby a memorandum containing " corrections and minor improvements " to the existing law was presented to Parliament by the Lord Chancellor and a period of one month was allowed to elapse during which representations against these corrections could be made. The Lord Chancellor had to be satisfied that the contents of the memorandum were necessary " in order to facilitate the consolidation . . . of enactments ". Under this procedure representations were rarely made, but when made they were considered by the Committee.

Upon certification by the Committee that the corrections and minor improvements incorporated in the Bill (which gave effect to the proposals in the memorandum) were such as could properly be authorised under the 1949 Act, the said corrections and minor improvements were deemed to have become law for the purposes of any further proceedings in Parliament relating to the Bill " in like manner as if they had been made by an Act ". Thus Parliament was effectively precluded from debating these provisions. In that respect the powers of the Houses on the Committee stage were restricted in that they could only discuss the " pure " consolidation parts of a 1949 Bill in the limited manner above referred to.

Inevitably difficulties arose over the interpretation of the phrase " corrections and minor improvements ", although an interpretation section was included. This stated that:

> "corrections and minor improvements" means amendments of which the effect is confined to resolving ambiguities, removing doubts, bringing obsolete provisions into conformity with modern practice, or removing unnecessary provisions or anomalies which are not of substantial importance, and amendments designed to facilitate improvement in the form or manner in which the law is stated, and includes any transitional provisions which may be necessary in consequence of such amendments.

Section 1 (subsection 5) of the 1949 Act sets out a further criterion by which the Joint Committee are to be guided in deciding what is and what is not a correction and minor improvement, viz. that it does not effect any changes in the existing law of such importance that it ought to be separately enacted by Parliament. This has proved a difficult criterion to apply and the Law Commissions' proposals, although involving a somewhat similar procedure to that adopted in 1949 Act Bills (where the proposals in the memorandum are first considered and accepted, or rejected, by the Committee before the

Bill itself is taken), seek to avoid the difficulties inherent in 1949 Act Bills in the following way.

In place of the memorandum a White Paper, taking the form of a Report to the Lord Chancellor by the Law Commission, is published at the same time as the Consolidation Bill. This Report contains " recommendations ". These recommendations are for changes in the law and are deemed desirable by the Commission in order " to secure a satisfactory consolidation of the law ". The long title of the Bill is one to " consolidate the law with amendments proposed by the Law [Scottish Law] Commission ". Those portions of the Bill which are the subject of recommendations (*i.e.* the portions in which the recommendations are reflected) are liable to discussion and amendment on the floor of the Houses.

The Joint Committee may themselves take the view that a recommendation is desirable but that it has been improperly reflected in the text of the Bill, in which case they would amend the Bill to suit the recommendation; or they may approve both the recommendation and the portion of the Bill incorporating it; or they may disapprove the recommendation in which case they would strike out the portion of the Bill reflecting it.

The difficulty, which has not yet in practice emerged, since only one Bill, the Sea Fisheries (Shellfish) Act 1967, uncontroversial in nature, has been introduced under the new procedure, will obviously be to define the portions of the Bill which relate to the recommendations and which are *ipso facto* liable to be discussed and amended by the Houses. It seems to follow also that if a recommendation is rejected by the Joint Committee, the Houses would have the power to reinsert the recommendation (or rather the portion of the Bill originally represented by it) despite the Joint Committee's rejection.

It is too early to draw positive conclusions as to the effectiveness of the new procedure. It obviously eases the work of consolidation since there is now no need for any alterations to be introduced under the heading of " corrections and minor improvements ". Alterations under the Law Commission procedure are " for the purpose of producing a satisfactory consolidation of the law " and there is obviously scope for differences of opinion as to whether recommendations are for this purpose or deal with matters of greater importance. The safeguard as stated above lies in the scrutiny, by both the Joint Committee and the Houses, of the recommendations and the manner in which they have been reflected in the Bill.

XV. PARLIAMENTARY TIME

The Questionnaire for Volume XXXVII asked the following questions:

1. Is there a problem of parliamentary time in your House? If so, is it a recent (twenty years) problem? And if so, what has caused it?
2. What procedural innovations (during the last twenty years) have resulted from pressure on parliamentary time?
3. Have any other methods for easing pressure on parliamentary time been considered? If so, what?
4. Is there any allocation of parliamentary time to certain groups of members or for certain types of business? If so, how is it done?
5. (*a*) On how many days, on average, in a year does your House meet?
   (*b*) For how many hours a day, on average, does your House sit?
6. Does your House have a fixed hour of adjournment? If so, can the hour be altered?
7. Is the arrangement of session dates flexible or are there compelling reasons for your House meeting, or going into recess, on given dates?

The answers to these questions show that most of the Parliaments of the Commonwealth do not have any problem with parliamentary time. This is a view that has been expressed at Westminster but, until now, it was based more on impression than on fact. In the larger assemblies, such as the Canadian House of Commons and the Lok Sabha, there is some pressure on time but few of these yet have to sit as long, or on as many days, as the United Kingdom House of Commons. The size of an assembly rather than any other factor seems to be the main cause of a shortage of time and in retrospect, perhaps one of the questions should have been, " How many members has your House? " It is also apparent that Upper Houses have less of a problem than Lower, except at the end of sessions. Nevertheless, there are a number of Parliaments which limit the length of speeches and, especially in India, Business Advisory Committees play an important part in the dispatch of both Government and Private Members' business.

Westminster: House of Lords

Despite an increase in the activity of the House over the last twenty years it has not been necessary until recently for the House to sit

more than three days in the week for the greater part of any session. Pressure on parliamentary time, so far as it exists, arises from the fact that important Government bills are usually introduced in the House of Commons with the result that they often cannot be considered by the Lords until the summer. Additionally, the number of speakers on major Bills and general debates has increased greatly over the last four years. Since there is no fixed hour of adjournment these are not serious problems but in a house of part-time legislators there is always pressure on those arranging the business of the House for important matters to be dealt with at convenient times.

The almost complete absence of Standing Orders dealing with the arrangement of business of the House is illustrative of the fact that time problems are not real. However, before recesses the Government usually move that Standing Order No. 35 (Arrangement of the Order Paper) and Standing Order No. 41 (No two stages of a bill to be taken on one day) be suspended until the House rises for the recess. This makes it easier for Government business to be disposed of quickly. Moreover, Standing Order No. 41 is occasionally dispensed with for the purpose of allowing a particular bill to pass quickly. This latter step has been opposed only once in recent years, in respect of the Commonwealth Immigrants Act 1968.

In the last session, however, the House set up as an experiment a Committee on the Gaming Bill, an innovation which originated from the Procedure Committee. In their second Report (1966–7) the Committee did not support the setting up of Standing Committees, but were not opposed to sending a suitable Bill to a Select Committee if the situation seemed to require it.

On 22nd May, 1968, the Leader of the House, Lord Shackleton, moved:

> That this House takes note of the increasing pressure on the time available for legislation and other business taken on the Floor of the House and would welcome consideration of steps which might be taken to alleviate it.

In the ensuing debate the Government Chief Whip proposed as an experiment an " Upstairs " Committee on Public Bills during that session. The proposal received qualified approval from the Opposition benches.

On 26th June, 1968, a Motion to commit the Gaming Bill was carried in these terms:

> That a Committee of fourteen Lords with the Chairman of Committees be appointed to consider the Bill and that the Bill be committed to such a Committee:
>
> That the procedure of the Committee be, so far as possible, that of a Committee of the Whole House:
>
> That the Committee shall first meet at 3 o'clock on Monday, 1st July, and thereafter have power to adjourn from time to time:
>
> That the report of the Committee's debates be published from day to day as appendices to Hansard and the Minutes of Proceedings respectively.

The procedure of the Committee was similar to that of a Standing Committee. Afterwards the Bill was recommitted to a Committee of the Whole House. It was calculated that the experiment saved approximately three sitting days.

An account of other procedural devices used to accelerate Government business appeared in Volume XXXVI of THE TABLE at page 166. The Procedure Committee has also considered ways of limiting the length of speeches but has not recommended them to the House.

There is no formal allocation of time to certain groups of Members or for certain types of business. It has become the custom, however, for Wednesdays to be devoted to Private Members' Motions and to be informally allocated between the main parties. The House usually sits from the first week in November until the week before Christmas. After a Christmas Recess of a month, there are the Easter recess and the Whitsun recess which last about ten days each. The House rises for the summer recess at the end of July. This arrangement, while not compulsory, is traditional and is, in general, only disturbed by wars and general elections.

Westminster: House of Commons

The shortage of parliamentary time at Westminster is not a recent problem. It mainly stems from the Government's attempts since the 1930s to control the economy and industry, and since the 1940s to provide a welfare State. This has resulted in an increasing volume of Government legislation.

This pressure has resulted in several procedural innovations the most important of which are listed as follows:

(i) Second Reading Committees (and the Scottish Grand Committee) may discuss non-controversial Bills (or Bills relating exclusively to Scotland) and make a report to the House whether or not they recommend that the Bill be read a second time: Thereafter the Second reading may be taken formally on the floor of the House. (S.O. No. 60A.)

(ii) Report Committees may also discuss Bills on Report stage. Provision also exists for the Third reading stage of some Bills to be taken formally unless a Motion supported by six Members is tabled that the Third reading be not taken forthwith. (S.O. Nos. 62A and 55(2).)

(iii) The minimum number of Members which can be nominated to serve on a Standing Committee has been reduced by two stages from 30 to 16. (S.O. No. 60.)

(iv) Time has been restricted after 10 p.m. for debating Motions relating to Statutory Instruments. Debate on affirmative resolutions is restricted to 1½ hours at any time after 10 p.m. Debate on Motions for negative resolutions is limited to the hours 10 p.m. to 11.30 p.m. The provisions of this Standing Order may be suspended for discussion, after 10 p.m., of important Statutory Instruments. (S.O. No. 100.)

(v) Morning sittings were tried for a short period, but were dis-

continued. Suspended sittings have since been introduced to allow proceedings in the House to be suspended *after* 10 p.m. and resumed *at* 10 a.m. the following morning. (S.O. No. 1A.)

Although morning sittings had been tried on an experimental basis, they had been used on only two mornings per week: and had been used for less important business. If they were used to play a regular part in the full business of the House, they might save a substantial amount of time. Among the objections to this proposal were that few Ministers could attend in the morning because of their work, and Members had outside interests to attend to in the mornings; and that Standing Committee proceedings, which generally took place in the morning, would be disrupted.

There is provision for specific groups of Members in several ways:

(i) There are twenty-nine days per session on which the business of supply shall be appointed as an order of the day. The subject of debate for business under the heading of Supply is chosen by the Opposition. (S.O. Nos. 17 and 18.)

(ii) Private Members are allotted several days each session, by Standing Order, for the discussion of Private Members' Bills and Private Members' Motions. In the present session the Standing Order has been modified by a Sessional Order so that there are *sixteen Fridays* on which Private Members Bills have precedence; and there are four Fridays and four half days before 7 o'clock on which Private Members' Motions have precedence. (S.O. No. 5.) (Votes and Proceedings 1968–9, p. 10.)

(iii) Time is usually found each session to debate Scottish and Welsh affairs and to discuss a few reports from Select Committees. These days are decided upon through the usual channels for fixing the parliamentary timetable. Groups of Members press the Leader of the House to include these and other subjects in the parliamentary timetable.

Last session, the House sat on 176 days. Over the last five sessions the average is 164 days. The average length of sitting daily was 9 hours 2 minutes in the session 1967–8.

The House adjourns at or before 10.30 p.m. on Mondays to Thursdays, and at or before 4.30 p.m. on Fridays according to the Standing Orders. The Government may put down Motions each day to exempt proceedings on specified business from the Standing Orders so that the House may sit indefinitely, or for a specified period, as required by the motion. (S.O. Nos. 2 and 4.)

The arrangement of session dates is very much bound by traditional practice. In addition, religious festivals such as Christmas, Easter and Whitsun are invariably occasions for recesses. In recent years consideration, too, has been given to Members with school-age children who wish that their holidays should coincide in the summer with school holidays.

Jersey

Generally speaking, there is no great problem of parliamentary time, particularly since the sessions of the States of Jersey were revised and extended in 1966. The only minor problem is that often items of little consequence have to be debated. Procedural innovations have been mainly in the delegation of authority to committees by statute or by Standing Orders, and the introduction recently of a more refined Order Paper which, *inter alia*, ensures that Members receive more information before a subject is debated.

There is no specific allocation of parliamentary time to certain groups of Members as there are no formal Government and Opposition sides (all Members are Independents and each function of government is administered by a Committee of Members).

Specific days are allocated, however, for the consideration of the Budget and other financial matters. These dates are fixed in accordance with the provisions of Article 18 of the Public Finances (Administration) (Jersey) Law, 1967.

The States of Jersey meet on average 33 days in a year for approximately 2 hours. There is no fixed hour of adjournment.

The arrangement of session dates is fixed by Standing Orders but can easily be altered. The Budget meetings have to be held in November because of the Island's financial system. Meetings will not be held on, or very close to, public holidays such as Christmas and Easter.

Isle of Man

Parliamentary time is a growing problem in Tynwald. Committees have been set up to help ease the pressure on time. Tynwald sits on about 34 days in the year for 5 hours. It normally adjourns at 5 p.m. but this hour can be altered by suspending the Standing Order. Because of the tourist season the adjournment during the summer is imperative.

Canada: House of Commons

In Canada over the last twenty years at least, the increase in Government activity has required longer sessions as there are more matters on which legislation is required. At the present time the Standing Orders are geared to sessions commencing in late September or early October until the end of June, with Christmas and Easter adjournments of approximately three weeks and ten days, respectively. The session would normally be adjourned at the end of June and when the House meets in late September or early October, it would then prorogue and a new session would open the same or the next day. This affords the Members their privileges of transportation, franking, etc., otherwise terminated on prorogation.

Notwithstanding the long sessions, there is still a problem of legislating in a more expeditious fashion; that is to say, the Government says

that it is not able to put through its Bills to completion stage in the time available and at the same time afford what it feels adequate opportunity for debate. In addition, prior to the adoption of the new Standing Orders, supply procedures allowed at least thirty-eight sitting days for debate with additional sitting days for Interim Supply in certain circumstances. There was no limit for final supplementary estimates and there were also four supply orders of two days' duration (non-confidence Motions). Finally, it may be said that any Government in Canada has been loath to impose a closure or allocation of time (guillotine).

New Standing Orders which came into force in January, 1969, achieved the following:

1. A completely new supply procedure whereby the Committee of Supply was abolished. Estimates are now sent to Standing Committees and must be reported back by 31st May, with Main Supply to be voted 30th June. The normal debate in the House which formerly took place on supply days is now restricted to twenty-five days in a session when Opposition Members are free to select for debate any matter coming within the jurisdiction of Parliament. including the business of Supply currently before the House, on Motions of which notice would be required. Six of these Motions moved by the Opposition during a session may be Motions of non-confidence.

2. The abolition of the Committee of Ways and Means. The Budget Debate would take place on a resolution couched in very general terms and permitting the continuation of a wide-ranging debate. The stage of Supply whereby the Committee of Ways and Means authorised the issue from the Consolidated Revenue Fund of the sums voted by the Committee of Supply to make good the grants requested by the Government was also eliminated as it had become completely formal.

3. The Legislative process in relation to public Bills was first of all changed by eliminating the resolution stage of money Bills. The second reading stage is coupled with its reference to, in most cases, a Standing Committee. A report stage with the Speaker in the Chair when the Bill is reported back from Committee has been added but debate takes place only when amendments are proposed of which notice has been given and debate is restricted to the particular amendments. Following the adoption of the report, there is third reading.

Bills based on Supply and Ways and Means resolutions would be considered in a Committee of the Whole House.

4. The emergency debate procedure has been changed. The test of " a definite matter of urgent public importance " has been replaced by one of " a specific and important matter requiring urgent consideration ". Notice is mandatory and such a debate will not necessarily supersede immediately the regular business of the House but may be held over until later in the day or the next sitting. Moreover, when proposing the Motion in the House, the Member is restricted to the statement he gives to the Speaker with his notice and he may not

introduce argument. Mr. Speaker decides without debate whether or not the matter is a proper one to be discussed and if so, leave of the House is obtained but in the event it is refused, twenty members constitute the necessary assent.

5. The Standing Orders now provide that no appeal lies to the House from Speaker's rulings.

6. Hours of sittings of the House have been changed. The House now sits from 2 to 6 p.m. and 8 to 10 p.m. Mondays, Tuesdays and Thursdays. Former hours were 2.30 to 7 and 8 to 10. On Wednesdays 2 to 6 and on Fridays 11 a.m. to 1 p.m. and 2 to 5 p.m. Former hours for Wednesdays were 2.30 to 6 and for Fridays, 11 to 1 and 2 to 6.

7. Private Members' business is from 5 to 6 p.m. on Monday, Tuesday and Thursday, and 4 to 5 p.m. on Friday with no private Members' hour on Wednesday. Furthermore, after the Order for Private Members' Business on Mondays and Tuesdays has been reached for a total of forty times in a session, the provisions of the Standing Order regarding same shall lapse.

When the Special Committee on Procedure reported to the House, 6th December, 1968, it included in the proposed new Standing Orders, procedures for the allocation of time. However, the Government withdrew this after it met with considerable opposition in the House. The Committee is at the present time once again seized with this matter and is to report back to the House with another version.

The Standing Orders listed above allocate time to private Members and to certain types of business. In addition there is an " adjournment proceedings " after the normal time of adjournment on Monday, Tuesday and Thursday of thirty minutes' duration when Members may air grievances, usually of a local or constituency matter.

The House meets on 185 sitting days for about $5\frac{1}{2}$ hours.

The time for adjournment may be altered by a Motion to continue the sitting beyond the ordinary hour of adjournment, for the purpose of considering a specified item of business or a stage, or stages, thereof. However, the Motion must relate to the business then being considered and it must be proposed in the hour preceding the ordinary time of daily adjournment. The Government determines when the session is to commence, and Motions to adjourn for a period require notice and are subject to debate. However, in the face of Standing Orders establishing periods of supply within a session, it is expected that the sessions will commence and terminate as described above.

British Columbia

There is no problem of parliamentary time. The assembly meets on 50 days in the year for an average of 5 hours.

There is a fixed hour of adjournment (6 p.m.) for afternoon sittings; no fixed hour for evening sittings. The Motion at the beginning of the session reads, in part, as follows: " . . . there will be two distinct

sittings on each day—one from 2 p.m. to 6 p.m. and one from 8 p.m. until adjournment—unless otherwise ordered."

The arrangement of session dates is flexible, but the House usually recesses by the end of the fiscal year, 31st March and by the Easter week-end.

Saskatchewan

The practice of the Saskatchewan Legislative Assembly is somewhat irrelevant to a discussion of the " problem " of parliamentary time, since the Assembly meets on an average of 40 to 50 days in a year for something less than 6 hours a day. The hour of adjournment is fixed by Standing Order, but can be altered on Motion without notice. However, since such a Motion is debatable, it is not a particularly useful device for extending the hours of a sitting unless there is a general desire so to do. Members from time to time complain that time is wasted, that sessions are unduly prolonged or that the schedule of business should be weighted more heavily in favour of the Government. Nevertheless, because the Legislature is in session for only two or three months in a year, it is difficult to make a convincing case that there is insufficient time available to complete the legislative programme.

However, because of the short session, during which Members and staff are extremely busy attending committees in the forenoon and the House in the afternoon and evening, the intersessional committee has become a part of the Saskatchewan practice. During the past ten years permission to sit between sessions has been granted to committees inquiring into such matters as the selection of a Provincial Flag, Expropriation, Highway Traffic Safety, Election Procedures and Expenditures, Procedures of the Public Accounts Committee, Procedures of the Assembly, Regulations (Statutory Instruments), and Liquor Outlets. These committees are sometimes appointed directly by the Legislature, and on other occasions by Order-in-Council upon recommendation of the Legislature. Some have been directed to report back to the Legislature at the subsequent session; others have been required to report to the Government which in turn was to table the report at the next session.

By and large, the intersessional committees have worked well. They have conducted some wide-ranging inquiries, and produced some valuable reports. They have become an integral part of the parliamentary practice in Saskatchewan.

Australia: Senate

The main problem is the seemingly inevitable " end of session " rush, a problem no means new and, apparently, by no means confined to the Australian Parliament.

It is customary for the Opposition (irrespective of party) to criticise

this situation each year as it arises, and to complain of the introduction of so many legislative measures late in the session with pressure on Members to pass them before the Parliament rises. The opportunity to express this criticism arises during the debate on Motions that may be moved by the Government for (*a*) the suspension of Standing Order 68 so as to enable new business to be commenced after 10.30 p.m.; (*b*) the granting of precedence to Government business over general business for the remainder of the sittings on those evenings when general business is set down for consideration, and perhaps (*c*) the extension of the hours or days of sitting.

The cause of this usual end of session rush is the result of many factors, but primarily:

(*a*) The desire to have proposed legislation implemented as early as practicable, *i.e.* introduced and passed before the Parliament rises, and not held over till the next sittings.

(*b*) Drafting difficulties occasioned by shortage of skilled parliamentary drafting staff—a shortage that has been a problem for a prolonged period, despite recruitment efforts.

(*c*) The time spent in debating the Budget proposals—much of the proposed legislation, being consequential upon the Budget proposals, is delayed until after the passage of the main Appropriation Bills.

(*d*) The time devoted to other issues of importance, and this of course varies with circumstance; in 1967 a great deal of time was devoted to V.I.P. planes, in 1968 to the F111 aircraft.

The main procedural innovation of recent times, to help overcome the end of session situation, has been the changed method of dealing with the Estimates.

Prior to 1961 the Senate did not consider the *details* of proposed expenditure until after the Appropriation Bills had been passed by the House of Representatives and read a second time in the Senate itself. In 1961 the Leader of the Government in the Senate introduced a new procedure (which was questioned by the Opposition) whereby the details of expenditure could be considered by the Senate simultaneously with their consideration in the House of Representatives. This was done by the Senate resolving itself into Committee for the purpose of considering the Estimates and then examining the votes on a Motion that the Committee " take note " of the proposed expenditure. (*vide Australian Senate Practice*, 3rd edition, page 310: " The idea was to give the Senate more time for detailed examination of the Estimates, rather than wait for the scrutiny to take place on the Appropriation Bill and the inevitable time limitations brought about by the end of the session rush.") The Appropriation Bills are now normally passed with very little debate, in contrast to earlier years when they were frequently declared " urgent " Bills with time limits imposed on the debate to ensure their passage by a certain time.

In recent years, with the Senate so closely divided numerically,* attention has been directed to the time available for general business. The Senate normally meets on Tuesday, Wednesday and Thursday of each sitting week, and, until 1968, it was customary for general business to be accorded precedence of Government business after 8 p.m. on Thursdays. At the beginning of 1968, however, when the Leader of the Government in the Senate proposed the customary Sessional Order to this effect, the Leader of the Opposition moved an amendment to substitute " Tuesday " for " Thursday ". The amendment was agreed to. Its effect was to ensure that if the Senate adjourned early on a Thursday, general business did not suffer.

Later in 1968 the Leader of the Opposition and the Leader of the Democratic Labour Party gave contingent notices of Motion aimed at enabling them to move—at the Placing of Business—Motions relating to the order of general business, and Motions relating to the order of business on the Notice Paper. The relevant Motions involved the suspension of Standing Orders, but, because of the notice given, an ordinary majority (as distinct from an absolute majority required when notice had not been given) was all that was necessary for their passage. These contingent notices appear to provide the combined Opposition with a relatively easy method of bringing on issues they want debated. They have been used to change the order of general business. They have yet to be utilized, however, to bring on an item of Government business which the Government itself does not want brought on.

Until 1967 it was customary for Question Time to occupy about forty-five minutes and to be terminated by the Leader of the Government asking that further Questions be placed on the Notice Paper. On 26th September, 1967, however, the combined Opposition resisted the proposed curtailment of Question Time and forced its continuance, dissenting from a Ruling of the President in doing so. Since that time, the Government has never sought to curtail questions. Question Time may now take between one and two hours.

The combined effect of a lengthy Question Time in the afternoon, followed after 8 p.m. by general business means that on a Tuesday there may now be less than one hour available for the consideration of Government business and if an urgency Motion should be moved by any Senator (and an urgency Motion, if otherwise in order, requires the support of four Senators only) there could be no opportunity at all, on a Tuesday, for the consideration of Government business.

In regard to this latter situation, *i.e.* that which could arise with the moving of an urgency Motion, it should be noted that when the Leader of the Opposition moved the amendment early in 1968 to substitute " Tuesday " for " Thursday " as the evening for general business, he also moved that the general business not only then have precedence

* As from 1.7.68–28 Government Senators, 27 Australian Labour Party Senators, 4 Democratic Labour Party Senators and 1 Independent.

over Government business but also of any " urgency Motion ". No urgency Motion has in fact been moved on a Tuesday since that date.

The Senate, over the twenty-year period 1949–68 inclusive, has averaged 52·0 sitting days, but in 1967 the Senate met on 65 days and in 1968, 68 days. The House usually sits for about eight hours a day.

Since 1950 a sessional order has operated whereby the adjournment of the Senate is put at 10.30 p.m. on Tuesdays and Thursdays, and at 11 p.m. on Wednesdays.

The sessional order reads as follows:

That, during the present Session, unless otherwise ordered, at 10.30 p.m. on days upon which proceedings of the Senate are not being broadcast, and at 11 p.m. on days when such proceedings are being broadcast, the President shall put the Question—That the Senate do now adjourn—which Question shall be open to debate; if the Senate be in Committee at that hour, the Chairman shall in like manner put the Question—That he do leave the Chair and report to the Senate; and upon such report being made the President shall forthwith put the Question—That the Senate do now adjourn—which Question shall be open to debate; provided that if the Senate or the Committee be in Division at the time named, the President or the Chairman shall not put the Question referred to until the result of such Division has been declared; and if the Business under discussion shall not have been disposed of at such adjournment it shall appear on the Notice Paper for the next sitting day.

The hour of adjournment can be altered. When the question is put, it is for the Senate itself to decide whether or not it will adjourn at that time. Frequently the question is negatived.

Towards the end of a period of sittings, the Senate may also vary the times by further order, *e.g.* on 17th October, 1967, the following motion was agreed to:

(1) That, unless otherwise ordered, the days and times of meeting of the Senate for the three weeks commencing 17th October, 1967, be as follows:

Tuesdays	3 p.m. until 6 p.m. 8 p.m. until 11.30 p.m.
Wednesdays	2.15 p.m. until 6 p.m. 8 p.m. until 11.30 p.m.
Thursdays	10 a.m. until 1 p.m. 2 p.m. until 6 p.m. 8 p.m. until 11.30 p.m.
Fridays	10 a.m. until 1 p.m. 2 p.m. until 6 p.m. 8 p.m. until 11.30 p.m.

(2) That, unless otherwise ordered, the Sessional Order relating to the adjournment of the Senate have effect at 11.30 p.m. on each such day.

The session dates are flexible, but it is practice to have two periods of sittings each year, *viz.* (1) February–March to May–June, and (2) August to November–December.

The House never meets over Christmas and has seldom met in January or July. The " Budget session " normally starts about mid-August.

New South Wales: Legislative Council

Parliamentary time is not a problem in the Legislative Council.

The practice of suspending so much of the Standing Orders as would preclude the passing of a Bill through all its remaining stages during the present or any one sitting of the House, either on Contingent Notice or " as a matter of necessity and without previous Notice " has been resorted to on many occasions. This has saved an additional sitting day or days; but of recent times has been adopted only to enable the House to continue sitting when there has been no other business on the Notice Paper, thus saving a very short sitting; or, towards the end of a session or planned recess, to enable the Government to complete its programme within the time allotted.

Another means of speeding up the procedure quite frequently adopted is the moving of the third reading of a Bill " with concurrence ".

The suspension of so much of the Standing Orders as would preclude the introduction of a Private Bill, first reading, and reference to a Select Committee during the present or any one sitting of the House " as a matter of necessity and without previous Notice ", has also been used in order that the Bill might be passed during the session, particularly if the introduction occurs well into a session. This is done in an effort to save the promoters the additional expense involved in the event of interruption by prorogation.

During the session 1967–8 the Standing Orders Committee considered correspondence submitted by four Members suggesting a time limit for speeches of Members with the exception of Ministers and the Leader of the Opposition. The Committee were not in agreement with the suggestion, but the Session concluded before the Committee submitted a report. This question has again been raised by one of the Members who made the earlier suggestion, but so far no meeting of the Standing Orders Committee has been called to consider the matter.

A Sessional Order on Notice in the following terms is usually agreed to within a few days of the commencement of each session:

> That Government Business shall take precedence of General Business on Monday, Tuesday, Wednesday and Friday, and that General Business shall take precedence on Thursday in each week. (*Journal*, session 1968–9, Vol. 156, pp. 22, 27.)

The Legislative Council sits for nearly four hours a day on about forty-seven days a year. Though the Sessional Order states the House will meet each week-day, it is usual to sit only on Tuesday, Wednesday and Thursday. On the Thursday a special adjournment over a usual sitting day to the following Tuesday is agreed to. The usual hour of adjournment is accepted as 10.30 p.m. on Tuesday and Wednesday and 6.30 p.m. on Thursday. This is varied to suit the exigencies of business, the House often adjourning at an earlier hour, and on occasions at a later hour, particularly towards the end of a session. On

occasions the Leader of the Government, on the adjournment, informs the House of forthcoming legislation and indicates that it might be necessary to sit beyond the normal adjournment time.

The arrangement of session dates is flexible.

Queensland

Parliamentary time has been no problem, and so no procedural devices have been required to ease pressure on it. The House sits for about 68 days in the year, for nearly 7 hours a day, but both the time of adjournment and the arrangement of session dates are completely flexible.

South Australia: Legislative Council

There are no problems with regard to time in this Assembly. The only allocation of time is that private Members' business has precedence on Wednesdays. The House meets for about 3½ hours a day on 62 days in the year.

South Australia: House of Assembly

Time is not a problem. Two hours each day may be used for asking questions, there are no time limits on speeches, the guillotine has never been used, the closure is very rarely employed and during one afternoon per week for most of the session, private Members' business is given precedence over Government business. In 1968 the Standing Orders Committee considered the question of time limits on speeches but decided, on division, to take no action in the matter. Standing Order No. 92 provides that " unless otherwise ordered, Government business shall on Tuesdays and Thursdays, and after the six o'clock adjournment on Wednesdays, take precedence over other business, except questions ". This means that Wednesday afternoon, after question time, may be devoted exclusively to private Members' business. Towards the end of a session, by resolution of the House, this precedence accorded private business is dispensed with.

Over the last four years the House has sat on average for 70 days. The House usually sits on the afternoon and evening on Tuesday and Wednesday and in the afternoon only on a Thursday. Over the last two years the House has sat on average 6 hours 20 minutes per day (excluding dinner adjournment time). There is no fixed hour of adjournment.

The arrangement of session dates is flexible. The Constitution Act provides that there shall be a session once at least in every year, so that a period of 12 months shall not intervene between the last of the Parliament in one session and the first sitting of the Parliament in the next session. For financial reasons, of course, it is necessary for the House to sit before the 30th June in any one year to pass a Supply Bill to authorise Government expenditure during the early part of the

succeeding financial year before the main estimates are agreed to and the Appropriation Bill passed.

Tasmania: House of Assembly

There is no problem of parliamentary time and the House meets on only 60 days a year for about 5½ hours. Private Members are allocated 1½ hours time on Wednesdays and Thursdays.

Victoria

There is no problem of parliamentary time and so there have been no procedural innovations to ease pressure. Nor is there any specific allocation of time to groups or type of business. The Legislative Council meets on only 40 days a year and the Legislative Assembly on 48 while each House meets for 5 or 6 hours daily. Hours of adjournment are not fixed and session dates are flexible.

Western Australia: Legislative Council

There is no problem of parliamentary time in this House, although at the end of a session there are invariably long sittings in order to complete the business on hand.

No permanent procedural innovations have been adopted. To save time in Committee of the whole House, an Instruction to the Committee was, on one occasion, given by the House. This procedure is fully covered in Volume XXVII, pages 67–9. Time limits on speeches have been discussed informally, but have not been adopted.

The House sits for 50 to 55 days a year for about 5 hours. There is no fixed hour of adjournment but the Standing Orders provide that no business shall be proceeded with after 11 p.m. other than the business then under consideration. This Standing Order is usually suspended in the closing stages of the session. Session dates are completely flexible.

Western Australia: Legislative Assembly

There is no particular problem of parliamentary time other than the normal increase of business. During 1968 the Standing Orders were amended in four important respects to help ease the growing pressure. The Committees of Ways and Means and Supply have been eliminated and the Budget is now introduced in Bill form. Provision was made for " Grievance Debates " since these cannot be raised on the adjournment. Prior to the adoption of the Address-in-Reply, Bills can be taken up to introduction at the Second Reading stage. And further restrictions have been placed on the time limits for speeches.

A Sessional Order provides, after the adoption of the Address-in-Reply, that Wednesday sittings are reserved for private Members' Motions or Bills until it is suspended by Government Motion towards the end of the session when Government business takes precedence on Wednesdays, as on all other sitting days.

The Assembly usually sits for 5 hours on about 52 days in the year There is no fixed hour of adjournment and session dates are flexible.

Commencing in 1969 (with the exception of election year) it is proposed to initiate a continuation of the main session for a shorter period between February and April (approximately).

Northern Territory

The only problems of parliamentary time in the Legislative Council arise from the fact that all Members are only part-time legislators.

An amendment to standing orders in recent years to limit adjournment speeches to 15 minutes each is the only evidence of the Council recognising the need for conserving time.

The Council meets on only 24 days for about 6 hours a day. The hour of adjournment is flexible.

A sessional order requires the Council to meet during the months of February, May, August and November in each year, but as the order is prefixed by the words " Unless otherwise ordered " it is in fact only an expression of intention. Nevertheless, it is generally adhered to.

Papua and New Guinea

There is no time problem in the House of Assembly which sits on about 45 days in the year, Monday to Friday (S.O. 36). It sits for 4 to 5 hours a day. The motion for the adjournment of the House is usually moved by the Senior Official Member after consultation with the Speaker to enable at least an hour for adjournment debates each day, even though all matters on the Notice Paper have not been dealt with.

New Zealand

There is no real problem of parliamentary time in the New Zealand House of Representatives in the same way as this problem is understood in respect of the House of Commons with its 630 members. The New Zealand House of Representatives comprises 80 members (84 as from the end of 1969).

Time limits of speech are fixed and are considered reasonable. There is an arrangement by which extensions of time can be given in special circumstances. Within the last twenty years the dilatory effect of the Motion, " That the debate be now adjourned ", has been removed and that Motion, if now moved, must be put without debate. Much earlier, the dilatory effect of the Motion, " That the House do now adjourn ", which previously had alternated with the former Motion, had been destroyed as the Motion, " That the House do now adjourn ", can now (excepting only in two special cases where the Motion is used to raise a special debate) only be moved by a Minister.

Over the last ten years or so, the number of Bills introduced and then read a second time *pro forma* and referred to Select Committees has substantially increased. The taking of evidence from interested

parties and the general consideration of such Bills by Select Committees has had the effect of facilitating their passage on their return to the House and led to a saving of time.

In 1962 following the recommendation of its Standing Orders Committee the House made some significant reductions in Members' time limits of speech, *e.g.* speeches in the Address-in-Reply debate were reduced from 30 to 20 minutes, for the Budget debate from 60 to 30 minutes and for second reading speeches from 30 to 20 minutes (for other than the mover).

In 1967 an attempt was made to reduce the time " wasted " on the discussion in the House of reports of Select Committees on petitions. Where a favourable recommendation was made the report was to be adopted without discussion other than a brief return of thanks by the Member who presented the petition. In the case where no favourable recommendation was made the discussion was limited to one hour; previously the debate could be carried to the 5.30 p.m. tea adjournment and talked out.

In the same year a time limit of one hour was introduced for the discussion on Wednesdays of a private Member's Motion and the time limit of speech for each Member was reduced from 15 to 10 minutes.

The suggestion has been made that better debates might be provided if some means of allocating a fixed period for a particular debate were introduced, but no action has yet been taken. For many years the Standing Orders have provided that on Wednesdays throughout the session private Members' Motions and Bills take precedence over Government Bills and Motions until the Government takes that day for its own business. This is not normally done until after the conclusion of the Address in Reply, the Financial Debate, and until after substantial progress has been made on the discussion of the various classes of Estimates.

The House sits on Tuesdays, Wednesdays, and Thursdays from 2.30 to 5.30 p.m. and from 7.30 p.m. to 10.30 p.m. and on Fridays from 10 a.m. to 4 p.m. with a luncheon adjournment from 1 to 2 p.m. The New Zealand parliamentary session is spread over about five months of the year, and the House normally sits between 70 and 90 days a year. The House sits 6 hours a day except on Friday when it sits for 5 hours.

The House has a fixed adjournment hour as indicated above, but this hour can be altered at any time by Government. Urgency may be accorded at any time by a Minister moving, without debate (other than a brief explanation of the reason for moving the Motion), that urgency be accorded. When carried, the proceedings for which urgency has been sought may be carried to a conclusion no matter how much beyond the normal adjournment hour the House may sit. Towards the end of each session, it is also usual for the Government to move a Motion authorising the House to sit for the remainder of the session until midnight.

The arrangement of sessional dates is reasonably flexible, but there is one compelling reason why the New Zealand Parliament must be called together before the end of June. The Public Revenues Act 1953 provides that the Government may, without summoning Parliament, spend up to one-fourth of the sum appropriated by Parliament in the previous year, provided that the money is spent on the items previously approved by Parliament, and that such expenditure is covered by the Appropriation Act in the succeeding session. With the financial year ending on 31st March, this permanent statutory provision enables the Government to carry on for the months of April, May and June without having to call Parliament together to vote further supply, but Parliament must meet before the end of June to enable it to take supply to cover the month of July. Hence Parliament must meet no later than the last week in June.

Ceylon: Senate

The Senate has no problem of parliamentary time. It meets on about 45 days a year for 3 hours. There is a fixed hour of adjournment but this can be altered. The arrangement of session dates is flexible.

India: Rajya Sabha

There is no problem of parliamentary time in the Rajya Sabha. It meets on about 100 days, sitting for 6 hours, with an adjournment hour at 5 p.m. This hour may be altered.

There are certain types of business for which allocation of time is made in accordance with the Rules of Procedure and Conduct of Business in the Rajya Sabha, *e.g.*:

1. Discussion on President's Address.
2. Budget.
3. Money Bills.
4. Motions on matters of public importance.
5. Discussions on matters of urgent public importance for short duration.

Apart from the above business for which the Chairman fixes time for discussion in the House, there is a Business Advisory Committee of the Rajya Sabha which recommends the allocation of time for Government legislative and other business which comes before the House. There is also one day (Friday) set apart every week during a session for private Members' business.

There are no specific rules or set procedures for allocation of time to political groups in the House, though this is settled by mutual consultation among the whips so that the available time is fairly distributed between them.

India: Lok Sabha

There is a problem of parliamentary time of which the causes are:

(1) Multiple party system in the House and each group desiring to speak in all debates.
(2) Keenness of Members to discuss matters of current topical interest from day to day thereby limiting the time for Government business. The procedures used for raising these matters (evolved during the last twenty years) are:
    (i) Calling Attention to Matters of Urgent Public Importance.
    (ii) Half-an-hour Discussions on three days during the week.
    (iii) Short Duration Discussions on two days in a week.
    (iv) No-day-yet-named Motions.
(3) Growing volume of legislation necessitated by the vastness of the country, a large population and an increase in the sphere of Governmental activity.
(4) Political situation in the country necessitating the taking over of the administration of certain States by the President and the consequential transaction of business of the State Legislatures by Parliament.

In order to plan the business of the House within the time available for discussion, a Business Advisory Committee was constituted in July 1952 to advise the House on the allocation of time to Government legislative and other business for discussion in the House. Rules 287 to 292 of the Rules of Procedure and Conduct of Business in Lok Sabha deal with this Committee.

The Committee consists of fifteen members. The Speaker is the ex-officio Chairman of the Committee. The Minister of Parliamentary Affairs who acts as the spokesman of the Government is invariably nominated to the Committee. The other thirteen members are nominated by the Speaker in consultation with the Chief Whip of the Government and Leaders of the Opposition Groups. In selecting members, the Speaker tries to give, as far as possible, representation on the Committee to all sections of the House. Certain prominent Members from the Unattached Group are specially invited to the sittings of the Committee in rotation. When time is to be allotted to private Members' business which is to be taken during Government time, the Members concerned are also invited to attend the sitting of the Committee. Suggestions from other Members in regard to items included in the Agenda of the Committee are invited by placing a notice on the Notice Boards and any suggestions received are placed before the Committee.

Since the Committee represents all sections of the House, the decisions reached by the Committee are always unanimous in character and indicative of the collective views of the House. The Report of the Committee is presented to the House and circulated to all Members the same night. The Report is adopted on a Motion moved by the Minister of Parliamentary Affairs and thereafter the allocation of time recommended by the Committee becomes the order of the House.

The functions of the Committee are to recommend allocation of

time to all Government business whether financial, legislative or other to be taken during Government time. In suitable cases the Committee has the power to indicate in the proposed time-table the different hours at which various stages of a Bill or other Government business should be completed. The Committee also take into consideration the total business which is likely to come up before the House, the progress made and the business pending before the session.

In order to find time recommended by the Committee to various items of business, it may suggest longer hours of sittings on certain days or extensions of sessions or sittings of the House on days on which it would not normally sit. The Committee may also recommend reduction in allocation of time to a Bill, etc., already approved by the House or suggest that certain business may not be taken up in that sitting.

For the selection of Motions tabled by private Members for discussion in the House the Business Advisory Committee has a standing Sub-committee which selects and recommends to the Government as to which of the Motions might be put down for discussion in the House. The Sub-committee do not present any report but their recommendations are forwarded to the Government for action.

The Business Advisory Committee now meets on every Thursday to decide allocation of time for business to be taken during the next week. Apart from Government business, any other business is put down on the agenda only with the approval of the Committee.

Time allotted to various items of business, where it exceeds 2 hours, is divided between the Ruling Party and the Opposition in the ratio of 50 : 50. Names of Members to be called to speak are suggested by the Government Chief Whip in the case of Ruling Party and Leaders of Groups in the case of Opposition Groups. As far as possible, opportunity is given by the Chair to Members proposed by the Party/Group Leaders. Where names of more than one Member are submitted to the Speaker, the Chair determines who is to be called and in what order. The Chair may also exercise his discretion at times, and give a chance to a Member whose name has not been proposed by the Party/Group Leader.

Lok Sabha, on an average, meets on 120 days in a year for about 6½ hours per day.

It normally adjourns for the day at 6 p.m. The hours of adjournment may be altered by the Speaker with the consent of the House when pressure of business so demands.

Normally three sessions of Lok Sabha are held in a year. Dates may be changed in the event of some emergency or other compelling reason.

Andhra Pradesh

There is no problem of parliamentary time but a Business Advisory Committee fixes a programme for the business before the House and

the Speaker allocates time between the different parties. The House usually sits for about 90 days in the year for 5 hours. Hours of adjournment can be altered and session dates are flexible apart from those of the Budget session.

Bihar

There is no problem of parliamentary time in the Bihar Legislative Council. The House is summoned according to the needs of business and sits on an average for 4 hours a day on 59 days in the year. The hour of adjournment can be altered if business requires. Apart from an hour for questions each day and unofficial business on Friday there is no special allocation of time.

Gujarat

The Legislature came into existence on the formation of Gujarat State on 1st May, 1960. At first, since there were only 21 Members in Opposition in a House of 132 Members, problems of parliamentary time were not great. However, after the General Election of 1962 the strength of the Opposition increased to 37 in a House of 154 Members, giving rise to problems of time. And after the General Election of 1967 the gravity of the problem started increasing when the strength of the Opposition increased to 74 Members in a House of 168 Members. At present the strength of the Opposition is 67 Members in the House of 168 Members. Difficulty also arises in the allocation of time on account of a large number of Members on both sides desiring to speak on almost all subjects, every day.

As a result of pressure on parliamentary time, the number of days formerly allotted for certain types of business has been increased as follows:

Under rule 63 of the Gujarat Legislative Assembly Rules the Speaker, in consultation with the Leader of the House, has to allot time for the discussion on the Governor's address. Formerly two days were allotted for the purpose, but now three days are allotted and during the fifth session four days were allotted.

Under rule 221 the Speaker, in consultation with the Leader of the House, has to allot days not exceeding four for general discussion of the Budget. Formerly three days were allotted for the purpose; but now four days are allotted for the same.

Formerly rules provided for the allotment of days not exceeding twelve for the discussion and " Voting of Demands for Grants " and in practice about ten days were allotted for the purpose. Now rule 226 provides for the allotment by the Speaker, in consultation with the Leader of the House, of days not exceeding fourteen and in practice twelve to thirteen days are allotted. An amendment tabled by a Member of the Opposition for providing for allotment of days not exceeding twenty-one days (instead of fourteen days) for the purpose of discussion and Voting of Demands for Grants is under consideration

by the Rules Committee. Rule 234 provides for allotment by the Speaker, in consultation with the Leader of the House, of one or more days for the discussion and voting of Supplementary demands. Formerly, one day was allotted for the purpose; but now two days are allotted. Formerly about two hours were allotted for the discussion on the working of each of certain statutory bodies. Now, the whole day excluding question hour (*i.e.* three and a half hours) is allotted for discussion on the working of each of certain statutory bodies.

There is no allocation of parliamentary time to particular groups of Members either under the Rules or by the Speaker. But in the case of certain items of business such as discussion on Governor's Address, General Discussion of Budget, Voting of Demands for Grants, discussion on the working of statutory Bodies, etc., the Whips of the ruling party and of the Opposition parties and groups mutually arrange in such a way that the parties and groups ordinarily get time in proportion to their strength in the House.

In so far as the allocation of time for certain types of business is concerned, the Speaker, in consultation with the Leader of the House, allocates specific time for certain items of business. In addition to the items of business mentioned above under rule 15, the Speaker, in consultation with the Leader of the House, allots one day for the transaction of private Members' business for every seven days on which Government business is transacted.

The House normally sits for about $4\frac{1}{2}$ hours on 52 days in the year. Under rule 4(2) the House ordinarily adjourns at 6 p.m. Under the Rules the Speaker has power to alter the hour of adjournment; but until now if the House was required to sit beyond 6 p.m. the sitting of the House was extended after the Speaker had taken the approval of the House for the purpose. But during the fifth session, *i.e.* the last session, the Speaker ruled that the Speaker has power to extend the time of the sitting without taking the sense of the House.

The arrangement of session dates is flexible but under article 205(3) of the Constitution of India, no money shall be withdrawn from the Consolidated Fund of the State except under appropriation made by Law passed in accordance with the provisions of that article and, therefore, the date of the session has to be fixed in such a way that the Appropriation Act is passed before 31st March. Secondly dates of the sessions have to be fixed in compliance with the provisions of Article 174(1) of the Constitution, which provides that six months shall not intervene between the last sitting of the House in one session and the date appointed for its first sitting in the next session.

Kerala

There is no problem of parliamentary time in the Legislature. The assembly met on 63 days during 1968, ordinarily from 8 a.m. to 1 p.m., except that on Fridays it adjourns at 12.30 p.m.

The Speaker determines the time when a sitting of the Assembly is

adjourned either *sine die* or to a day or hour or part of the same day: provided that the Speaker may, if he thinks fit, call a sitting of the Assembly before the date or time to which it has been adjourned or at any time after the Assembly has been adjourned *sine die*.

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

Madhya Pradesh: Vidhan Sabha

There is no problem of parliamentary time in this Assembly which meets for about 5 hours a day on a recent average of 45 days a year. The time allotted for the disposal of business before the House is divided proportionately amongst the various parties according to their strength in the Legislature. The hour of adjournment can be altered and the arrangement of session dates is flexible.

Madras: Legislative Council

There is a problem of parliamentary time due to Members taking more interest in the problems of administration and legislation. A Business Advisory Committee has been formed to recommend the time that should be allotted for the discussion of the stage or stages of Government Bills and the different hours at which the various stages of the Bill should be completed. It also recommends the time-table to be followed for the discussion of various matters coming up before the House and transaction of business.

A Committee on Government Assurances has been formed to report on the extent to which the assurances given by Ministers on the floor of the House have been fulfilled. This results in Members avoiding to pursue the assurances by giving notice of fresh questions for answer in the House.

A Committee on Subordinate Legislation has been formed in the Legislative Assembly with which some Members of the Legislative Council are also associated. This also helps prevent Members from giving notice of Motions to amend the rules issued by the Executive in exercise of the powers vested in them by the main Act.

The Rules of Procedure also provide for

(*a*) calling the attention of a Minister to any matter of urgent public importance whereupon the Minister makes a brief statement; and

(*b*) raising a discussion on an urgent matter of administration.

These provisions tend to curtail the scope and desire for giving notice of adjournment Motions.

The number of days for the general discussion on the Budget and on

the Governor's Address has also been gradually increased. Whenever necessary, the duration of a sitting is also extended.

Wherever information can be furnished to the Members otherwise than on the floor of the House, Members are encouraged to obtain the information from the Executive Department through correspondence.

Since the discussion on the Governor's Address and the general discussion on the Budget succeed each other within short intervals, the method of enabling each Member to speak only on one of the occasions has been considered and sometimes adopted.

The Council meets on anything between 30 and 40 days a year for 3 hours.

The House usually adjourns by 6 p.m. daily but the person presiding can adjourn the House earlier if the business for the day is over, and earlier or later if there is a consensus since no specific Motion is necessary to adjourn the House.

The Session dates are flexible. The Business Advisory Committee recommends the programme of the House and after watching the progress of business, it again meets and recommends an altered programme or the Presiding Officer himself, in consultation with the Leader of the House and the Leader of the Opposition, makes suitable alterations whenever necessary. Even when the Council has been adjourned to a particular date, the Chairman may summon the Council for an earlier or later date.

Madras: Legislative Assembly

Members are taking keen interest in administrative matters and also in the problems of their Constituencies. As a result of this, they insist on an increase in the number of days of meetings of the Assembly in a year.

After the new Constitution came into effect, provision for the constitution of the following Committees was made in the Assembly Rules.

(1) *Committee on Estimates:* The functions of the Committee are to examine such of the estimates as may seem fit to the Committee or are specifically referred to it by the Assembly and to report what economies, improvement in organisational efficiency or administrative reform, consistent with the policy underlying the estimates may be effected, to suggest alternative policies in order to bring about efficiency and economy in administration, to examine whether the money is well laid out within limits of the policy implied in the estimate and to suggest the form in which the estimates shall be presented to the Legislature.

(2) *Business Advisory Committee:* The main function of the Committee is to draw up the programme of the sittings of the House and to recommend the time that should be allocated for the discussion of the various stages of the Bill and other subjects that are referred to the Committee.

(3) *Committee on Subordinate Legislation:* The functions of the Committee are to scrutinise and report to the House whether the powers to make regulations, rules, sub-rules, by-laws, etc., conferred by the Constitution or delegated by Parliament of the State Legislature are being properly exercised within such delegation.

(4) *Committee on Government Assurances:* The functions of the Committee are to scrutinise the assurances, promises, undertakings, etc., and to report to the House on extent to which such assurances, etc., have been implemented; and when implemented, whether such implementation has taken place within the minimum time necessary for the purpose.

A new provision had been made for Members to call the attention of a Minister to any matter of urgent public importance and the Minister to make a brief statement thereon. Hitherto, under this provision only one matter was raised at a sitting of the Assembly. But from August 1966 onwards, the rule has been amended to the effect that not more than two matters shall be raised at a sitting. Also, after the statement of the Minister, the Speaker may, at his discretion, permit one or two questions by the same Member by way of elucidation.

Another provision was also introduced in the rules which enables a member to raise a discussion for not more than an hour on urgent matter of administration.

No allocation of time is made for groups of Members. But allocation of time is made for the following types of business:

(i) Discussion on Governor's Address: The Speaker, in consultation with the Leader of the House and the Business Advisory Committee allot the time necessary for the discussion.
(ii) General Discussion on the Budget: Not more than ten days shall be fixed.
(iii) Voting of demands for grants: Not more than twenty-five days shall be fixed.

The Assembly meets on about 48 days in the year usually for 4½ hours.

Under Rule 20 of the Madras Legislative Assembly Rules, the sittings of the Assembly shall ordinarily commence at 9 a.m. and conclude at 1.30 p.m. unless the Speaker otherwise directs. The hour of adjournment can be altered by the Speaker in consultation with the Leader of the House and Leader of the Opposition.

Under Article 174 of the Constitution, the Governor shall summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for the first sitting in the next session. Excepting this compelling reason, the arrangement of session dates is flexible. Under Rule 17 of the Madras Legislative Assembly Rules, the Speaker may summon the Assembly for an earlier or later date when the Assembly has been adjourned to

a particular date. No compelling reason exists for the House going into recess.

Mysore

There is a problem of parliamentary time owing to the large number of Members who wish to raise important matters in the House. A Business Advisory Committee allocates time for different items of business and the " whips " of the main parties usually manage to agree a fair distribution of the time available. The Speaker follows this arrangement. The House usually meets for 6 hours on about 70 days a year. The adjournment can be postponed if necessary and session dates are flexible.

Punjab: Vidhan Parishad

There was no problem of parliamentary time, but since August 1968 the Punjab State has been under President's Rule, and Legislature is suspended. The House used to meet on 40 days a year for about $3\frac{1}{2}$ hours.

Under rule 13(b) of the Rules of Procedure and Conduct of Business in the Punjab Legislative Council it is provided that the House shall meet at 9.30 a.m. and adjourn at 1.30 p.m. or earlier if the business set down in the list of business for the day is completed and the Chairman shall adjourn the House without putting the question, and the proceedings or any business then under consideration shall be interrupted. And according to rule 14 the Chairman shall determine when the House shall be adjourned *sine die* or to a particular day or to an hour of the same day.

The House, while in session, meets on all days except Saturdays, Sundays, or any other day declared as a holiday under the Negotiable Instruments Act 1881. If for any reasons which could not be anticipated at the time when the House was adjourned it becomes necessary to do so, the Chairman may further postpone the meeting of the House to a day not later than seven days from the date to which the House was adjourned.

Rajasthan

There is no problem of parliamentary time and so procedural innovations have not been required. The Assembly meets for about 6 hours a day on about 50 days in a year. The House usually adjourns at 5 p.m. but the hour can be altered in emergency.

The arrangement of session dates is flexible with this condition, that not more than six months should elapse between the last sitting in one session and the date appointed for the first sitting of the next session. Allocation of time is made by the Speaker for different groups of Members according to their numerical strength in the House. As regards the allocation of time for the disposal of various classes of

business before the House this is done by a Committee of the House, known as Business Advisory Committee.

Uttar Pradesh: Legislative Council

There has been no problem of parliamentary time in the Uttar Pradesh Legislative Council but there is specific provision in the rules of Procedure and Conduct of Business of the Legislative Council regarding allocation of parliamentary time to the following types of business:

(*i*) *Questions*

The first hour of every meeting of the U.P. Legislative Council is available for asking and answering of questions unless the Chairman otherwise directs.

Half an hour from 5 p.m. to 5.30 p.m. can be allotted for raising discussion on matters of public importance which have been subjects of questions in the Council: Provided that if the other business set down for the day is concluded before 5 p.m., the period of half an hour shall commence from the time such other business is concluded.

(ii) *Motion of Breach of Privileges*

Matters involving breaches of privileges can be raised in the House soon after questions, and before any other business, including Motions for adjournment to discuss matters of urgent public importance, are taken up.

(iii) *Adjournment Motions*

Notices of intention to ask for leave to move a Motion of adjournment to discuss a definite matter of urgent public importance are taken up just after the questions and before the list of business for the day is entered upon.

If leave of the House to move such a Motion is granted by the Council, the Chairman fixes the hour at which it can be taken up for discussion. The Motion is usually taken up at 4 p.m. or, if the Chairman with the consent of the Leader of the House so desires, at any other hour on that day. The debate on the Motion, if not earlier concluded, automatically terminates on the expiry of two hours after the commencement of the discussion.

(iv) *Unofficial Business*

Unofficial business, if any, of which required notice has been given, gets precedence on every Thursday in the week when the Council is in session and holding its sittings, unless the Chairman otherwise directs.

The Council, on average, sits for 60 days in a year for 5 hours a day, and unless otherwise directed by the Chairman, it ordinarily sits at 11 a.m. and adjourns at 5 p.m. The adjournment can be delayed if the Chairman so directs or the House so orders. There are no fixed session periods, the timing of which depends on the state of business before the Council.

Uttar Pradesh: Vidhan Sabha

There is a problem of parliamentary time in this House. This problem has grown up during the last twenty years.

In 1950 India became a republic and adopted a federal type of Constitution which provides ample scope for the functioning of a truly democratic and parliamentary form of Government in the States constituting the Union.

There was a considerable increase in the total strength of the membership of the House after the first general election under the new constitution. Before that election in 1952 the total number of Members of the House was 232 (including six nominated representatives of merged States), whereas afterwards the membership was raised to 431. At present this figure stands at 426, as a result of delimitation of constituencies in 1967. Moreover, there has been a tendency towards multiplicity of political parties and groups in the Assembly; for example, excluding the ruling congress party there are six All India parties represented in the House at present, with the result that opportunity has to be provided in debates for various viewpoints.

New provisions have been made in the Rules of Procedure of the Legislative Assembly framed by the Assembly in pursuance of Article 208 (1) of the Constitution, regarding breach of privilege, and for increasing the time-limit for Budget debate. Before 1951 only fifteen days' time was provided for voting of demands for grants; in the Rules of Procedure of 1951 the maximum days for voting of demands were twenty (three more days being provided for general discussion on Budget), while according to the present Rules of Procedure and Conduct of Business the general discussion on the annual Budget shall be held ordinarily for five days and a further period of days (not exceeding twenty-four days) shall be allotted for voting on demands. Provision was also made for Members to raise subjects of urgent public importance.

The following procedural innovations have been adopted to ease pressure on parliamentary time:

(1) The duration of the sitting of the Assembly was extended by one hour with effect from 9th February, 1959, by doing away with the one hour break for lunch.

(2) In special circumstances, such as the need to dispose of any urgent matter or Bill on a specified date, the duration of the sitting has been extended by a resolution of the House.

(3) A Business Advisory Committee has been formed to recommend the allocation of time for discussion on stages of Bills and other Government business referred to it by the Speaker, as well as to perform such other functions relating to the business of the House as may be assigned to it by the Speaker. A Committee on Estimates examines such estimates as may seem fit to the committee and suggests economies, improvements in organisation, etc., consistent with the policy under-

lying the estimates. A Committee on petitions examines every petition presented to the House.

Committee on Government Assurances scrutinizes assurances, promises, undertakings, etc., given by Ministers from time to time on the floor of the House and reports on (i) the extent to which such assurances, promises, undertakings, etc., have been implemented and (ii) where implemented whether such implementation has taken place within the minimum time necessary for the purpose. A Committee on Delegated Legislation scrutinises and reports to the House whether the power to make regulations, rules, sub-rules, by-laws, etc., conferred by the Constitution or delegated by any lawful authority is being properly exercised within such delegation.

Here it may be pointed out that out of the committees mentioned above, the Business Advisory Committee has helped a great deal in solving the problem of pressure on parliamentary time in as much as a definite time-table for the various types of business referred to the committee is proposed. The other committees have also been instrumental in reducing the burden on the general time of the House, but they have created a new problem whereby demands are frequently put forward by the Members for discussion on the Reports of the Committees to make them more effective.

By amending the Rules of Procedure and Conduct of Business of the Assembly in December 1966, provision has been made for taking up certain matters, after the normal business of the day, whereas before that such matters were taken up after question hour and before the commencement of normal business.

Unless the Speaker otherwise directs, the first hour of every sitting of the House is available for the asking and answering of questions. These questions are tabled by private Members and relate to matters of public importance for which the State Government is responsible.

Private Members' business is taken up on the second and fourth Fridays of each month. If there is a sitting of the House on the second or fourth Friday of a month, such business has precedence over Government business, unless the Speaker directs otherwise. Where the Speaker directs otherwise he may, in consultation with the Leader of the House, appoint any other day in any week for the transaction of private Member's business. The relative precedence of resolutions and Bills to be taken on any non-official day is determined by ballot which is held in accordance with the directions of the Speaker.

On other days no business except Government business is transacted without the consent of the Speaker. For the disposal of financial business, a period of at least twenty-nine days has to be allotted each year for the general discussion on the Budget and the voting of demands on grants.

On an average the House meets on 73 days in a year for nearly 6 hours a day. According to Rule 15 of the Rules of Procedure the sitting of the House shall be held from 11 a.m. to 5 p.m., but a proviso

to this rule provides that in special circumstances the House may by a resolution extend the duration of the sitting, and also that the Speaker may extend the duration of the sitting by 15 minutes on his own Motion.

West Bengal

The first assembly as constituted after the 1952 General Election held under the provisions of the Constitution of India (the date of its commencement being 26th January, 1950) was a multiparty House. The problem of parliamentary time, therefore, first made its appearance from the demands made by the different parties to express their views before the House on the different items in the agenda through their elected Members. Besides, the volume of both Government business covering Legislative proposals, resolutions, financial matters and the like as well as private Members' business such as questions, calling attention to, and Motions for adjournment on, matters of urgent public importance, resolutions and the like has increased with the advancement of time.

Procedural innovations are provided for in rules 284–90 of the Rules of Procedure and conduct of Business in the West Bengal Legislative Assembly. Each Member is reminded of the time for the conclusion of his speech by switching on blue and red electric lights so that the speech may be concluded within the allotted time as far as practicable.

The allocation of Time Order, provision for which has been made in the Rules, determines the time allotted for a particular business and the Speaker distributes the time to parties and groups in consultation with their whips with an eye to giving an equitable opportunity for participation in the discussion.

The Assembly meets on about 40 days for 5 hours.

West Pakistan

There is no problem of parliamentary time. The assembly meets on 50 days a year for about 5 hours. The hour of adjournment is fixed but the Speaker can alter it.

The session dates are flexible, but Article 109 of the Constitution of the Islamic Republic of Pakistan lays down that there shall be at least two sessions of an Assembly in every period of 365 days and not more than 180 days shall intervene between the last sitting of an Assembly in one session and its first sitting in the next session.

Malta

There is no problem of parliamentary time in the House of Representatives. There is no particular allocation of time to groups: however, there are private Members' days. Also there are redress of grievances considered on the Motion that the House do resolve into a Committee of Supply for the consideration of the General

Estimates (or of any Supplementary Estimate) and adjournment time, which are invariably taken up by back benchers.

The House meets on about a hundred days a year sitting from 5 p.m. to 9.30 p.m. There is a fixed hour of adjournment at 9 p.m. with half-an-hour's adjournment debate.

Gibraltar

At present there is no problem of parliamentary time since there has been a coalition in the Legislature since July 1965 and this has resulted in considerably less debate in the House. This is not expected to continue under the new Constitution—under which the number of Members will be increased from 13 to 17; and longer and possibly more frequent meetings are expected in the future. The Legislature presently meets on about 10 days a year for a 2 hour sitting.

Lesotho: Senate

As the two Houses sit simultaneously the only occasion when there is a problem of parliamentary time is towards the conclusion of a long session when Senators are feeling the strain and move that the House should sit, in addition to the normal days of sitting, on Mondays and Fridays to expedite business of the House in order to rise more or less at the same time with the Members of the National Assembly. This has resulted in the unanimous passing of a Motion to sit on Mondays and Fridays in addition to the normal days of sitting.

Standing Order No. 40 provides allocation of time for certain types of business. The Senate sits for about 5 hours, meeting on about 38 days during the year. The hour of adjournment can be extended by 15 minutes if in the opinion of the President the proceedings could be concluded in that time. The arrangement of session dates is flexible.

Seychelles

The Governing Council meets only on about 6 days a year for about 5 hours. There is no problem of time and although the Council does have fixed hours of adjournment these can be altered.

Zambia

Parliamentary time is not yet a problem but there are limits on the length of speeches by provision of Standing Orders. These are complex and the length of speeches depends on the item of business under discussion. Standing Orders also provide for certain items of business to be taken at certain times. Wednesdays are set aside for private Members' business, Motions having precedence over Bills.

The House sits for about 3 hours a day on, on an average of the last four years, 54 days. The hour of adjournment is fixed but suspension of the relevant Standing Order allows the House to sit indefinitely.

The Government's financial year now extends from January to

December, and the House must therefore meet in January in order for the Budget to be presented. The ensuing financial Bills have to be passed by Parliament before the end of March. The House goes into recess for public holidays; otherwise there are no fixed dates for the meeting of Parliament.

Mauritius

Parliamentary time is no problem. Of the 40 days, on average, on which the House meets four are usually given over to private Members' business. The House sits for about 7 hours, adjourning at 7 p.m. unless business is concluded earlier or if a Motion (to be decided without amendment or debate) has been made by a Minister after notice at the commencement of public business, or with Mr. Speaker's consent without notice at any time before 4 o'clock in the evening, to the effect that Government business or certain specified items of business be exempted from the provisions of the paragraph of the Standing Order which stipulates that at 7 o'clock in the evening the proceedings on any business under consideration shall be interrupted.

XVI. APPLICATIONS OF PRIVILEGE

At Westminster

House of Lords (Alleged dismissal of board members for circularising Peers).—On 24th June, 1968, Lord Drumalbyn moved:

That the matter referred to on page 21 of *The Times Business News* of June 21st under the heading " Chairman goes in Co-op Row ", be referred to the Committee for Privileges. (*Hansard*, col. 1103.)

The article in question had associated the departure of several board members of the Co-operative Insurance Society with a circular to Members of the House which set out the Insurance Board's objections to a Bill then going through Parliament.

Lord Drumalbyn wished to know whether the implication was true and if so whether it constituted a breach of privilege. Lord Peddie, a Director of the Co-operative Insurance Society, maintained that there was no connection between the two events. The Leader of the House, Lord Shackleton, argued that even if there was a connection between the two events it was not a matter to be sent to the Committee for Privileges.

Although it was agreed that Lord Drumalbyn was correct in raising the matter the Motion was withdrawn.

House of Commons (Member of a Committee giving a journalist privileged matter).—During 1968 only one case was referred to the Committee of Privileges in the House of Commons.

The *Observer* newspaper of 26th May, 1968, carried an article entitled " Biological Warfare: Dons Named ", signed by two journalists, purporting to give an account of evidence given before the Select Committee on Science and Technology.

After complaint had been made by the Chairman of the Select Committee, Mr. Arthur Palmer, M.P. for Bristol, Central, the Leader of the House, Mr. Peart, moved a Motion referring the matter of the complaint to the Committee of Privileges, which Motion was carried.

The Committee found that the minutes of evidence had been given to Mr. Marks, one of the journalists, by Mr. Dalyell, a Member of the Select Committee on Science and Technology and an M.P. The Committee accepted that Mr. Marks had been assured by Mr. Dalyell that there was no question of privilege: but they found that he had committed a contempt of the House since he knew that he was publishing information to which he should not have had access, and which

was not intended at that time to be published. The Committee recommended no further action to be taken in his case.

The Committee found that the other journalist, Miss Slaughter, had only done research into the background of the article and so she was in no way implicated. The Editor of the *Observer*, Mr. Astor, was found to be guilty of a contempt of the House since he " failed to take adequate steps to discover the position " relating to information which had come into his hands which he must have known was of a highly confidential nature. However, no further action was recommended in his case.

The Committee concluded that Mr. Dalyell was guilty of a breach of privilege and of a serious contempt of the House. He had handed Mr. Marks a proof copy of the Minutes of Evidence and placed no limits regarding their use, save in respect of " D " notices. He admitted that he was blameworthy for disclosing certain of the evidence; for this he had offered " profound apologies ". The Committee recommended that Mr. Dalyell be reprimanded.

Mr. Peart, the Leader of the House, moved a Motion " That this House doth agree with the Committee of Privileges in their Report and that Mr. Speaker do reprimand Mr. Tam Dalyell for his breach of privilege and his gross contempt of the House." It was agreed to. Accordingly Mr. Speaker reprimanded Mr. Dalyell, which reprimand was ordered to be entered upon the Journals of the House. *Com. Hans.* Vol. 765, cc. 1541–8; and Vol. 769, cc. 587–666.

South Australia: Legislative Council

Contributed by the Clerk of the Legislative Council

Allegation that Chairman of a Select Committee was biased.— After the second reading of the Scientology (Prohibition) Bill on 10th October, 1968, the Bill was referred to a Select Committee for examination and report.

A witness before the Select Committee sought, and was given, an assurance that the Select Committee would act impartially but subsequently the witness wrote a letter to the secretary of the Committee alleging that the chairman was unduly biased against Scientology. The Committee was bound by Standing Order No. 399 to report the matter to the Council and this was done by Special Report tabled on 5th November, 1968 (*Hansard*, p. 2160).

The following day, the Council resolved to summon the witness to appear at the bar of the Council to answer such questions as the House saw fit to put to him regarding his letter concerning the chairman of the Select Committee (*Hansard*, p. 2249).

The witness appeared at the Bar on Tuesday, 12th November, 1968, and admitted that he had signed and sent the letter which was produced for his inspection. Thereupon the Council resolved " That it

be declared and determined that the witness appearing at the Bar signed and was responsible for sending the chairman the letter tabled ". The witness was invited to apologise but did not do so. The witness withdrew. A Motion was then moved " That in the opinion of the House the writing and sending of the letter was highly improper conduct and the House, without proceeding to the question whether that conduct constitutes a contempt of the House, issues a warning to Mr. Klaebe to refrain from a repetition of such conduct in the future, which could be attended with most serious consequences ". Debate followed and the Motion was carried. The witness was recalled to the Bar and informed of the resolution of the House. The President added that " to deliberately attribute to the chairman of a select committee a lack of impartiality is a contempt of the Legislative Council, which, on being duly established, can be severely punished. Honourable Members, when individually engaged on official duties, both inside and outside the Chamber, are obliged to make up their minds and speak out as they think fit, but when sitting as members of a select committee they are, whatever they may have said before, under a strict duty to be impartial, and they invariably discharge their duties " (*Hansard*, p. 2341–6).

That concluded the proceedings and the witness withdrew.

New Zealand

Contributed by the Clerk of the House of Representatives

Newspaper headline hinting that Members were homosexual. —Attention was drawn by the Leader of the Opposition (Mr. N. E. Kirk) to the deplorable, objectionable, sensational and misleading headline (Statistical Claim is Made that 4 M.P.s in N.Z. are Probably Homosexual) appearing in the *Evening Post* of 30th October, 1968. Mr. Speaker (Hon. R. E. Jack) who, in terms of S.O. 406D deferred his ruling until next sitting day, later ruled that a *prima facie* case had been made out, whereupon a Motion by the Leader of the Opposition that the matter be referred to the Committee of Privileges was agreed to.

On 20th November the Committee of Privileges reported that it had considered the matter and had also examined the Editor and the Chairman of Directors of the newspaper who appeared in response to its invitation. The Committee found that the headline did not correctly convey the essence of the report of the evidence presented to the Petitions Committee as contained in the article and that the startling and inaccurate nature of the headline tended to lessen the esteem in which Parliament was held by the public and was thus a breach of privilege. The Committee did not regard the article as conveying any personal reflection against individual members but rather against Parliament as a whole. The Editor, while not conceding that the

headline did lower the esteem of Parliament in the eyes of the public, agreed that if it should be felt that it did so, he would express regret. The Editor, having informed the Committee of his intention to publish a suitable apology and having indicated the terms of that apology, the Committee recommended that no further action be taken. (*N.Z. Hans.*, Vol. 357, p. 2722, and Vol. 358, p. 2725.)

INDIA: RAJYA SABHA

Contributed by the Secretary of the Rajya Sabha

Police questioning a Member on a matter he had revealed in the House.—Shri Bhupesh Gupta, a Member of the Rajya Sabha, referred in the House on 29th April, 1968, and again subsequently on 2nd May, 1968, to an incident in which a police officer from Chandigarh called at his house during the inter-session period between the 63rd and 64th sessions of the Rajya Sabha. At the sitting of the Rajya Sabha on 26th March, 1968, Shri Gupta, along with some other Members, had drawn the attention of the House to the Punjab Appropriation Bill, 1968. According to Shri Gupta, the Bill, it appeared, had been signed by the Governor of Punjab (when it was submitted to him for assent), without any certificate thereon signed by the Speaker or the Deputy Speaker of the Punjab Legislative Assembly. Shri Gupta produced in the House a photostat copy of the relevant page of the Bill. The purport of the visit of the police official from Chandigarh to Shri Gupta was stated to be in connection with the investigation of the alleged theft of this paper.

Shri Bhupesh Gupta pointed out that such visit by a police officer would be a serious interference with the work of the Members of Parliament and would indeed amount to a gross breach of privilege of the House. He added, however, that he did not propose to adopt that course, but would be satisfied if the Home Minister made a statement explaining the circumstances under which the police officer visited his House. When Shri Gupta raised the matter in the House, some other Members also expressed their concern over the incident and urged that it was a fit case for reference to the Committee of Privileges.

The Chairman, before referring the matter to the Committee of Privileges, discussed it with the Leader of the House and also wrote to the Home Minister on the subject. As the issues involved were of considerable importance from the point of view of Members' rights and privileges in regard to their freedom of speech and conduct in the House, the Chairman directed, under rule 203 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, that the matter be referred to the Committee of Privileges for examination, investigation and report.

The Committee framed the following issues for examination:

1. Can a Member be questioned in any court or place out of Parliament for any disclosure he makes in Parliament?
2. Will not such questioning, if permitted, amount to impeding the Member in the discharge of his duties as a Member of Parliament; will it also not amount to molestation of the Member?
3. Will it not amount to interference with his freedom of speech guaranteed under article 105 of the Constitution?

After examining the law and the precedents on the subject, the Committee answered the three issues, *seriatim*, thus—

1. No.
2. Yes.
3. Yes.

Having answered the issues as stated above, the Committee proceeded to consider how the police should proceed in a case when it found from a disclosure made by a Member on the floor of the House that he was in possession of vital information in a criminal case which might be under investigation by the police. The Committee recommended the following procedure:

If in a case a Member states something on the floor of the House which may be directly relevant to a criminal investigation and is, in the opinion of the investigating authorities, of vital importance to them as positive evidence, the investigating authority may make a report to the Minister of Home Affairs accordingly. If the Minister is satisfied that the matter requires seeking the assistance of the Member concerned, he would request the Member, through the Chairman, to meet him. If the Member agrees to meet the Home Minister and also agrees to give the required information, the Home Minister will use it in a manner which will not conflict with any parliamentary right of the Member. If, however, the Member refuses to respond to the Home Minister's request, the matter should be allowed to rest there.

The report of the Committee was presented to the House on 6th December, 1968, and was adopted on 20th December.

India: Lok Sabha

Attempt to influence a member in his parliamentary conduct. —On 3rd April, 1968, Shri Kanwar Lal Gupta, a Member, sought to raise* a question of privilege against Shri B. P. Patel, Chairman, State Trading Corporation of India, for approaching Shri Baburao Patel, M.P., and Rajmata Vijay Raje Scindia of Gwalior, with a view to influencing Shri Baburao Patel to stop speaking about the alleged irregularities and suspected malpractices by the State Trading Corportation on the floor of the House.

Shri Gupta referred to the speech† of Shri Baburao Patel, M.P., in the House on the previous day and the letter written by the latter to Shri B. P. Patel in which Shri Baburao Patel had stated that an attempt

* *L.S. Deb.* dt. 3.4. 1968, cc. 1950-7.
† *Ibid*: dt. 2.4.1968, cc. 1689–95.

was made to influence him directly and through the Rajmata Vijay Raje Scindia of Gwalior, whose representative he was in Parliament, not to raise the question of alleged irregularities in S.T.C. This, he felt, constituted a breach of privilege.

After leave was granted by the House for raising the question of privilege, Shri Atal Bihari Vajpayee, a Member, moved the following Motion which was adopted by the House:

> This House resolves that the question of breach of privilege raised by Shri Kanwar Lal Gupta against the Chairman, State Trading Corporation, be referred to the Committee of Privileges for investigation with instructions to report by the first day of the next session of the House.

The Committee of Privileges after calling for written statements from Shri Baburao Patel, M.P., Rajmata Vijay Raje Scindia of Gwalior and Shri B. P. Patel, Chairman, State Trading Corporation, reported in their Fifth Report, presented to the House on 22nd July, 1968, *inter alia* as follows:

(i) Shri Baburao Patel, M.P., in his written statement submitted to the Committee, had *inter alia* stated as follows:

> " For nearly two hours Shri B. P. Patel tried to inform me of the details of the sulphur deal. . . .
>
> " As Mr. B. P. Patel did not have any satisfactory explanations for many things, he completely failed to convince me. He quickly realised this and changed his tone to entreaty and earnestly requested me not to criticize the affairs of the S.T.C. in or outside Parliament.
>
> " Her Highness showed me my reprint of ' 15-crore Sulphur Scandal ' and said that it was given to her by Mr. B. P. Patel who had requested her to talk to me about it.
>
> In conclusion I am convinced that by approaching Her Highness the Rajmata of Gwalior, Mr. B. P. Patel, the Chairman of the S.T.C. attempted to bring pressure and undue influence upon me and tried to prevent me from carrying out my duties as a Member of Parliament."

(ii) Rajmata Vijay Raje Scindia of Gwalior, in her written statement submitted to the Committee, and *inter alia* stated as follows:

> " After talking to me about His late Highness, Shri B. P. Patel produced a booklet published by Shri Baburao Patel. He requested me to ask Shri Baburao Patel to abstain from harming him by asking questions in Parliament and writing articles against him."

(iii) Shri B. P. Patel, in his written statement submitted to the Committee, had *inter alia* stated as under:

> " Right from the time I thought of meeting Her Highness Vijayaraje Scindia of Gwalior, during my entire conversation with her and even thereafter nothing was farther from my mind than to influence the Hon'ble Shri Baburao Patel in his freedom of speech and expression or action as an Hon'ble member of the Lok Sabha. The only thing which impelled me to see Her Highness, Vijayaraje Scindia of Gwalior were the inaccuracies and insinuations in the article of Shri Baburao Patel published by him not in his capacity as the Hon'ble Member of the Parliament but as a Journalist, Editor, Printer and Publisher of *Mother India*. It is also relevant to refer to what the Hon'ble Shri Baburao Patel, M.P., himself says in his speech on the floor of the Lok Sabha on April 2nd, 1968, namely, ' when my article appeared this man tried to contact me personally and did come to my place . . . '. But for this article, which contained

patent inaccuracies, insinuations and aspersions, there would have been no occasion or necessity of my meeting Her Highness Vijayaraje Scindia of Gwalior particularly when the Report of the Committee on Public Undertakings was already laid on the Table of the House in all its details.

" As the Chairman of the State Trading Corporation of India, I would have failed in my duty to it and its business if I had not endeavoured as I did to point out and to obviate the further propagation of the patent factual inaccuracies, insinuations and aspersions contained in the article by Shri Baburao Patel, released not in his capacity as an Hon'ble Member of Parliament but only as an Author, Editor, Printer and Publisher thereof. No privilege of any kind attached to this article and what is more Shri Baburao Patel had even renounced the Copyright therein. The motive behind what I did was purely and solely the safeguarding of the image, reputation and business of the State Trading Corporation of India against the apprehended evil-effects of an inaccurate and misleading piece of journalism.

" In the foregoing paragraph, I have respectfully submitted that I have committed no contempt or breach of privilege of the Parliament and/or of its Hon'ble Member and I have prayed for a complete and honourable exoneration from the allegations made against me and referred to this Hon'ble Committee. Without prejudice to this, and in the alternative I respectfully say and submit that should this Hon'ble Committee be pleased to come to the conclusion that in the present case there is a contempt of breach of privilege of the Parliament and/or its Hon'ble Member, I respectfully say and submit that such contempt or breach is not a deliberate attempt on my part to bring the institution of Parliament into disrespect and/or to undermine public confidence and support of Parliament and/or to commit any breach of privilege of the Hon'ble Member of the House. I may assure this Hon'ble Committee that I had at no time any intention to bring the institution of Parliament into disrespect and contempt or to commit a breach of privilege of an Hon'ble Member of the House and that if this has been the result produced by what I have done then I have no hesitation in expressing an unconditional and unqualified regret and I pray that taking into account the peculiar facts of this case and the totality of the circumstances, this Hon'ble Committee will be pleased to recommend that no further action be taken by the House in the matter."

(iv) The Committee have come to the conclusion that there is no evidence that Shri B. P. Patel had attempted to influence Shri Baburao Patel, M.P., in his conduct as a Member, by threats or any other improper means which might constitute a breach of privilege and contempt of the House.

(v) The Committee would like to point out that it is a breach of privilege and contempt of the House to attempt by " improper means to influence Members in their Parliamentary Conduct ". In this category of contempts, *May* has mentioned two types of cases, *viz.*, bribery and attempted intimidation of Members.

(vi) The Committee are of the opinion that in the present case, Shri B. P. Patel, Chairman, State Trading Corporation of India, has not committed any breach of privilege or contempt of the House.

(vii) The Committee, however, feel that the conduct of Shri B. P. Patel in approaching Shri Baburao Patel, M.P., and Rajmata Vijay Raje Scindia of Gwalior with a view to influencing Shri Baburao Patel, M.P., to stop writing articles or speaking in Parliament about the alleged irregularities and suspected malpractices by the State Trading Corporation, was not proper. While the

* May 17th Ed., pp. 122–3.

Committee are satisfied that Shri B. P. Patel did not employ any improper means which might technically constitute a breach of privilege, the Committee are of the view that as a public servant in a responsible position he should have acted with more discretion.

The Committee recommended that no further action be taken by the House in the matter.

BIHAR

Contributed by the Secretary of the Legislative Council

Allegation that a Member of the other House had cast aspersions on the Chairman of the Legislative Council.—On 20th January, 1968, Shri Radha Krishna Prasad Singh, M.L.C., gave notice of breach of privilege and contempt of the House. The allegation was based on a statement of a Minister, who was a Member of the other House, published in a local daily. The Member alleged that the said statement of the Minister had cast serious aspersion on the Chairman of the Bihar Legislative Council and so the matter should be referred to the Committee on Privilege for examination and report. Then the House referred the matter to the Committee on Privilege to examine and report on the matter on 1st February, 1968.

KERALA

Contributed by the Secretary to the Assembly

Alleged threat by a Member of the central Government against the State assembly.—On 30th August, 1968, a question of breach of privilege was raised by Shri K. T. Jacob against Shri Panampilli Govinda Menon, the Union Law Minister. The Union Law Minister was reported to have said that the Kerala Government Bill on Civil Supplies Popular Committee would not become law if the Government went ahead with the Bill disregarding the Centre's opposition. According to the Member, this statement constituted a threat to the House and its members. Regarding the procedure to be followed in such cases, the Kerala Assembly had passed a resolution in 1958 that if a Member of another Legislature was involved in a case of contempt or breach of privilege of this House, the Speaker should refer the matter to the Presiding Officer of that House, unless on hearing the Member who raised the question the Speaker was satisfied that no breach of Privilege had been committed or that the matter was too trivial to be taken notice of, in which case he might disallow the Motion for breach of privilege. The Speaker said that the matter would be referred to the Speaker, Lok Sabha, for his consideration as envisaged in the above resolution. Accordingly the matter was referred to the Speaker, Lok Sabha. The Speaker, Lok Sabha, informed the House that there was no question of privilege involved in the matter.

MADRAS LEGISLATIVE ASSEMBLY

Contributed by the Secretary to the Legislative Assembly

Describing a Resolution of the House as a " Political Fraud ".— On 12th February, 1968, a Member of the Assembly raised a matter of privilege against Thiru C. Subramaniam and the publisher of *The Hindu*, Madras, in respect of a report published in *The Hindu* dated 11th February, 1968, under the caption " Political Fraud ", namely:

> Mr. Subramaniam described the recent Language Bill adopted by the State Assembly as the biggest political fraud.

On 19th February, 1968, the Hon. Speaker ruled that a *prima facie* case existed in the privilege issue. Thereupon, the Member moved that the matter be dealt with by the House itself to which the Leader of the Opposition moved an amendment that it be referred to the Committe of Privileges. The amendment was put and lost. The following main Motion moved by the Member, was put and carried:

> That this House resolves that although the words issued by Thiru C. Subramaniam and published in *The Hindu* dated 11th February, 1968, and quoted hereunder, are " the recent Language Bill ", the reference is, in fact, made to the Language Resolution passed by this House on 23rd January, 1968; and
>
> That this House further resolves and authorises the Hon. Speaker to give show cause notice to Thiru C. Subramaniam and to the publisher of *The Hindu* dated 11th February, 1968, page 11, column 2, under the sub-heading " Political Fraud ", *viz.*:
>
> > " Mr. Subramaniam described the recent Language Bill adopted by the State Assembly as the biggest political fraud."

Pursuant on the above Motion passed by the Legislative Assembly, a notice was sent by the Secretary, Legislative Assembly Department to Thiru C. Subramaniam asking the latter to show cause within a week of the receipt thereof, why he should not be held to have committed contempt of the House by reason of the said statement reported to have been made by him and published in *The Hindu*. On 2nd March, Thiru C. Subramaniam filed a Writ Petition in the High Court of Judicature, Madras, praying for the issue of writ, order, or direction, and in particular, a Writ of Prohibition restraining the Hon. Speaker and the Secretary, Legislative Assembly from further proceeding with the notice. The Writ Petition was dismissed by the High Court at the stage of admission on 14th March. Thereupon, Thiru C. Subramaniam presented a petition in the High Court for leave to appeal to the Supreme Court against the above judgment. However, in the meantime, the Session of the Assembly was prorogued. (*M.L.A. Debates*, Vol. VIII, No. 3, p. 237; No. 5, pp. 444–62; No. 7, pp. 663–83.

PUNJAB VIDHAN PARISHAD

Contributed by the Secretary to the Vidhan Parishad

Member arrested.—Comrade Teja Singh Swatantra, M.L.C., gave notice on 25th January, 1968 (when the House was not in session) of a Motion of privilege to be moved at the first sitting of the House in the Budget Session, 1968, regarding his unlawful arrest, on 19th January, 1968, by District Inspector Gurdaspur, (not showing him warrant of summons before arrest, not giving him proper class in jail required of the status of a legislator and keeping him in jail for three days) while he was on his way to Chandigarh to attend a Library Committee meeting which was scheduled to be held on 20th January, 1968.

The Home Secretary to Government, Punjab, was asked to clarify the position on behalf of the Government, on the points raised in the privilege Motion and a comprehensive statement was also desired of the Government in the House on 23rd February, 1968. On 23rd February, 1968, the Chief Minister undertook to make a detailed statement after making necessary enquiries. On 18th March, 1968, a detailed statement was received but instead of reading the statement to the House the Chief Minister requested the Chairman to allow him to discuss with him in his Chamber the details of the case on 19th March, 1968. The Chairman made observations regarding the Motion and the discussion held between him and the Chief Minister. He also informed the House that the case against Comrade Teja Singh Swatantra, M.L.C., would be withdrawn.

The Chief Minister gave his consent in the House. The matter was therefore dropped.

XVII. MISCELLANEOUS NOTES

1. Constitutional

United Kingdom (Constitutional Commission).—It was announced in the Speech from the Throne at the Opening of Parliament on 30th October, 1968, that the Government would begin consultations on the appointment of a Commission on the constitution. The Commission would consider what changes may be needed in the central institutions of Government in relation to the several countries, nations and regions of the United Kingdom. It would also examine relationships with the Channel Islands and the Isle of Man.

Reform of the House of Lords.—The Queen's Speech which opened the 1967–8 session of Parliament on 31st October, 1967, promised that:

> Legislation will be introduced to reduce the powers of the House of Lords and to eliminate its present hereditary basis, thereby enabling it to develop within the framework of a modern parliamentary system. My Government are prepared to enter into consultations appropriate to a constitutional change of such importance.

In due course, in accordance with this undertaking, a conference of representatives of the three main parties was convened in the hope that an all-party consensus could be reached about the place, powers and composition of the House of Lords. The conference met first in November 1967 and continued its discussions until June 1968, when they were suspended following the Lords' rejection of the Southern Rhodesia (United Nations Sanctions) Order 1968.

On 20th June, 1968, two days after the rejection of this Order the Prime Minister told the House of Commons that, " Since the decision to reject the Order was clearly taken after the fullest consideration, and after every warning of the consequences, there can be no question of these all-Party talks, in these new circumstances, continuing. Although the time has not been wasted, and valuable proposals have been put forward both about the powers and composition of another place, I must tell the House that it is the intention of Her Majesty's Government, at an early date of the Government's choosing, to introduce comprehensive and radical legislation to give effect to the intention announced in the Queen's Speech ".*

In October 1968 the Government published a White Paper setting out their proposals for the future powers and composition of the House

* *Com. Hans.*, Vol. 766, c. 1314–16.

of Lords. Shortly afterwards, Parliament debated the White Paper on Government Motions asking each House to give general approval to the proposals contained therein. After a debate lasting three days and in which over one hundred peers spoke, the Government's Motion in the House of Lords was agreed to by 251 votes to 56. The House of Commons also agreed to a similar Motion, but it was clear that there would be substantial opposition there to any legislation implementing the proposals in the White Paper. On 19th December, 1968, the Bill to reform the House of Lords was presented in the Commons.

As many readers will be aware the Government have since decided not to proceed with the Bill. But it is hoped that the next volume of THE TABLE will carry an account of the earlier proceedings on the Bill, and set out the main proposals of the White Paper.

Australia (Privy Council (Limitation of Appeals) Act 1968). By this Act, which limited appeals to the Privy Council, the Commonwealth Parliament took an historic and substantial step towards the establishment of the High Court as the final court of appeal for Australia.

The Privy Council had been the highest court of appeal for Australia since the country was first settled. Historically, appeals to the Privy Council had their origin in petitions to the King personally as the head of State and the ultimate source of justice. The King was supreme over all persons and courts within his dominions. At first, petitions were addressed to the King in Council, then to the King in Parliament. From there, procedures developed until in 1833 the Imperial Parliament passed legislation placing Privy Council appeals on a full statutory basis, and the Judicial Committee of the Privy Council was created to advise the Queen on the appeals. Imperial Orders in Council regulated appeals to this Judicial Committee from the Australian colonies.

At federation in 1901 there was a strong body of opinion among those who drafted the Commonwealth Constitution that appeals to the Privy Council were a vestige of colonialism and that all appeals from the Australian colonies to the Privy Council should be abolished. However, this view did not prevail, partly because of strong opposition at that time from the Imperial Government.

The 1968 Act stemmed from the belief that the time had come when the Parliament should exercise the power it had under the Constitution to limit appeals from the High Court to the Privy Council. Australia's High Court of appeal was recognised throughout the common law countries as of great authority, and cost, expedition and finality of litigation were factors of real importance in the administration of justice. In recommending the Bill to Parliament, the Government placed on record its appreciation of the part that the Privy Council had played in the Australian Judicial system, and its awareness of the notable contributions that their lordships in the Council had made since federation to the development of the law.

In accord with constitutional requirements the Bill was reserved by the Governor-General for Her Majesty's pleasure. A further step, in the form of a proclamation of the Governor-General, was needed after Her Majesty's assent had been made known. This gave time for any adjustments that the British authorities considered necessary to the Judicial Committee Rules.

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

Australia (Judiciary Act 1968.)—This Act complemented the Act limiting appeals from the High Court to the Privy Council. It deals with one of the most difficult areas of Constitutional law.

While the Privy Council (Limitation of Appeals) Act limited appeals to the Privy Council from the High Court in what could loosely be called " Federal matters ", it was still possible that appeals in some Federal matters could reach the Privy Council by way of appeal from the Supreme Court of a State, or perhaps even from one of the lower courts of a State.

The Statute of Westminster made it possible for the Commonwealth Parliament to make laws inconsistent with an Imperial Act, but before the Commonwealth adopted it there was some doubt whether a Commonwealth Act could abolish the appeal to the Privy Council by way of special leave from a State Supreme Court exercising Federal jurisdiction. It was now possible to abolish such appeals and it did not make good sense to keep appeal by special leave from State Supreme Courts exercising Federal jurisdiction when, if an appeal were taken in the matter to the High Court, the decision of the High Court would not be subject to appeal. It was now also possible to abolish, similarly, any appeal, whether by special leave or otherwise, that may lie to the Privy Council from one of the lower courts of a State exercising jurisdiction.

The Act, accordingly, provided for the abolition of these two areas of possible appeal.

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

Australia (Northern Territory).—Two important Acts were passed in the Commonwealth Parliament with regard to the Northern Territory. The Northern Territory Representation Act 1968 gave full voting rights to the Member representing the Northern Territory in the House of Representatives.

The Northern Territory (Administration) Act (No. 2) 1968 amended the composition of the Legislative Council of the Northern Territory by increasing the number of seats for elected Members from eight to eleven, and abolishing the three seats for nominated non-official members.

It also contained a provision, similar to one recently included in the Papua and New Guinea Act, to provide that the Governor-General may withhold assent from part of an ordinance. The advantage in this to

the legislative councillors is that if an ordinance introduced by an elected Member contains an unacceptable provision which is not fundamental to the ordinance as a whole, it will now be possible to allow the major part of the ordinance to stand, only the unacceptable provision being omitted.

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

New South Wales (Increase in number of Ministers).—The Constitution (Amendment) Act 1968 amended the Constitution Act 1902, as amended, and the Parliamentary Allowances and Salaries Act 1956, as amended, to provide for an additional two Ministers of the Crown and for their salaries and allowances. In effect, the amending legislation increases the size of the Cabinet from sixteen to eighteen Ministers of the Crown. The Leader of the Government in the Legislative Council in his second reading speech indicated it was felt that there was some need for reconstruction of Cabinet in order to ensure that there was no overlapping so far as ministerial responsibilities were concerned and that inquiries were being made by the Public Service Board. As yet there has been no announcement as to who the new Ministers will be or what portfolios will be assigned to them.

The opportunity was also taken to amend sections 17H and 29 of the Constitution Act. Section 17H provied that no Member of the Legislative Council should be entitled to the salary and allowance payable to Members of that House while holding the office of Vice-President of the Executive Council or any office of profit specified in the second Schedule to the Act. Section 29 made a similar provision relating to Members of the Legislative Assembly. The Schedule specified the offices of Premier, Attorney-General and " thirteen other Ministers of the Crown being members of the Executive Council ". Two other offices of profit under the Crown had been created by statute as offices of the Executive Government. These were the offices of Minister for Agriculture by the Department of Agriculture Act 1907 and of Minister for Transport by the Ministry of Transport Act 1932. The amendments made to sections 17H and 29 were by the insertion of " or any office of profit under the Crown created by Act of Parliament as an office of the Executive Government ". (*Journal*, Session 1968–9, Vol. 156, pp. 298, 299; *N.S.W. Parl. Debates*, Vol. 77, pp. 3570, 3572.)

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

Papua and New Guinea (Constitutional).—As stated in THE TABLE* for 1966, the Select Committee on Constitutional development in its Second Interim Report recommended an increase of membership from sixty-four to ninety-four. The Select Committee

* Volume XXXV, p. 168.

in its Final Report recommended a limited kind of ministerial government by the appointment of Ministers and Assistant Ministers.

The Report of the Committee was adopted by the Government of Australia, except that the Government changed the nomenclature of " Ministers " and " Assistant Ministers " to " Ministerial " and " Assistant Ministerial " Members.

The Select Committee also recommended an increase and change in the name of the Administrator's Council (Chapter 11 of Final Report of the Committee), *i.e.* the Administrator's Executive Council to consist of:

(*a*) the Administrator;
(*b*) three official Members of the House;
(*c*) seven Ministerial Members; and
(*d*) one elected Member nominated by the Administrator.

The method of appointment of Ministerial and Assistant Ministerial Members is set out in Chapter V of the Final Report.

The Committee also proposed the setting up of a Budget Committee, the functions of which are set out in Chapter VI of the Final Report.

The Second Interim Report and the Final Report of the Committee set out in detail the changes in the Second House as from that of the First House.

New Zealand (Ombudsman—Extension of Jurisdiction).—Under the Parliamentary Commissioner (Ombudsman) Act 1962 the jurisdiction of the Ombudsman was limited to administrative decisions, recommendations, and acts of the Government Departments and other organisations listed in the schedule to that Act, or of their members, officers, and employees.

The 1968 Amendment Act extended the Ombudsman's jurisdiction to decisions, recommendations, and acts of officers and employees of Education Boards and of Hospital Boards. The new jurisdiction does not extend to Boards themselves, or their members, or to medical, surgical, or dental treatment of particular patients by doctors or dentists, or to acts, etc., of teachers.

(*Contributed by the Clerk of the House of Representatives.*)

India (Official Languages (Amendment) Act 1968).—Under article 120 of the Constitution of India, read in conjunction with section 3 of the Official Languages Act 1963, the language to be used in Parliament for the transaction of its business is Hindi or English. A Member who cannot adequately express himself in Hindi or English may, however, be permitted by the Chair to address the House in his mother-tongue. By sub-section (3)(ii) of section 2 of the Official Languages (Amendment) Act of 1968, it has now been made incumbent that both Hindi and English shall be used for any reports, administrative and otherwise, laid before a House of Parliament.

(*Contributed by the Secretary to the Rajya Sabha.*)

India (Madras State (Alteration of Name) Act 1968).—This Act changed the name of the State of Madras to Tamil Nadu.

Seychelles.—The Seychelles Order 1967 established a Governing Council, consisting of official, elected and nominated Members which has legislative as well as executive functions. The Order provided for committees of the Governing Council which carry out executive functions under the authority of the Council. The Order also contained provision for a Court of Appeal and a Supreme Court for Seychelles.

2. Ceremonial

House of Lords (Introduction of Peers).—In all parliamentary assemblies the first entry of a new Member is necessarily attended by some degree of formality. In few such assemblies, however, is the occasion marked by such pageantry as takes place when a newly created Peer is introduced into the House of Lords. Those who have been present on those occasions will recall the main outlines of the ceremony.

The new Peer in his parliamentary robes is led into the House by two other Peers of his own rank attended by Garter King of Arms and the Gentleman Usher of the Black Rod. He hands his Patent to the Lord Chancellor at the Woolsack. The Patent is handed to the Clerk who reads it together with the Writ of Summons. The Peer is then conducted to his place at the end of the appropriate bench.

While the ceremony was known to be of considerable antiquity no attempt had been made until recently to discover its origins. In a recently published paper read to the Society of Antiquaries in London, however, Sir Anthony Wagner, Garter King of Arms and Mr. J. C. Sainty, a Clerk in the House of Lords have put forward some suggestions to account for its various characteristics. Briefly stated their conclusion is that the ceremony was devised in 1621 by the Earl Marshal and represents a fusion of two earlier and distinct ceremonies: the investitures of Peers and their subsequent placing in Parliament.

The paper shows that from the time of the Norman monarchy, at least, it was the custom for Earls to be girded with a sword by the Sovereign on creation or succession to their dignities. In the course of time this ceremony was confined to the occasion of the original creation of the title. When, during the 13th century, the new degrees of Duke and Marquess were added to the Peerage the ceremonial girding was observed at their creation together with certain refinements to mark their higher rank. Eventually further ceremonies were devised for Viscounts and Barons. Until the death of Henry V the investiture of Peers took place frequently although not invariably in Parliament itself. Thereafter it tended to be withdrawn to the greater intimacy of the King's Court. Peers were regularly invested by the Sovereign

on their creation until the time of James I. During this reign, however, the custom was gradually discontinued. The authors suggest that the reason for this discontinuance was the ill-repute surrounding peerage creations by James I. James I had created peerages at an unprecedented rate; many were conferred on unpopular favourites and some were known to have been sold. Since the ceremonies of investiture involved the King personally in conferring the new dignities they became therefore increasingly embarrassing occasions. By 1620 they were therefore abandoned and it was decided that creation should be marked by nothing more formal than delivery of the Patent to the newly created Peer.

This solution appears to have struck contemporaries as inadequate and it was probably in response to a demand that a greater degree of formality that the Earl of Arundel, the Earl Marshal, devised the present ceremony in 1621. The authors see this ceremony as representing the grafting of certain elements of investiture such as the reading of the Patent on to the simpler existing ceremony of placing Peers in the House of Lords. It had the advantage of withdrawing the King from personal involvement in the business of creating Peers and at the same time had a certain antiquarian justification in view of the fact that Parliament had in earlier times been the commonly accepted place for the creation of Peers.

3. Procedure

Bills introduced twice in the same House.—The Trade Descriptions Bill was passed by the House of Lords and sent to the Commons on 5th February, 1968. It had no privilege amendment. The Bill was given a First Reading in the Commons but on 9th February a Money Resolution for the Bill was tabled and the absence of the privilege amendment therefore came to light. On 13th February the Speaker ruled that the Commons financial privilege had been infringed and that it could not be waived. On a Motion of the Leader of the House the Bill was therefore laid aside.*

Clause 39 (1)(*b*) of the Bill placed the duty of enforcing the provisions of the Bill in Northern Ireland on the Ministry of Commerce for Northern Ireland. Clause 39 (5) enjoined the Board of Trade to make payments to the Exchequer of Northern Ireland in respect of expenses incurred by the Ministry of Commerce under Clause 39 (1)(*b*) in enforcing the provisions of the Bill which related to matters excluded from the powers of the Northern Ireland Parliament. The Explanatory Memorandum stated that " the amounts involved are expected to be nominal ".

By a Resolution of the House of Lords of the 17th May, 1606, it was stated that " if a Bill begun in one of the Houses, and there allowed and

* *Com. Hans.*, Vol. 758, c. 1156.

passed, be disliked and refused in the other, a new Bill of the same matter may be drawn and begun in that House whereunto it was sent ". But the Resolution also stated: " when a Bill hath been brought into the House [that is, brought from the other House], proceeded withall, and rejected, another Bill of the same argument and matter may not be renewed and begun again, in the same House, and in the same Session, where the former Bill was begun ".

Under the terms of the Resolution, which was designed to prevent the tedious repetition of Bills introduced in one House to which the other House would not agree, the appropriate procedure in the case of the Trade Descriptions Bill would have been to introduce a new Bill in the Commons. However, precedents exist for introducing a No. 2 Bill in the Lords to overcome the difficulty caused by a breach of the Commons privileges. The most recent and exact precedent is found in the Guardianship and Maintenance of Infants (No. 2) Bill 1951. Although the practice of introducing No. 2 Bills in the same House as the No. 1 Bill is contrary to the terms of the Resolution of 1606, the Lords have knowingly allowed it to take place.

On 14th February, 1968, the Lord Privy Seal introduced in the Lords a Trade Descriptions (No. 2) Bill, identical in words with that of the No. 1 Bill. He explained that this was being done in order to overcome, in the simplest fashion possible, the difficulties created by an unintentional breach of the Commons privilege. It had the advantage of enabling the Commons to consider a Bill which had already received the full attention of the Lords (even though the Lords amendments had been made to the No. 1 Bill and not to the No. 2 Bill) and it saved the Lords the trouble of repeating themselves on the No. 2 Bill. If the Bill had been introduced in the Commons and then sent to the Lords in due course, its passage through Parliament would have been more protracted. But he stressed that in view of the 1606 Resolution this was not to be regarded as an automatic procedure when an incident of this kind occurred.*

The Lords accepted the No. 2 Bill and, after dispensing with Standing Order No. 41 (No two Stages of a Bill to be taken on one day), passed it through all its stages on 15th February. It was then sent to the Commons, this time with a privilege amendment to omit Clause 30 (5), and in due course became law in the ordinary way.

(*Contributed by P. D. G. Hayter, a Clerk in the House of Lords.*)

House of Lords (Admissibility of Amendments).—The Administration of Justice Bill of 1968 was a one-clause Bill to enable additional judges to be appointed to the courts of England, Scotland and Northern Ireland. During the Second Reading Debate in the House of Lords an Independent peer, Lord Goodman, raised the wide subject of the method of appointment of judges and spoke of the desirability of appointing judges from among lawyers other than practising barristers.

* *Lords Hans.*, Vol. 289, cc. 101–6.

In due course he tabled amendments for the Committee stage of the Bill to enable solicitors to be appointed County Court Judges.

He was advised by the Clerks that the House was likely to take the view that his amendments were " out of order " on the grounds of relevance, and so, before the House resolved itself into Committee on the Bill, he brought the matter to the attention of the House. He said:

My Lords, I understand it would be a convenient moment for me to raise the question that has, if I may say so, with great courtesy and very properly, been brought to my notice by the Officers of the House, which is the admissibility according to the present Rules of the House of the Amendments down in my name on the Order Paper. The Amendments are suggested to be out of order, I understand on the ground of relevance. I believe the procedure of this House to be not a very rigid one, nevertheless to be one which is enforced in relation to certain matters, with very proper regard to considerations of revelance. It would be quite wrong if I were to seek to impose on the House a debate on any matter which it regarded as being irrelevant to the clause or the Bill, and I would not seek to do it. . . .

That, however, does not detract from my present feeling that this Amendment is relevant. . . . I have sought advice from distinguished Parliamentarians, all of whom take the view—I have not heard a dissenting voice from the advisers I have sought outside this Chamber—that these particular Amendments are not irrelevant. The matter seems to me to be comprised within a very short argument indeed. The Bill provides for an increase in a total number of Her Majesty's judges, and my Amendment provides for increasing the pool from which that total number is to be drawn. It is as simple as that. It appears to me to be almost unarguably relevant in relation to the Bill.

With the greatest respect to those who take the contrary view, I am tempted to think that possibly what may have induced their viewpoint is the fact that undoubtedly this Amendment, although relevant, will introduce important considerations that may well not have been in the minds of the persons introducing the Bill when they brought it in. That is a quite different consideration. An Amendment may nevertheless be relevant, though its effect is quite far-reaching. The effect of it may or may not be considered to be far-reaching, but that is not a point which touches on the relevance. The question of relevance is whether it is cognate to the matter we are discussing; namely, how many judges we are to have at any given moment of time. Where they are to come from, I venture to submit to the House, is cognate.

What to do about it? If I may add a word, certainly it would not be appropriate for me to press this matter to a Division; but I should like to sense the feeling of the House on the matter. If the House feels that these Amendments are not relevant, then I shall immediately withdraw them and seek to find some other opportunity of raising a matter which I regard as of considerable public importance. I should like to hear the views of other Members of the House, if they are so minded, on this matter, because it is strongly my view, and the view of those whose advice I have sought, that these are relevant Amendments and are properly introduced for discussion on the Committee stage.

The Leader of the House, Lord Shackleton, replied as follows:

My Lords, the noble Lord, Lord Goodman, has put this problem fairly and squarely in front of your Lordships, and it is, of course, for your Lordships' House to decide. As he himself indicated, we discipline ourselves. He has taken advice; I have taken advice. The Leader of your Lordships' House is always in a slightly equivocal position on these occasions. I can only advise the House. I have none of the authority that the Speaker in another place

has in these matters, where his decisions are virtually unchallengeable. Therefore, it may be of help to your Lordships if I express the views to which I have myself come, on the basis of the advice I have received; and I will attempt to meet the noble Lord's points on the question of whether " relevance " in this sense means that it is cognate to the subject generally.

It might be worth while reminding your Lordships of the principle by reading an extract from a Minute of January, 1931, by Counsel to the Chairman of Committees. If my memory is right, the then noble Earl, Lord Home, also referred to this on the last occasion when there was a discussion of this kind, on the Peerage Bill in 1957.

This is what is fundamental to our consideration:

> " There are no Standing Orders regulating the admissibility of Amendments in the House of Lords. The House is master of its own procedure and, unlike the House of Commons, is not subject to ruling on points of order. The test usually applied in practice to the admissibility of an Amendment is whether or not it is relevant to the subject matter of the Bill. But the decision upon this House, and the action taken on that decision, can only be made by the House itself."

It is, of course, perfectly relevant for your Lordships to take into account the advice that the noble Lord, Lord Goodman, has himself given your Lordships on this matter.

If I may now refer to *Erskine May*, page 500 of the 17th Edition states:

> " Amendments must be relevant to the subject matter of the Bill and of the clause to which they are proposed; and they must not be inconsistent with a previous decision of the Committee on the same question. The admissibility of an Amendment, however, can only be decided by the House . . . there being no authority which can in advance rule an Amendment out of order. The Officers of the House would draw attention to an Amendment which appears to contravene the accepted principles of admissibility and the matter would be discussed in the Committee."

Procedure seems to have developed a little, because on the occasion in 1957 the then Leader of the House raised the matter, as the noble Lord, Lord Goodman, did, before the House actually went into Committee.

I have looked most carefully at the Amendments in the name of the noble Lord, Lord Goodman. Of course I express no opinion on the merits of what they seek to do, beyond appreciating that this is a subject of importance and one which has been raised on other occasions. But on the application of previous procedure and rulings to relevance, I would say that these particular Amendments are outside the scope of the Bill, and are therefore irrelevant, because, I take it, the Bill is designed solely and exclusively to making provision with respect to the maximum number of judges. Where the judges come from is, I agree, an important subject. But the noble Lord who is responsible for presenting this Bill to your Lordships' House, has not seen fit to include this subject for consideration with the Bill. It would of course have been possible for a Bill to be introduced in a form which made the Amendments which the noble Lord would like to see made to the 1959 County Courts Act. It is to this point that the noble Lord directs our attention.

An admissible Amendment would be one which sought to vary the maximum number of judges; but the eligibility of judges, I would submit, and am so advised, is altogether another matter. This could be the subject of a separate Bill, which the noble Lord might himself wish to introduce. It could also be the subject of a Motion for Papers. But, as I said, it is not relevant to the Bill as it is before us now, because it is outside the scope of the Bill as it is before us.

In this matter I think we are bound to pay careful attention to the advice which the officials of the House give us. Although we all find it difficult to

refer to officials, this is a matter in which I think it is appropriate to say that they are unanimious in the advice they have given to us. Neither I nor your Lordships' House is concerned with whether what the noble Lord wishes to do is reasonable or right, or whether this is just an opportunity: it is entirely a question as to whether by discussing the Amendments we should be breaching our own custom in this matter. We are bound by custom, and I am sure your Lordships generally would feel that all of us have a responsibility in this matter.

Viscount Dilhorne, a former Lord Chancellor, supported the Leader of the House. In the course of a short speech he said:

We in this House use the word " relevance " which perhaps is not so precise as the word " scope " which is more usually referred to in another place [The House of Commons], but I believe that the same test applies. In the sense in which the word is used in this connection, it cannot be said to be relevant to this Bill, which deals merely with the increases of numbers, to consider the qualifications for the Judiciary.

The deputy leaders of the Conservative and Liberal parties also expressed support for the arguments put forward by Lord Shackleton. Lord Wigg, alone of those who spoke, thought the amendments to be relevant. At the conclusion of the debate Lord Goodman, while agreeing not to move his amendments, said:

It would be of great use in the future if we could find somewhere some guidance on this subject, because it appears that House of Lords " relevance " is rather like *Alice in Wonderland*, where the words employed have a usage and an interpretation that are different from the ordinary sense. There has been no indication, either in the discussion or in any precedents, of how that word is to be interpreted. I think that for newcomers to the House it would certainly be of value to know how House of Lords " relevance " differs from ordinary " relevance ".

(*Lords Hans.*, Vol. 288, cc. 1075–86.)

House of Commons (Procedure for Debates on Consolidated Fund Bills).—On 22nd January, 1968, Mr. Speaker made a statement about the order of speakers and subjects in such debates. He recalled that the existing method of " first come, first served, " had led to confusion last session, and said that, after consulting Members, he had concluded that the best and fairest method of determining priorities in these debates would be by ballot. He then said:

At any time from the announcement in the Business of the House, of the date of the debate, and up to 10 o'clock in the morning on the day before the debate takes place, hon. Members should hand in to my office their names and the topics that they would wish to raise. The ballot would be for name plus topic, and not just name. Any one hon. Member would hand in only his name and his own topic.

The ballot would take place on the morning of the day before the debate and a list giving the order of names as they came out of the ballot, together with subjects, would be posted, as usual, in the " No " Lobby as early as practicable thereafter. Other hon. Members would be able, as is the present practice, to speak in the debate on the topics which interested them.

In answer to a question from a Member, Mr. Speaker emphasised that the ballot would cover speakers and subjects for the whole of the debate on second reading.

(*Com. Hans.*, Vol. 757, cc. 31–4.)

4. General Parliamentary Usage

House of Commons (Public Petitions).—On 17th December, 1968, Mr. Younger (Member for Ayr) presented to the House a Petition against the disbandment of Scottish Regiments in general and of the Argyll and Sutherland Highlanders in particular. He claimed that 1,086,590 people had signed it. The Petition read as follows:

To the Honourable the Commons of the United Kingdom of Great Britain and Northern Ireland in Parliament assembled:

The Humble Petition of the Citizens of Scotland, England, Wales and Northern Ireland showeth that the Scottish Regiments in general and the Argyll and Sutherland Highlanders in particular have an outstanding record in recruiting and military skill and have rendered notable service to this nation over many generations.

Wherefore your Petitioners pray that your House shall resolve that none of these Regiments should be disbanded at this time when the Army is in urgent need of more recruits, And your Petitioners, as in duty bound, will every pray.

Immediately, two Members attempted to raise points of order on the petition but Mr. Speaker deferred these till after Question time.

Sir Harry Legge-Bourke was concerned about the time which would be occupied in checking all the signatures. He said:

Standing Order No. 98 lays down that, after a Petition has been ordered to lie upon the Table, it must be referred to the Committee on Public Petitions. Rule of Procedure No. 95 states that the Committee on Public Petitions shall examine all public Petitions after they have been presented and make periodic reports to the House.

Erskine May, at page 855 of the 17th Edition, states, among other matters:

> " The reports of this committee "—

that is, the Committee on Public Petitions—

> " printed at intervals during the session, point out, not only the subject of each petition, but the number of signatures to which addresses are affixed, and which are written on sheets headed by the prayer of the petition, the general object of every petition, and the total number of petitions and the signatures in reference to each subject."

The counting and checking of signatures and addresses is, I understand, usually done by the clerk of the Committee, assisted by other clerks in the Journal Office, the Table Office and other offices of the House. I understand that those who perform this task receive some remuneration for their trouble based, I believe, on every 3,000 signatures counted. My hon. Friend the Member for Ayr gives the total number of signatures on his Petition this afternoon as 1,086,590. Under our present rules, every one of those must be counted and rechecked.

Whatever may be the cost of doing that—I do not imagine that any of us would in any way resent our clerks receiving some remuneration for their trouble—the time factor must be of some importance here. To the best of

my calculation, were 1,000 signatures to be counted and checked by one clerk every day, including Sundays, the operation would take that one clerk 2½ years to complete. I cannot believe that it would be the wish of the House that a clerk, possibly taking 24,090 man hours, should be occupied in deciding whether, for example, Mr. and Mrs. McTavish, of Cape Wrath, are the same Mr. and Mrs. McTavish, of the Mull of Kintyre.

I wonder, therefore, Mr. Speaker, whether you would advise the House on how best we might deal with this Petition. Might it be possible for the Leader of the House now to move that for the purposes of this Petition the Petitions Committee be relieved of the requirements of Rule of Procedure No. 95 read in conjunction with the passage in Erskine May which I cited, so that eventually the report might have to include not the number of signatures but only the number of separate sheets of signatures.

It would appear to me, Sir, that that would ensure that the time of our hard-worked clerks was not unduly overburdened by counting and checking over 1 million signatures on what must be a truly historic Petition.

Mr. Emrys Hughes was also concerned at the time which would be taken in checking the signatures, but he raised a further point. He said:

With this Petition there are certain difficulties which are not associated with any other Petition. . . . For example, I have been asked how many of the signatures are those of women and children under 16. I have been asked whether foreign subjects visiting Scotland have had the opportunity to sign. I have been asked whether it is true that large numbers of foreign subjects, who have not understood the issue, but who have been part of the large tourist traffic which comes to Scotland, to the Edinburgh Festival, going on to the Highlands and to Stirling Castle, have added their names. I entirely agree with the hon. Member for the Isle of Ely that, if it is possible, we should check the address of every signatory.

I have one final illustration. Yesterday, the Minister of Defence for Administration said that on a recent visit to Katmandu he had seen an appeal to sign the Petition. For the benefit of hon. Members who do not know where Katmandu is, I should say that it is not in Argyllshire, nor in Sutherlandshire. Here was an attempt to raise signatures in a country in which a large number of people understand only Chinese. Will any scrutiny be made of whether the inhabitants of Nepal have had the Petition translated into their native language before it was presented to them?

I have said enough to show that, if it is possible without adding to public expenditure, there should be at least a sample scrutiny to find out whether any foreign subjects have signed the Petition, whether it has been circulated in a foreign language and whether women and children have signed it.

After further questions Mr. Speaker replied as follows:

May I first say that a Petition to the House of Commons does not upset the dignity of the House of Commons. We are dealing with an unusual problem, because this Petition is particularly large. One hon. Member wants to reduce the work of the staff in examining the Petition and another hon. Member wants to add to the work of the staff by increasing the matters which the Committee would examine.

I must deal simply with the point of order. It is not within my power to direct that signatures need not be counted, because the House ordered, when setting up the Committee on Public Petitions, that the report of the Committee should set forth in respect of each Petition the number of signatures which are accompanied by addresses. The office clerks examining the Petitions have,

therefore, to satisfy themselves that each signature appears to be a valid signature with an address; otherwise, it is not counted.

It is not unusual to find names attached to a Petition which are clearly not genuine signatures, or which are not accompanied by addresses. An order to report the number of signatures has been included in the Committee's order of reference ever since the Committee was first appointed in 1833. The number has to be officially verified, as it has been found in the past that the number is sometimes over-estimated by those who prepare the Petition.

The Committee on Public Petitions will examine the Petition and no doubt hon. Members who are members of the Committee will note the observations made.

(*Com. Hans.*, Vol. 775, cc. 1137, 1169–74.)

Church of England Measures.—The Church of England Assembly (Powers) Act 1919 set up the National Assembly of the Church of England and gave it power to legislate " touching matters concerning the Church of England ". These powers were to be exercised by instruments called Measures which were to be subject to parliamentary approval. Every Measure passed by the Church Assembly has to be submitted to the Ecclesiastical Committee of Parliament by the Legislative Committee of the Church Assembly. The Ecclesiastical Committee consists of fifteen Members of the House of Lords, nominated by the Lord Chancellor, and fifteen Members of the House of Commons, nominated by the Speaker of that House for the duration of each Parliament. It is the duty of the Ecclesiastical Committee to draft a Report to Parliament on the Measure, stating the nature and legal effect of the Measure and its views as to the expediency thereof, especially in relation to the constitutional rights of all Her Majesty's subjects. Section 3 (4) of the Act provides that " the Ecclesiastical Committee shall communicate its Report in draft to the Legislative Committee, but shall not present it to Parliament until the Legislative Committee signifies its desire that it should be so presented ".

For forty-nine years, as far as could be ascertained, it had been the practice of the Legislative Committee, before submitting a Measure to the Ecclesiatical Committee, to pass a resolution that, in the event of a favourable Report on the Measure being made, that the Report should be presented to Parliament. Relying on this practice, the Prayer Book (Further Provisions) Measure, together with the Report, were laid before both Houses on 17th July, 1968, but on this occasion a point was raised whether the provisions of section 3 (4) (above) had been fulfilled, " because no meeting of the Legislative Committee did in fact take place between the meeting of the Ecclesiastical Committee and the presentation of the Measure and the Report to both Houses ". On 25th July, 1968, the Speaker upheld this contention and gave his ruling in the following words:

I want to make a Ruling which may help any hon. Member who is interested in item No. 17 on today's Order Paper.

The House will remember that on Thursday, 18th July, the hon. Member

for Nottingham, West (Mr. English) submitted that the Ecclesiastical Committee's Report unpon the Prayer Book (Further Provisions) Measure, 1968, which was presented to this House on Wednesday, 17th July, was never laid in draft before the Legislative Committee of the Church Assembly and that, in consequence, an important step in the legislative process by which such Measures are submitted for the Royal Assent, after being approved by both Houses, had been omitted.

Last Thursday, I declined to reply in advance on the matter, but the Motion is now before the House among the effective Orders for today, and I must, therefore, give the Ruling which I promised last Thursday.

The hon. Member for Nottingham, West has submitted, in support of his contention, a letter, signed by the Secretary of the Church Assembly, which states, *inter alia:*

> "No meeting of the Legislative Committee did in fact take place between the meeting of the Ecclesiastical Committee and the presentation of the Measure and the Report to both Houses . . ."

In these circumstances, the hon. Gentleman's submission that a preliminary step in the legislative process has been omitted cannot be ignored by the Chair. In consequence, it would not seem right to propose the Motion to the House until such time as the Report which accompanies it has met the formal requirements of the Statute. I therefore propose not to put item No. 17 to the House.

One Member (Mr. Bishop) queried the ruling in these words:

As the hon. Member who was to have moved the Motion if it came before the House tonight, may I ask whether you are aware that, on 27th June, the Legislative Committee of the Church Assembly passed a Resolution which included *inter alia* the fact that, in the event of the draft report of the Ecclesiastical Committee being favourable, the Secretary was authorised to signify the desire of the Legislative Committee that the Measure be presented to Parliament? Are you also aware that I understand that this has been the procedure for perhaps 20 or 40 years? Have you had regard to this fact and to whether you are not creating a precedent?

Mr. Speaker replied: The simple answer is that Mr. Speaker is guided by the Statute. The provisions of the Statute are formal. Whatever arrangements the hon. Gentleman refers to have been suggested, if a matter involving a breach of the Statute is brought to Mr. Speaker's notice, he has no alternative but to act as he has. The hon. Gentleman must seek further advice as to what he can do about his Motion.*

As a result of this ruling, the Motion for approval which was to be moved in the Lords was withdrawn and the Measure re-laid.

(*Contributed by J. E. Grey, Secretary to the Ecclesiastical Committee.*)

5. Order

House of Commons (Member suspended from the service of the House).—" Whenever a Member shall have been named by Mr. Speaker . . . [for] . . . disregarding the authority of the Chair . . . Mr. Speaker shall forthwith put the Question . . . ' That such Member be suspended from the service of the House ' . . . [and] . . . suspension on the first occasion shall continue until the fifth day . . . on which the

* *Com. Hans.*, Vol. 769, cc. 1000–1.

House shall sit after the day on which he was suspended ". So runs the Standing Order and so it happened on Thursday, 23rd May, 1968, when Dame Irene Ward, who has been a Member of the House from 1931 with one short break, was suspended—the first occasion for sixteen years on which a Member has been suspended.

It happened while a Vote was being taken on the Government Motion to guillotine the Finance Bill, only the second time the guillotine has been used for this Bill, the first occasion being in 1931. Dame Irene stood in the middle of the Chamber in front of the Mace, facing Mr. Speaker; the Tellers, unable to take up their proper places immediately before the Mace, stood in a row behind her and the senior Government Teller, not the tallest of Members, poked his head first to one side and then to the other of the lady in front of him, and read out the voting figures. The following exchanges then took place:

Mr. Speaker: Order. The hon. Member for Tynemouth (Dame Irene Ward) must leave the place where she is now standing, before the Table, and return to her place on the benches.

Dame Irene Ward: Mr. Speaker, I wish to protest——

Mr. Speaker: Order.

Dame Irene Ward: I wish——

Mr. Speaker: Order.

Dame Irene Ward: I wish to protest, Mr. Speaker——

Mr. Speaker: Order. If the hon. Lady wishes to protest, she must protest in a parliamentary way from her place on the benches.

Dame Irene Ward: No. Parliament no longer exists——

Hon. Members: Sit down!

Mr. Speaker: Order. I am sorry, but if the hon. Lady will not obey the Chair, I shall have to name her.

Dame Irene Ward: I am very sorry, Mr. Speaker. I wish to protest——

Hon. Members: Name her!

Mr. Speaker: Order. I name Dame Irene Ward.

The Lord Privy Seal and Leader of the House of Commons (Mr. Fred Peart): I beg to move,

That the hon. Member for Tynemouth (Dame Irene Ward) be suspended from the service of the House.

Hon. Members: Shame!

Mr. Speaker: Order. The Question is, That the hon. Lady the Member for Tynemouth (Dame Irene Ward) be suspended from the service of the House.

The House then proceeded to a Division; but no Member being willing to act as Teller for the Noes, Mr. Speaker declared that the Ayes had it.

Mr. Speaker: I must direct the hon. Lady to withdraw from the Chamber.

Dame Irene Ward: I still wish to make my protest.

Mr. Speaker: Order.

Dame Irene Ward: I have a right to make a protest. I am no longer in a position adequately to protect the interests of my constituents. Parliament is turning into a dictatorship, and I protest about it.

Mr. Speaker: Order.

Dame Irene Ward: I have a right to protest.

Mr. Speaker: Order. I must ask the hon. Lady now that she obey the

directions of Mr. Speaker and that she leave the Chamber. The hon. Lady must not make it more difficult.

Dame Irene Ward: The Government are preventing me from protecting the interests of my constituents.

Mr. Speaker: Order. If the hon. Lady does not obey I shall have to call the Serjeant-at-Arms to conduct her from the Chamber. The hon. Lady must leave the Chamber.

The Serjeant-at-Arms will be pleased to conduct the hon. Lady from the Chamber.

The Serjeant-at-Arms came forward.

Dame Irene Ward: Do you want my right or my left arm?

The hon. Member then withdrew, escorted by the Serjeant-at-Arms.

South Australia: House of Assembly (Members' Dress in the Chamber).—During the 1968 session the Leader of the Opposition (The Hon. D. A. Dunstan, Q.C., M.P.) addressed a question to Mr. Speaker Stott on Members' Dress in the Chamber. (Both the Attorney-General and the Leader of the Opposition wear shorts in their offices as, of course, do many office workers and others inside and out of the Public Service.) The Leader of the Opposition asked, *inter alia*, in his question to the Speaker, " Since some of us in this House are not given to dressing in the heat of summer as if we were wintering in Switzerland, I ask you, Mr. Speaker, is there any reason why we should not continue that mode and style of summer dress in the House rather than change before we enter the Chamber?"

Mr. Speaker undertook to refer the matter to the Standing Orders Committee. The Committee reported to the House that it considered that under the Speaker's general authority to maintain order in the House, he should also be the initial arbiter as to dress, his opinion being subject, of course, to the superior wisdom of the House. The Committee made a recommendation to the House that a Standing Order to regulate Members' dress was not desirable, and that, as a general rule, the conventional dress in the Chamber for male Members, which includes the wearing of a coat, shirt, tie and long trousers, should be retained.

The recommendation from the Committee was debated in the House and upheld on division but only on the casting vote of the Speaker.

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

India: Lok Sabha (Disorderly conduct by Members at the time of President's Address to both Houses of Parliament assembled together).—On 20th February, 1968, Shri P. Venkatasubbiah, a Member moved the following Motion:

That this House strongly disapproves of the conduct of Sarvashri Maulana Ishaq Sambhali and H. N. Mukerjee who created obstruction and showed disrespect to the President at the time of his Address to both the Houses of Parliament assembled together under Article 87 of the Constitution on 12th

February, 1968, and reprimands them for their undesirable, undignified and unbecoming behaviour.

Shri S. M. Banerjee raised a point of order that there was no rule under which such a Motion could be moved and that, therefore, the Motion was not admissible and should not be allowed to be discussed. The Speaker, however, ruled out the point of order and observed that the Motion was admissible.

Shri Madhu Limaye argued on a point of order that the factual basis of the Motion that Shri H. N. Mukerjee had showed disrespect to the President was incorrect and that there was no record of the proceedings of the Joint sitting of the Houses of Parliament when the incident took place. He further stated that even if the facts stated in the Motion were correct, it was a matter involving a breach of privilege and contempt of the House and the Motion was, therefore, barred under Rule 186 (v) of the Rules of Procedure of Lok Sabha. The Deputy Speaker (Shri R. K. Khadilkar), who was then in the Chair, however, ruled out the point of order and observed that it was not a matter involving a breach of privilege or contempt of the House but was one of conduct of Members and maintaining decorum and dignity by the Members.

Speaking on his Motion, Shri P. Venkatasubbaiah stated as follows:

Article 87 of the Constitution clearly says that the President has got a constitutional responsibility to address both the Houses of Parliament assembled together and inform the Members of Parliament of the causes of the summons. Under this provision, it is mandatory on the part of the President to address the Members of both Houses of Parliament. It is clear that when the Head of the State, namely, the President acts in exercise of the constitutional provisions requiring the attendance of Members of both Houses of Parliament, the solemnity and dignity of the occasion are of the utmost importance. The President represents not only the executive authority; he is also in a sense the symbol of our Constitution. Any disrespect shown to the President is disrespect shown to the Constitution. Mr. Limaye said that Mr. Mukerjee did not show any disrespect and did not obstruct the proceedings. What is meant by the words " Disrespect and obstruction "? It is disrespect to interrupt when the President rises in his seat to speak in the discharge of his constitutional responsibilities. . . .

The President's address to Parliament is a most solemn and formal act under the Constitution. This solemn occasion should therefore be marked by dignity and decorum. So, it is in the context of these things that proper respect to the Constitution should be shown, and every Member should maintain the utmost dignity and decorum.

I may recall to you and also to the hon. Members that every time the President addresses both Houses of Parliament—it is intimated to the Members of Parliament that hon. Members are required to be in their seats by such and such a time and nobody should leave the House till the President's address is over. Here, they have showed disrespect by leaving the House when the President was addressing the Houses of Parliament. The commission of these two acts—showing disrespect by obstructing the President while he started addressing, the House and by leaving the Central Hall while the President was speaking—constitutes utter disregard to the Constitution and also to the President, and it constitutes misconduct and disorderly behaviour.

. . . in 1963, a similar incident happened. Then, Mr. Jaipal Singh raised the matter in the House. The Speaker in his wisdom constituted a Committee.

. . .

I would only say that this matter is brought before the House in view of the previous Committee's report in which they have not taken any action about such things which may happen in future. I, therefore, thought it my duty to bring this matter before the House so that they may take serious note of it and deal with it in whatever manner they thought it fit.

Shri Madhu Limaye moved the following amendment to the Motion moved by Shri P. Venkatasubbaiah:

for

" Strongly disapproves of the conduct of Sarvashri Maulana Ishaq Sambhali and H. N. Mukerjee who created obstruction and showed disrespect to the President at the time of his Address to both the Houses of Parliament assembled together under article 87 of the Constitution on the 12th February, 1968 and reprimands them for their undesirable, undignified and unbecoming behaviour ",

substitute—

" after taking into consideration the happenings at the time of the President's Address to Members of Parliament on the 12th February, 1968, is of opinion that the Rules of Parliament should provide for the ventilation of grievances by Members of Parliament at the joint opening session of Parliament every year."

Shri A. B. Vajpayee, another Member, moved the following amendment to the Motion:

for

" and reprimands them for their undesirable, undignified and unbecoming behaviour ",

substitute—

" and resolves that a Committee of Lok Sabha be constituted to examine thoroughly all aspects of the question and make recommendations with a view to ensure that such unbecoming events are not repeated."

Shri S. M. Banerjee then moved the following amendments to the Motion:

(i) *for*

" strongly disapproves of ",

substitute—

" having considered ".

(ii) *Omit*

" who created obstruction and showed disrespect to the President " and *for* " his " *substitute* " President's."

(iii) *for*

" and reprimands them for their undesirable, undignified and unbecoming behaviour."

substitute—

" recommends that no action be taken against them."

Supporting the Motion of Shri P. Venkatasubbaiah, Shri C. C.

Desai said that the " unpardonable conduct on the part of those Members of the House who staged a demonstration, made noisy interruptions and marred the solemnity of that particular occasion " could not be condoned. He added that there were constitutional ways of ventilating grievances and that " creating disorder by scenes, unseemly scenes in the presence of the President is not a decent democratic way of ventilating the grievances of the people ".

Opposing the motion of Shri P. Venkatasubbaiah, Shri P. Ramamurti stated:

. . . When the President came, Mr. Mukerjee got up and then told him, in as polite a language as possible—there is nothing impolite about the language used; there is nothing derogatory in that " Mr. President, we are pained at the doings of your Government with regard to a number of these things. We do not think that much useful purpose will be served by our participating in this august ceremonial function. Therefore, we are going out." The reasons for our walking out were told to the President. He was not interrupted. There was no unseemly scene; there was no attempt to prevent him from making the speech. He sat down and heard the whole thing. . . .

. . . This question of passing strictures or something on the Members of Parliament is not something which has got to be trifled with or taken lightly. After all, when a Member of Parliament has got to be reprimanded, if that thing has got to be done seriously by the people of this country, that reprimand must be given with the unanimous support of Parliament. Otherwise, it will lose its significance whatsoever. If a reprimand is carried by a majority, simply because they have a majority, if this issue is treated as a party issue, if, on that basis, reprimands are given, I would say, respectfully, that the people of this country are not going to tolerate it and they will not respect it also."

Shri Hem Barua said that what shocked him most was not the conduct of Shri H. N. Mukerjee but the remarks made by Maulana Ishaq Sambhali which tarnished the fair name of the country. He suggested that there should be a committee of the leaders of the different political parties to see that such incidents are not repeated either here or on the floor of the State Assemblies.

Explaining his position, Shri H. N. Mukerjee, who was present throughout the proceedings, stated:

I should begin by saying that not only on behalf of myself but also on behalf of Maulana Ishaq Sambhali and the rest of us, some 80 or so Members of Parliament who walked out together, on behalf of all of us, I deny the charge of undignified and unbecoming conduct. . . .

The head and front of my offending appears to be that I have a reputation for being somewhat mild-mannered in spite of the language which quite frequently I am constrained to apply in regard to the policies of Government over there, and that I was a signatory to a report of a Committee set up in 1963. I did happen to have been a member of that Committee.

. . . And we ought to realise that this is a Parliament where the voice of the people has got to be heard, and that is the idea with which every Member is permeated, and the functioning of this Parliament cannot be dominated and dictated by whatever conventional or regulatory processes that have been laid down at an earlier period.

I was not present at some of these meetings, and so were some other Members

absent from certain meetings, because we wanted to register our difference with the decisions ultimately reported.

We used to have a convention, but conventions are today in the melting pot, that as far as these parliamentary Committees are concerned, we do not put in notes of dissent.

I am not making a point of it, but in regard to this report I say that some of us did not want to associate ourselves with the recommendations of this report. Even so, even if this report is to be considered as something very important and all that sort of thing, we have to remember that things have changed.

. . . when I remember the difficulties and the emotional atmosphere in which Parliament was summoned on the 12th of this month, I am astonished at my own moderation and at the fact that I insisted on a certain kind of dignity of behaviour. I have always believed that one could be effective in a parliamentary forum if one combined dignity with power and that is why we did it with dignity and, I hope, with a certain amount of effectiveness. I have no regrets about it at all.

. . . As a matter of fact the President himself never took it amiss. In this report, you will find a reference to the fact that in 1963 the President himself felt somewhat disturbed and he spoke to the then Speaker about it. That is why the Speaker came to this House and suggested that appointment of a committee as the President felt disturbed on that occasion. My feeling is that the President should not have felt disturbed but then he did feel so. It was not so on this occasion. I have to defend myself in this House; this House has known me for nearly fifteen years. But I must say that the President never took amiss whatever we did. As a matter of fact he strained his ears to listen to what I was going to say.

. . . . The newspapers also insisted that it was done in a dignified manner. They stressed what I said there specifically; without disrespect to you and your office, we are doing what we were doing; we were unable to participate in the ceremonial occasion. That is exactly what I said. If this comes under the mischief of some kind of privilege matter, I cannot help it.

. . . And that is why I say that we repudiate entirely the allegation of undignified and unbecoming conduct on that occasion. On the contrary, we did that with as much dignity as was possible. We discovered that the President accepted it in good part. There is no reason why we should be under obloquy either in Parliament or in the country.

Shri J. B. Kripalani said that the purpose of the mover of the Motion had been served by the discussion that had taken place and everybody had understood what should be done on such occasion. He, therefore, suggested that the matter might be treated as having been talked out in order to avoid bitterness in case the Motion was put to vote and carried in the House. Shri C. C. Desai also supported this suggestion.

Some Members objected to the House taking a decision on the matter in the absence of Maulana Ishaq Sambhali, the other Member named in the Motion. They felt that justice demanded that he should be given an opportunity to defend himself. The Speaker observed that Maulana Ishaq Sambhali was not present in the House although he had been given notice of the Motion. The Speaker, however, agreed with the objection and suggested that voting on the Motion might be postponed in order to provide another opportunity to Maulana Ishaq Sambhali to explain his conduct. The House agreed.

On 28th February, 1968, Maulana Ishaq Sambhali made a statement explaining his conduct. He stated that he had great regard for the President and there was no question of showing disrespect to him. He added that he had not interrupted the President as he had spoken before the President had started his Address. He, however, justified his conduct.

Shri Atal Bihari Vajpayee said that he had been greatly hurt by the statement of Maulana Ishaq Sambhali. He added that he would not, therefore, press his amendment and would support the Motion of Shri P. Venkatasubbaiah.

The amendments moved by Sarvashri Madhu Limaye and S. M. Banerjee were then put to the vote of the House and negatived. The Motion moved by Shri P. Venkatasubbaiah (*see* para. 1 above) was then adopted by the House.

6. Standing Orders

House of Lords.—Standing Order No. 35 was amended on 30th April, 1968, to put Special Orders (affirmative resolution Statutory Instruments) on the same basis as Bills and Measures in respect of their placing on the Order Paper. This was recommended by the Procedure Committee in their First Report (1967–68). These instruments which some years ago had been mainly in the category of private business, are now almost entirely public, and this fact is now recognised by placing them among public business on the Order Paper.

House of Commons.—The main changes in Standing Orders were as follows:

(1) A new Standing Order was passed, to put into effect a Sessional Order 1967–8, to allow proceedings in the House to be suspended *after* 10 o'clock p.m. to be resumed at 10 o'clock a.m. the following morning. The adjournment debate takes place after the Motion to suspend the Sitting has been carried in the evening. (S.O. 1A.)

(2) The Standing Order (Nomination of Standing Committees) was modified in two ways:

(i) to allow the creation of *two* Scottish Standing Committees, and

(ii) to reduce the minimum number of members of a Standing Committee to sixteen from twenty.

The Standing Order (Scottish Standing Committee) was similarly modified. (S.O.s 60, and 61.)

(3) A new Standing Order was passed to put into effect a Sessional Order of some standing, to provide for the creation of a Welsh Grand Committee. (S.O. 64A.)

(4) A new Standing Order was passed to put into effect a Sessional Order of some standing to allow the release of Select Committee Reports forty-eight hours before publication to Departments, lobby journalists, etc.

Jersey.—In 1968 additional Standing Orders were adopted, the effect of which were to delegate to a committee some of the responsibilities of the States of Jersey.

Canada: Ontario.—On Monday, 22nd July, 1968, on Motion by Mr. Robarts, the Prime Minister, seconded by Mr. Nixon, the Leader of the Opposition, a Standing Order was passed unanimously, providing that, thenceforth, Members might address the House in either of the two official languages, English and French.

New South Wales: Legislative Council.—A report from a joint meeting of the Library Committees of the Legislative Council and Legislative Assembly, dated 20th November, 1968, containing certain recommendations concerning Library arrangements in substitution for those adopted by the House in 1862 was tabled on 21st November, 1968. A meeting of the Standing Orders Committee was held on the same day to consider the report and recommended that Standing Order No. 280 respecting Sessional Orders be amended by the substitution of the third paragraph in reference to the Library Committee. This action would delete reference to the Resolution of 7th August, 1862.

On 26th November, 1968, the House agreed to a Motion on Notice recommending the amendment and that the amended Standing Order be presented to His Excellency the Governor for approval; the House also adopted the report from the Library Committee, and the Sessional Order adopted on 13th August, 1968, was amended by the deletion of the reference to the Resolution of 1862. The report from the Standing Orders Committee was also tabled and ordered to be printed the same day.

The Governor's approval of the amended Standing Order No. 280 was reported on 3rd December, 1968. (*Journal*, Session 1967–8, Vol. 156, pp. 209, 217, 218, 251.)

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

South Australia: House of Assembly.—Standing Order No. 128 was repealed and re-enacted to make it clear that, unless otherwise ordered, the period allowed for asking questions without notice shall not exceed two hours on the first day of a session and on other days shall cease at 4 o'clock. New Standing Order No. 130A requires that questions on notice shall be disposed of before other business on the Notice Paper is proceeded with. These changes were agreed to by the House on 27th November, 1968, and approved, as required by the Constitution Act, by the Governor on 5th December, 1968.

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

Australia (Northern Territory).—Night sittings of the Council were dropped as a result of an amendment to Standing Order 27. The

prescribed time for the commencement of the sitting day was formerly 2 p.m. but is now 10 a.m.

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

Australia (Papua and New Guinea).—The Standing Orders of the House were amended in June 1968 to take into account recent constitutional developments, namely the appointment of Ministerial Members and Assistant Ministerial Members (for these details see under CONSTITUTIONAL).

New Zealand.—The New Zealand House of Representatives, on 3rd July, 1968, adopted the following changes which had been recommended by its Standing Orders Committee:

1. The complex and time-consuming procedures founded on the Parliamentary consideration of financial proposals in the Committees of Supply and Ways and Means were discontinued and these two Committees of the whole House were abolished.

2. The procedures associated with the initiation and introduction of Government Bills were simplified. Previously the draft of a Government Bill which involved the appropriation of public money, whether incidentally or otherwise, was required to be introduced by Governor-General's Message recommending the House to make the necessary provision. Under the new procedure (excepting only the cases of the two annual Appropriation Bills and the three Imprest—temporary—Supply Bills which are preceded by a Message conveying the Royal recommendation) all Government Bills are introduced on a Motion, That the —— Bill be introduced, which, when carried, would be followed by the calling by the Clerk of the first reading after which the Bill would be set down by Mr. Speaker for second reading " next sitting day ". If the Minister in charge so desired and the House agreed, the Bill might then be read a second time *pro forma* forthwith and referred to a Select Committee. The preliminary consideration of the Bill in Committee was dispensed with.

3. The Budget or Financial Statement is now delivered in the House instead of in Committee of the whole House, and the Budget debate is raised on the second reading of the Appropriation Bill instead of on a Motion, That Mr. Speaker do now leave the Chair. Under the new system, the Main Estimates are conveyed to the House by Governor-General's Message and the Message recommends the appropriation of revenue for the purposes of the Appropriation Bill. When the Message has been read, the Minister of Finance presents the Appropriation Bill without a Motion for introduction and its title is read by the Clerk. The Minister, addressing Mr. Speaker, then moves the second reading of the Bill and delivers his Budget speech. At the conclusion of that speech, the Leader of the Opposition moves the adjournment of the debate. While this debate is in progress the Estimates are considered

by the Public Expenditure Committee and departmental officials are examined concerning them.

4. When the debate on the second reading of the Appropriation Bill concludes, the House goes into Committee and the Main Estimates are discussed on the schedules of that Bill, the clauses being deferred until the various Votes have been passed. No Vote is taken until it has been cleared by the Public Expenditure Committee.

5. When the Supplementary Estimates have been introduced by Message, the Appropriation Bill (No. 2) is presented, read a first time, and set down for second reading " next sitting day ". Meanwhile, these Estimates are considered by the Public Expenditure Committee.

6. Customs, Sales Tax and other resolutions are now introduced in and considered by the House instead of in Committee of Ways and Means and, when agreed to, they stand referred to the Committee on the Bill to be introduced to give statutory effect thereto.

7. New Standing Orders have been adopted to provide a simple procedural code for dealing with alleged breaches of privilege or contempt. They are designed to state very clearly the powers of the Speaker to rule immediately a question of privilege is raised (or next day if preferred) whether a *prima facie* case has been made out. If Mr. Speaker rules that a *prima facie* case has been established the Member raising the matter may forthwith move that the matter be referred to the Committee of Privileges. If he does not so rule the House proceeds to its next business.

8. A new Standing Order based on the recommendation made in 1963 by the House of Commons Select Committee on Procedure was introduced with a view to providing a more intelligible and consistent *sub judice* rule for the guidance of the person in the Chair. The new rule precludes the discussion in the House of matters awaiting or under adjudication in courts of record from the time a case is set down for trial or otherwise brought before the court it if appears to the Chair that there is a real and substantial danger of prejudice to the trial of the case.

7. Electoral

House of Commons.—Mr. Speaker's Conference on Electoral Law which had been formed in 1965* reported in February 1968 after holding thirty-six meetings. Its recommendations are set out below:

Franchise

1. The minimum age for voting should be twenty years.

(The Conference voted on the question that the age should be twenty years; Ayes 24, No 1. A motion, that the minimum age should be eighteen years, had been rejected; Ayes 3, Noes 22.)

* The Table, Volume XXXIV, pp. 124–5.

2. The franchise should be extended to staff of the British Council who are posted overseas and to their spouses when they accompany them.

3. A convicted prisoner who is in custody should not be entitled to vote.

REGISTRATION

General

4. There should continue to be one register each year, as at present.

(This was agreed to by the Conference after a division on the question that two registers should be published each year instead of one as at present. The voting on this issue was; Ayes 11, Noes 11. Mr. Speaker declared himself with the Noes on the ground that a recommendation in favour of a change in the law ought to be supported by a majority of those voting, and the question was therefore negatived.)

5. The date of publication of the register should remain at 15th February but if administratively possible the qualifying date for inclusion in the register should be 1st November.

6. When persons reach the voting age during the period of validity of any register, the date of the birthday should be shown against the name of the elector, and he or she should be qualified to vote in any election held on or after that date.

7. The register should be prepared, where possible, in street or walking order.

8. The Government should arrange for a feasibility study to be made on the use of computer techniques in compiling and keeping up to date the electoral register.

9. It should be made the duty of a registration officer to ensure an accurate register; and where the return by occupiers as to residents (Form A) is not returned to the registration officer he should take all other possible steps to obtain accurate information for the purposes of preparing the register.

10. Adequate publicity should be given to the importance of completing Form A, and of inspecting the electors lists when they are on public display.

11. Consideration should be given to increasing the maximum penalty prescribed by Regulation 70 of the Representation of the People Regulations 1950 for failing to give information, or for giving false information, for registration purposes.

Members of the forces and their wives

12. The present arrangement for continuous registration of members of the forces and their wives should cease.

13. The Service authorities should in future be required to obtain information for the purposes of registration from any member of the forces who appears to be qualified to be registered whenever similar information is required to be given by a civilian householder; and it should be the duty of the commanding officer of each unit to see that this is carried out in time for entries to be made in each ordinary register.

14. The obligation on the Service authorities to obtain such information at such times should extend to wives of servicemen in the United Kingdom who are residing in premises maintained by the Service authorities or by the Ministry of Public Building and Works as well as to wives who are residing outside the United Kingdom to be with their husbands.

Crown servants, staff of the British Council and their spouses

15. The system of registration of Crown servants and their spouses, when overseas, should in future be similar to that already recommended by the Conference for members of the forces and their wives; and it should be the duty of the head of mission or department in each country to see that the necessary information is obtained in time for entries to be made in each ordinary

register. Suitable arrangements should be made for the registration of the overseas staff of the British Council and their spouses.

Merchant seamen

16. In the electoral register the letters " MS " should be placed against the names of merchant seamen.

17. A merchant seaman should be entitled to be registered in respect of an address at which he is, or but for the circumstances of his employment would be, residing.

18. For the purposes of electoral registration a hostel or residential club should be acceptable as a place of residence of a merchant seaman.

19. Mercantile Marine Offices should take all possible steps to draw the attention of individual merchant seamen to the facilities available for securing their registration as electors; and a separate form should be provided on which merchant seamen can apply for direct registration if they think their names have not been entered on a householder's form.

Persons suffering from mental illness

20. Steps should be taken to bring to the attention of persons completing Form A that a patient who is free to leave from time to time an establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or other form of mental disorder may be included on Form A in respect of his ordinary place of residence.

Absent voting

21. Subsections (1)(*b*) and (3)(*a*) of section 12 of the Representation of the People Act 1949 should be amended so as to include among those qualified to be treated as absent voters by reason of the general nature of their occupation, service or employment, wives accompanying their husbands whenever their husbands are so qualified.

22. Spouses of Crown servants, of British Council staff, and of members of the forces should be entitled to vote by proxy as from the time they leave the United Kingdom.

23. Absent voting facilities should be extended to electors who no longer reside at their qualifying address but reside at an address in another constituency within the same borough.

24. Any elector who has appointed a proxy should be entitled to receive a ballot paper if he applies in person at the polling station before a ballot paper has been issued to his proxy.

25. A postal voter who inadvertently spoils his ballot paper should be able to obtain another to replace it.

26. A postal voter who does not receive his ballot paper should be entitled to complete a tendered ballot paper.

27. The declaration of identity to accompany a postal ballot paper should include the address of a person witnessing the declaration.

Official mark

28. Every ballot paper should continue to be stamped with an official mark at the time of issue to an elector, but the requirement that the mark should be either embossed or perforated should be replaced by a requirement that it should be perforated.

29. There should be a different official mark for postal ballot papers.

Nomination papers

30. The use of the description " Minister of the Crown " or of a Ministerial office should not be permitted on a candidate's nomination paper.

Public opinion polls and betting odds

31. There should be no broadcast, or publication in a newspaper or other

periodical, of the result of a public opinion poll or of betting odds on the likely result of a parliamentary election during the period of seventy-two hours before the close of the poll. (The Conference decided by a majority to recommend this restriction; Ayes 9, Noes 5. The period of seventy-two hours was agreed to by a majority; Ayes 11, Noes 6.)

Election Expenses

Legal maximum of candidates' expenses

32. The present arrangements in respect of the legal maximum of candidates' expenses should continue except that the basic figure of £450 in the scale of candidates' expenses should be increased to £750. (This was agreed to by a majority; Ayes 16, Noes 8.)

33. It should be made the duty of the returning officer to give public notice in each constituency of the legal maximum of candidates' election expenses.

Telephones

34. Where it is necessary to install a telephone for the use of a candidate during an election campaign the installation cost and rental should be met out of public funds.

Use of Broadcasting

Exemptions from provisions relating to election expenses

35. Broadcasting should be exempted from the provisions relating to election expenses in section 63 of the Representation of the People Act 1949; but a programme covering an election in a particular constituency and including candidates in that constituency should not be broadcast unless all the candidates have agreed to take part personally and are given an equal opportunity to state their views.

Political broadcasting at general elections

36. While the existing arrangements governing the allocation of time for political broadcasting at general elections are broadly satisfactory, the broadcasting authorities should review the arrangements made for broadcasts at election times by minor parties.

Television stations outside the United Kingdom

37. Section (80)(1) of the Act of 1949 should be extended so as to prevent television stations outside the United Kingdom from transmitting any matter with intent to influence voters at an election; and the exception in respect of arrangements made with the British Broadcasting Corporation should also apply to the Independent Television Authority and all their programme contractors.

The Conferences also considered a number of other aspects of electoral law but decided to recommend no changes in them. Among these was a proposal to introduce the single transferable vote system but this was rejected by 19 votes to 1. Also considered was the question of whether reference to a candidate's party should be permitted on nomination papers and consequently on ballot papers.

Jersey.—New legislation was adopted in 1968 revising the system under which the population became entitled to vote.

In the past, ratepayers were automatically included in electoral lists and others had to make an application every three years. In future a form will be sent to and have to be returned by every household each

year and the people in the household mentioned on the form will be included in the electoral lists. Certain persons are given the duty to ensure that forms are returned.

The voting age was reduced from 21 to 20, which is the normal age of majority in Jersey.

(*Contributed by the Greffier of the States.*)

South Australia (Constituencies).—An Act was passed constituting a commission consisting of a judge (Chairman), the Surveyor-General and the Returning Officer for the State to make and report upon a division of the State into forty-seven proposed Assembly districts. Five Council districts are required to be adjusted and redefined in terms of the proposed new Assembly districts.

The Commission's report will form the basis for consideration by Parliament of legislation but will not, in itself, have any statutory effect.

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

Tasmania (Adult Franchise).—The Constitution was amended to allow full adult franchise for the election of Members of Parliament after this year's elections.

Cayman Islands (Election Hiatus).—Under the Cayman Islands (Constitution) Order, 1965, the duration of the Legislative Assembly of the Cayman Islands is limited to three years. Unlike many larger Parliaments, two separate Proclamations are issued, one for the dissolution of the House, and one summoning the new House. By Proclamation No. 4 of 1968 the Legislative Assembly was dissolved as from 18th September, 1968; Proclamation No. 1 of 1969 summoned the new House for 12th February, 1969.

Proceedings for the conduct of Elections were commenced by a Writ issued by the Administrator dated 4th April, 1968, for the registration of all persons qualified to vote, the qualifications thereof being—

(*a*) British subjects of the age of twenty-one years or upwards; and who

(*b*) either has resided in the Islands for a period of at least twelve months immediately before the date of registration, or is domiciled in the Islands and is resident therein at that date.

Thursday, 7th November, 1968, was set as the day for the General Elections, and polling was conducted in five Electoral Districts in an orderly manner; but in George Town, the capital, tension was high and became evident about 3 p.m. when a demonstration began with certain

people entering the Polling Station and a large gathering forming outside which started a furore because they wanted to vote and were not on the list. They then started to prevent others from going in to vote by closing the doors. This group was gradually joined by more and more people who were not on the Voters List and many others. Although an appeal was made by the Acting Administrator to the crowd, his pleas were of no avail. The small number of police at the polling station was unable to bring any order and the Acting Administrator closed the polling station at 3.45 p.m. in order to preserve peace and order. Ballot boxes were removed and placed in a vault for safe-keeping in Barclays Bank, D.C.O. It appeared that the cause for dissatisfaction was the non-appearance on the Voters' List of many residents of the area, who having seen their names on the Preliminary List, did not think it necessary to recheck the Revised List on publication. The dissatisfied voters were assured by the Acting Administrator that there would be a complete revision of the whole proceedings and ultimately they dispersed.

The procedure for Registration of Voters is that registering officers go around to enumerate the voters and the Preliminary List is then published. If a name is omitted the person may make a claim and the Revising Officer revises the list making additions thereto. This was done. The Law provides set dates for the various items in the election machinery to be carried out and the registration followed this legal procedure.

Following the appointment on 11th November, 1968, of a new Administrator for the Islands, Hon. A. C. E. Long, C.M.G., C.B.E., a visit was made by him to the Commonwealth Office, London, and he was accompanied by the Hon. J. E. B. Ollquist, Attorney-General. Following this visit, on 20th December, 1968, Her Majesty the Queen in Council signed the Cayman Islands (George Town Election) Order 1968, providing for a new poll to be held in George Town and for persons who were not on the Register of Voters, but who claimed that they were entitled to be included when the Register was being prepared, to have an opportunity to claim inclusion when the new poll was held.

The Revised List of voters, published on 9th September contained 1,303 names of voters for the George Town District: the new list published on 13th January, 1969, contained 1,407 names of voters. The 24th January, 1969, was appointed as the day for the new poll for George Town. There was a surprisingly small turn-out for this election which was a quiet one, and of the number registered only 597 voted, with 9 rejected ballot papers. This brought the situation to a satisfactory conclusion.

The Inaugural meeting of the Legislature was convened on 12th February and on 20th February, 1969, the State Opening was held, and another three-year parliamentary period began.

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

8. EMOLUMENTS

Australia (Parliamentary Allowances).—The Parliamentary Allowances Act 1968 and the Ministers of State Act 1968 increased the salaries and allowances of the Presiding Officers, Ministers, other office holders and Members of Parliament as follows:

	Previous allowances (operative since 1964) $	*New allowances (effective as from 1.12.68)* $
1. *Members*		
(*a*) Salary	7,000	9,500
(*b*) Electorate allowance—		
Senator	2,100	2,650
City electorate	2,200	2,750
Country electorate	2,600	3,350
(*c*) Travelling allowance to attend sittings	$12 per day	$15 per day
2. *Ministers*		
(*a*) Salary (additional to 1 (*a*) and (*b*) above)—		
Prime Minister	17,000	21,250
Deputy Prime Minister (not being Treasurer)	10,000	12,500
Treasurer	9,800	12,250
Other Senior Ministers	8,500	10,500
Ministers	6,000	7,500
(*b*) Special allowance (additional to 1 (*a*) and (*b*) above—		
Prime Minister	8,000	10,300
Senior Ministers	3,600	4,600
Ministers	3,000	4,000
3. *Other office bearers*		
(*a*) Salary (additional to 1 (*a*) and (*b*) above)—		
President and Speaker	6,000	7,500
Chairman of Committees	2,500	3,125
Leader of Opposition (Representatives)	8,500	10,500
Leader of Opposition in the Senate	4,000	5,000
Deputy Leader of Opposition (Representatives)	4,000	5,000
Deputy Leader of Opposition in the Senate	1,300	1,625
Leader of Third Party (subject to existing conditions)	2,000	2,500
Leader of second non-Government party in the Senate	nil	1,000
(*b*) Special allowance (additional to 1 (*a*) and (*b*) above)—		
President and Speaker	1,200	4,000
Leader of Opposition (Representatives)	3,600	4,600
Leader of Opposition in the Senate	1,200	1,500

Deputy Leader of Opposition (Representatives)	1,200	1,500
Deputy Leader of Opposition in the Senate	600	750
Leader of Third Party (subject to existing conditions)	600	750
Leader of second non-Government party in the Senate	nil	500
Government Whip (Representatives)	1,200	1,500
Other Whips	1,000	1,250

The Parliamentary Retiring Allowances Act 1968 amended provisions relating to the Ministerial Retiring Allowances Fund legislation.

In contrast to the Parliamentary Retiring Allowances Fund, where, since 1964, the contributions of Senators and Members and the basic pensions payable have been expressed in percentages of the Member's parliamentary salary, the Ministerial Retiring Allowances Fund provided for a fixed contribution of $37 per month for a Minister and fixed pensions ranging from $18 to $42 per week. Increases in the salary of Ministers consequently had the effect of reducing the proportions that contributions and pension bore to salary.

The Act placed the ministerial scheme on a percentage of salary basis comparable with the Parliamentary Retiring Allowance scheme. Contributions by Ministers are now at the rate of 11½% of the basic salary of the Minister while the pensions range from 21% to 50% of the salary depending upon length of service as an office holder. The maximum level of pension benefit has accordingly risen from $2,190 to $3,750 p.a. (or 71%) while contributions have risen from $444 to $862.50 p.a. (or 94%).

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

Western Australia (Parliamentary Salaries Tribunal).—The Parliamentary Salaries and Allowances Act 1967 provided for the establishment of a Tribunal to determine the remuneration to be paid to Members of the Parliament of Western Australia. The Act was proclaimed to come into operation on 14th June, 1968. Hitherto, the salaries and allowances payable to Ministers of the Crown and to Members of Parliament in Western Australia have been fixed from time to time by Statute. Since the 1939–45 war, it has been the usual practice of the Government to appoint an advisory committee to make recommendations before alterations in such salaries and allowances were made. The Tribunal appointed by the Governor consisted of the senior puisne judge of the Supreme Court and two city business men, both qualified accountants. The first enquiry commenced on 21st June, 1968, and the Tribunal received evidence from many Members of both Houses of Parliament and other interested parties. The report was submitted to the Governor on 6th September, 1968, and the following determinations were effective from 16th September, 1968:

	$A
(*a*) Private Members	7,500
Premier	16,000
Deputy Premier	13,200
Leader of Government in the Legislative Council	13,200
Other Ministers	11,800
Leader of Opposition in the Legislative Assembly	10,500
President and Speaker	9,500
Chairmen of Committees	8,500
Leader of Opposition in the Legislative Council	8,700
Deputy Leader of Opposition in the Legislative Assembly	8,700
Whips—Legislative Assembly	8,350
Legislative Council	8,100

(*b*) Electorate Allowances ranging from $A1,600 (Metropolitan) to $A3,300 (Remote Areas) payable to all Members, including Ministers of the Crown.

(*c*) Office Expense remuneration ranging from $A150 (Chairmen of Committees) to $A1,200 (Premier) remained unaltered.

(*d*) Travelling allowances to be payable to Ministers of the Crown and the Leader of the Opposition in the Legislative Assembly, or his deputy when travelling in place of the Leader.

The Tribunal also fixed postage allowances as follows:

Leader of the Opposition in the Legislative Assembly	$A240 per annum
Deputy Leader of the Opposition in the Legislative Assembly	$A180 per annum
Member of Parliament:	
from the metropolitan area	$A120 per annum
from other areas	$A180 per annum

The Act provides that the Tribunal shall make a determination at intervals of not more than three years, but that a determination shall not be revoked until it has been in force for at least three years.

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

New Zealand (Parliamentary Salaries and Allowances).—Section 27 of the Civil List Act 1950 provides that the Royal Commission to be appointed to make recommendations concerning the salaries and allowances to be paid to the Prime Minister, Ministers, Under-Secretary, Speaker, his Deputy, and other members of the House, shall be so appointed within three months after the date of each general election. Such a Commission was set up on 27th February, 1967, and required to report on or before 31st July, 1967. The Commission, taking cognisance of the economic conditions then prevailing, recommended that its report be deferred for at least one year. This period was later extended to 30th June, 1968, and the Commission made its report on 27th June, 1968, but it was not adopted by the House and the Government until 7th November, 1968.

These recommendations, which were effective on and from 1st April, 1968, are summarised hereunder:

ANNUAL SALARIES AND EXPENSE ALLOWANCES

Prime Minister			
Salary	from	$ 11,500	to $ 12,400
Expense allowance	„	3,200	„ 3,500
Deputy Prime Minister			
Salary	„	8,500	„ 9,150
Expense allowance	„	1,200	„ 1,400
Ministers with portfolio			
Salary	„	8,000	„ 8,600
Expense allowance	„	1,100	„ 1,300
Ministers without portfolio			
Salary	„	6,500	„ 7,000
Expense allowance	„	900	„ 1,100
Parliamentary Under-Secretaries			
Salary	„	6,000	„ 6,450
Expense allowance	„	900	„ 1,100
Mr. Speaker			
Salary	„	6,800	„ 7,350
Expense allowance	Normal allowance as a Member plus $1,000 instead of $700		
Chairman of Committees			
Salary	from	5,500	to 5,950
Expense allowance	Normal allowance as a Member plus $600 instead of $400		
Leader of the Opposition			
Salary	from	6,800	to 7,350
Expense allowance	„	1,100	„ 1,300
Deputy Leader of the Opposition			
Salary	from	4,800	to 5,200
Expense allowance	Normal allowance as a Member plus $500 instead of $300		
Members			
Salary	from	4,300	to 4,650
Special salary allowance for Government and Opposition Whips:			
Chief	„	200	„ 400
Junior	„	130	„ 200
Basic expense allowance	„	850	„ 1,000
Electorate allowance:			
(*a*) wholly urban	„	50	„ 80
(*b*) substantially urban	„	100	„ 200
(*c*) partially urban and partially rural	„	250	„ 450
(*d*) ordinary rural	„	500	„ 800
(*e*) predominantly rural	„	600	„ 1,000
Sessional allowance:			
Daily	„	1.50	„ 2.25
Night	„	5.00	„ 6.00

(These allowances also payable during recess for attendance at Select Committees, Caucus, and Caucus Committees.)

TRAVELLING ALLOWANCES AND EXPENSES

Prime Minister, Ministers, Under-Secretaries, and their wives:
Daily allowance increased from $10.50 to $12 per day or part of a day.

Leader of the Opposition
(i) Free use of an official car in Wellington.
(ii) Car allowance for travel outside Wellington—up to $1,000 per annum. If official cars unavailable taxis may be used.
(iii) Travelling expenses outside his electorate increased from $800 to $1,100 per annum.
(iv) Wife of Leader of Opposition to be entitled to unrestricted free air travel between her home and Wellington.
(v) Where Leader of Opposition uses air travel to attend an official function and it is reasonably necessary that his wife should attend, additional air fare to be paid officially.

Mr. Speaker
(i) Unrestricted free use of official cars for local running in Wellington at any time.
(ii) Additional free use of official cars when engaged elsewhere in New Zealand on official duties or within his electorate for wife and himself. Taxis may be used if no official car available.
(iii) Unrestricted air travel between her home and Wellington for wife.

Chairman of Committees
Free use of official cars during session for local running in Wellington in connection with official duties.

Members—Travelling Expenses
(i) Wives or husbands of Members to be entitled to 12 free single trips by air between their constituencies and Wellington; the trips to be available throughout year provided Member in Wellington on official parliamentary business.
(ii) Member using air travel within electorate to attend official functions and attendance of wife or husband reasonably necessary, free travel for wife or husband up to $70 p.a. allowed.

Members—Expenses to and from Wellington
(i) When no public transport to nearest airport, etc., available or reasonably suitable, reimbursement on same basis as public servants.
(ii) Free transport by taxi to and from point of arrival in Wellington and Parliament Buildings or residence in Wellington during session and also in recess for Select Committee work or caucus, caucus committees, or official functions.

TOLLS AND STAMPS

Leader of the Opposition
Provided with sessional frank stamp.

TYPING FACILITIES

(i) Government and Opposition sessional typing pools increased from four to five Members.
(ii) One pool typist for Government and Opposition parties during recess.

MEMBERS DYING DURING TERM OF OFFICE—PAYMENT TO WIDOWS

Widow to receive Member's salary up to end of month following that in which Member died.

(*Vide Parliamentary Paper*, H.M.S.O., 1968.)
(*Contributed by the Clerk of the House of Representatives.*)

XVIII. SOME RULINGS BY THE CHAIR IN THE HOUSE OF COMMONS, 1967–8

The following index to some points of parliamentary procedure, as well as rulings by the Chair, given in the House of Commons during the Second Session of the Forty-fourth Parliament of the United Kingdom is taken from Volumes 753–71 of the *Commons Hansard*, 5th Series, covering the period from 31st October, 1967, to 25th October, 1968.

The respective volume and column number is given against each item, the figures in square brackets representing the number of the volume. The references marked by an asterisk are rulings given in Committee of the whole House.

Minor points of procedure, or points to which reference is continually made (*e.g.* that Members should address the Chair, are not included, nor are isolated remarks by the Chair or rulings having reference solely to the text of individual Bills. It must be remembered that this is an index, and that full reference to the text of *Hansard* itself is generally advisable if the ruling is to be quoted as an authority.

Adjournment
—chair cannot accept new submission while application being made to adjourn House under S.O. No. 9 [763] 1306
—cannot request legislation on [736] 1072
—Motion for moved during debate for Government statement is infringement of S.O. [760] 1855
—*under S.O. No. 9 (This S.O. was amended on 14th November, 1967.)*
—*Allowed*
—Letter of intent sent by H.M.G. to the International Monetary Fund [755] 566–8
—Prohibition by H.M.G. of supply of British military equipment to South Africa [756] 934–5
—Closure by Spain of Gibraltar frontier [764] 47–8
—Supply of arms to Nigeria [766] 40–2
—*Refused (since the reason for refusal is not required under the amended S.O., it is not proposed to list the instances)*

Amendments
—cannot discuss on third reading one debated earlier [768] 461
—chair not prepared to accept manuscript [766] 581
—to address [753] 845–7

Bills, private
—requires motion to carry it over from one session to another [766] 40–2

Bills, public
—cannot be amended on Third reading [759] 1143
—*clause deemed to have been adequately discussed on amendment [765] 925–7

—House has not reached a decision owing to the absence of a Quorum and the Bill therefore becomes a dropped Order [764] 1593–4
—second reading, moved by Member acting on behalf of Member in charge of [759] 894–5

Chair
—cannot undertake communications between Committee and House [765] 1449

Closure
—*Chair has to decide whether to accept Motion [766] 1120–1

Debate
—*cannot have an intervention on an intervention [758] 1066
—in order to make use of copious notes [769] 1532
—interventions can only be made with permission of Member who has floor [756] 1289
—interventions must not be too lengthy [754] 819, 850
—leave of House to make a second speech cannot later be withdrawn [754] 867
—Members must not use points of order to make contributions to [760] 1725
—no limitation to the time for on exempted business [754] 1028
—out of order to bring a communication from or on behalf of Monarch into [759] 1118
—speaking twice on same matter deprecated [759] 546
—speeches must not be read [757] 454
—when a withdrawal is made it should be accepted [763] 495

Divisions
—not possible to adjourn House to enable Members to attend division in committee [765] 1496

Judges
—out of order to accuse High Court Judges of giving perverse decision [765] 255
—reflections on colonial not permitted without specific Motion [760] 232–3

Members
—criticism of another must be on Motion [754] 393
—has no pre-emptive right to be called [753] 847
—must keep seat while Mr. Speaker is standing [756] 650
—must learn to behave in House [768] 1192
—must not call attention to the presence of strangers [753] 592
—must wait until called [759] 1733
—new taking their seats, procedure [769] 284
—should not reflect even accidentally on heads of friendly foreign powers [758] 1565
—to be referred to by constituencies [756] 981

Minister
—is entitled to reply to debate but not necessarily to conclude it [753] 1183

Northern Ireland
—not within province of House to deal with conduct of government of [755] 852, 853, 854

Order
—in, to make political criticism of another place [755] 815
—newspapers, etc., reading of, out of unless for purpose of debate [760] 1820
—out of, to refer to answers given in a previous session [753] 833
—out of, to refer to speeches in another place unless of a Minister [757] 533

Personal Statement
—if another Member involved he is generally allowed to give his own view of the matter [754] 1313

Questions
—correction of Written answers, procedure [769] 575–6
—is hypothetical [753] 1472
—no quotations in supplementary [766] 46
—on Order Paper must not be anticipated [758] 634
—out of order to seek to inform House of nature of Private Notice Question which Mr. Speaker has refused [769] 275
—Private Notice Questions, Speaker decides at noon [768] 1443–4
—Table has no power to refuse any which is in order [756] 36

Speaker
—arrangement of business of House not in hands of [765] 1540
—no powers to direct that facts given at Speaker's Conference be revealed to House [770] 70

Statutory Instrument
—Member may denounce order under discussion but may not amend it [769] 410

XIX. EXPRESSIONS IN PARLIAMENT, 1968

The following is a list of examples occurring in 1968 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 Editor has excluded a number of instances submitted to him 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

" Cooking the books " (inference Minister of Finance) (*N.Z. Hans.*, Vol. 335, p. 783)
" Erattai nakku " (double tongued) (*Madras Leg. Ass.*, Vol. X, p. 149)
" Grubby " (*N.Z. Hans.*, Vol. 355, p. 418)
" He was not game to interject " (*Queensland Hans.*, Vol. 249, p. 1063)
" hypocrites " (*Com. Hans.*, Vol. 761, c. 862)
" kindalana " (insinuating) (*Madras Leg. Ass.*, Vol. VIII, pp. 225–6)
" knocking " (of Members of a Committee) (*Queensland Hans.*, Vol. 249, p. 1591)
" kuzhappuhirargal " (confusing) (*Madras Leg. Ass.*, Vol. XII, p. 22)
" Member has been lined up " (*N.Z. Hans.*, Vol. 355, p. 144)
" Shallow understanding " (*Gujarat Procs.*, 20.2.68, p. 1822)
" Stonewalling "(*N.Z. Hans.*, Vol. 357, p. 2473)
" vilambaram " (publicity) (*Madras Leg. Ass.*, Vol. VIII, p. 239)
" trickery " (*Canada Com. Hans.*, 22.2.68, p. 6919)

Disallowed

" Adi atkal " (intimidation) (*Madras Leg. Ass.*, Vol. VIII, p. 773)
" at long last he is displaying some concern for our soldiers in Vietnam " (*Aust. Senate Hans.*, p. 2185)
" baboon " (*Zambia Hans.*, Vol. XVI, p. 71)
" blatantly lazy " (of government) (*Queensland Hans.*, Vol. 249, p. 373)
" booze " (*Zambia Hans.*, Vol. XIV, p. 227)
" bought off, were you? " (*Queensland Hans.*, Vol. 249, p. 208)
" Brute majority " (*Gujarat Procs.*, 25.3.68, p. 4049)
" Christian, an alleged " (*N.Z. Hans.*, Vol. 356, p. 1477)

" Contemptuous smiles " (referring to the Minister) (*Gujarat Procs.*, 12.9.68, p. 1298)
" coward " (*Com. Hans.*, Vol. 756, c. 1109)
" crawling into a hole like a dingo " (*Queensland Hans.*, Vol. 248, p. 2828)
" damn lie " (*Com. Hans.*, Vol. 759, c. 964)
" Despicable, this is " (*N.Z. Hans.*, Vol. 357, p. 2603)
" devil " (*Zambia Hans.*, Vol. XIII, p. 1843)
" Dishonest " (*N.Z. Hans.*, Vol. 357, p. 2462)
" don't wriggle " (*Aust. Senate Hans.*, p. 1474)
" double-talker " (*Zambia Hans.*, Vol. XIII, p. 825)
" downtrodden philosopher, a downtrodden prophet " (remarks against a saint) (*Lok Sabha Debates*, 8.5.68)
" Duplicity " (*N.Z. Hans.*, Vol. 356, p. 1761)
" Evil purpose, it suited his " (*N.Z. Hans.*, Vol. 357, p. 2602)
" False, deception " (*M.P.V.S. Procs.*, 27.2.68)
" fascists " (*Zambia Hans.*, Vol. XVI, p. 692)
" filthy ticket " (*N.Z. Hans.*, Vol. 357, p. 2604)
" foolish Order " (*Mysore Procs.*, 21.2.68)
" fraud " (*Com. Hans.*, Vol. 766, c. 801)
" great lout " (*Victoria Leg. Ass. Hans.*, p. 2520)
" has-been " (*Victoria Leg. Ass. Hans.*, p. 126)
" he can wriggle " (*Aust. Senate Hans.*, p. 1475)
" He is shielding his officers. He himself is an accused" (of a Minister) (*Lok Sabha Debates*, 13.12.68)
" Himmler " (*Com. Hans.*, Vol. 761, c. 1064)
" Honest, why can't you be " (*N.Z. Hans.*, Vol. 355, p. 238)
" Hypocrisy " (*Gujarat Procs.*, 24.1.68, p. 215)
" I do not get a fair go " (*Queensland Hans.*, Vol. 249, p. 1342)
" I do not think you are very much of a Chairman " (*Queensland Hans.*, Vol. 249, p. 432)
" Idiotic statement " (*Zambia Hans.*, Vol. XIII, p. 645)
" Incorrect, Member knew that was perfectly " (*N.Z. Hans.*, Vol. 357, p. 2113)
" Injustice " (against the Speaker) (*Gujarat Procs.*, p. 2826)
" Jackass " (*N.Z. Hans.*, Vol. 357, p. 2382)
" Judas " (*Com. Hans.*, Vol. 756, c. 1109)
" larrikin attitude " (*Aust. Senate Hans.*, p. 790)
" liar " (*S. Aust. Hans.*, p. 2093)
" lie " (*N.Z. Hans.*, Vol. 356, p. 938)
" lying " (*Com. Hans.*, Vol. 753, c. 578)
" malicious and damaging " (*N.Z. Hans.*, Vol. 355, p. 814)
" mighty mouth " (*N.Z. Hans.*, Vol. 355. p. 453)
" monkeys " (*Zambia Hans.*, Vol. XVI, p. 271)
" nitwit on the other side " (*Aust. Senate Hans.*, p. 1108)
" poi " (lie) (*Madras Leg. Ass.*, Vol. VIII, p. 165)
" Premier has gagged it " (*Queensland Hans.*, Vol. 248, p. 3028)

" pretence " (*Gujarat Procs.*, p. 216)
" Quisling " (*Com. Hans.*, Vol. 762, c. 1539)
" rake-off, how much are you getting " (*Queensland Hans.*, Vol. 249, p. 2000)
" religious fanatics " (*Zambia Hans.*, Vol. XV, p. 104)
" repeating parrot-like without understanding the sense " (*M.P.V.S. Procs.*, 28.2.68)
" rubbish " (*Zambia Hans.*, Vol. XV, p. 235, 246)
" Satchmos " (*Zambia Hans.*, Vol. XV, p. 248, 425)
" Scoundrel " (*Com. Hans.*, Vol. 763, c. 495)
" skunk " (*Queensland Hans.*, Vol. 248, p. 2429)
" Smelt of humbug " (of a speech) (*Aust. Senate Hans.*, p. 517)
" Smelt of insincerity " (of a speech) (*Aust. Senate Hans.*, p. 517)
" Sneer, calculated " (*N.Z. Hans.*, Vol. 358, p. 3046)
" Snotty nose, hasn't got a " (*N.Z. Hans.*, Vol. 358, p. 2872)
" sullu " (lie) (*Mysore Procs.*, 13.9.68)
" Super complex " (*Gujarat Procs.*, 9.2.68, p. 1228)
" the big ' A ' " (*Queensland Hans.*, Vol. 249, p. 115)
" They are kids without votes. He does not care how many are killed " (*Aust. Senate Hans.*, p. 2075)
" thugs " (*Zambia Hans.*, Vol. XIII, p. 1562, 1699)
" Treachery, bordering on " (*N.Z. Hans.*, Vol. 356, p. 1204)
" twister " (*Com. Hans.*, Vol. 754, c. 1428)
" Unworthy son " (*M.P.V.S. Procs.*, 13.9.68)
" Unworthy sons of Gandhijee " (of Party in power) (*Gujarat Procs.*, 30.3.68, p. 4601)
" Wants to stage a drama discussion " (*Gujarat Procs.*, 20.2.68, p. 1785)
" Worm: He who makes himself a worm cannot complain if he is crushed " (*N.Z. Hans.*, Vol. 357, p. 2603)
" You are partial while calling the Members to speak; you are not calling me " (aspersion on the Chair) (*Lok Sabha Debates*, 20.3.68)

Borderline

" Mosamana chattam " (bad law) (*Madras Leg. Ass.*, Vol. XI, p. 563)
" Honest " (*Madras Leg. Ass.*, Vol. IX, p. 407)

XX. REVIEWS

The House of Lords in the Middle Ages. By J. Enoch Powell and Keith Wallis. (Weidenfeld & Nicolson, 8 gns.)

In his Introduction, Mr. Powell states that this book is an attempt to write a history of the medieval House of Lords as " an institutional form through time, and the emphasis throughout is on time ". He explains that he has made " a determined and almost pedantically chronological arrangement of the evidence " mainly so as to avoid forming " a false composite picture . . . out of diverse elements which never co-existed ". Mr. Powell considers that constitutional historians and constitutional lawyers are guilty of this when they provide " integrated pictures " of " the Norman council " or " the fifteenth-century parliament ". As Mr. Powell rightly says no history of the House as an institution has previously been written, the nearest approach to it being L. O. Pike's *Constitutional History of the House of Lords* (1894) which is more in the nature of a lawyer's analysis of various aspects of the composition and powers of the Lords. In fact the volume which Mr. Powell and his co-author Mr. Wallis have given us, might be described as a new " Report on the Dignity of a Peer " (enclosed within a political narrative), rather than as an institutional history of the House of Lords. Throughout the book the emphasis is placed more on the composition of the House than upon its organisation and functions.

The authors take as their starting-point the Anglo-Saxon witenagemot, analysing its composition from the lists of witnesses to charters issued at times when the witan was assembled. They are perhaps too inclined to assume that the witness lists provide comprehensive evidence for the composition of these assemblies, for, as Sir Frank Stenton remarked, " the length of a list of witnesses was determined by the size of the parchment on which the charter was written . . . and a description of the *witena gemot* which took this evidence at its face value would certainly over-emphasize the official element in the assembly ". The composition of the courts and councils of the Norman and Angevin kings is similarly analysed from witness lists and references in the chronicles. A good deal of space is also devoted to the creation and descent of particular earldoms from the time of the Conquest onwards.

For 1265 and 1283, and from 1295, when the writs of summons began to be enrolled regularly on the Close Rolls, the authors are able to analyse the composition of Parliaments, councils and other assemblies with greater precision, but they continue to use the evidence of charters

to show that not all the magnates who attended Parliament were included in the Chancery lists of writs. They rightly draw attention to the haphazard nature of these lists prior to the reign of Edward II and show how a list of those summoned to a Parliament or council might be based on an earlier list of summons for military service. Whilst the summons to archbishops, bishops, abbots, earls and barons are analysed in detail, comparatively little attention is paid to the *curiales*, the king's ministers, judges and clerks, who played such a prominent part in the organisation and direction of business in the Parliaments of Edward I, functions which they continued to perform, although less publicly, in later Parliaments.

With the list of barons summoned to Parliament becoming to a large extent standardised and based on precedent by the beginning of Edward III's reign, the authors show how the king rewarded the new men who rendered him service in war and in government, both with wealth and with the status of " banneret ", by which title they were summoned to Parliament. In the authors' opinion the bannerets and their descendants constituted a separate group, distinct from the " prelates, earls and barons " in the upper house, for the remainder of the fourteenth century.

Throughout the book the terms of creation and ceremonies of investiture (both in Parliament and elsewhere) at first of earls, then of dukes, marquesses, and barons, and finally of viscounts, are fully described. No detail is omitted which throws light on the order in which the spiritual and temporal peers sat in Parliament. The theory is put forward that the Earl Marshal and the Constable may have been responsible for the " physical marshalling of parliament, determining precedence, checking credentials and the like " from at least as early as 1378. In one of the most interesting chapters of the book, " The Lords and the Heralds ", heralds' drawings and written descriptions, taken from manuscripts in the College of Arms, the Royal Library and other repositories, are used to describe the ceremonies connected with opening of the 1510 and subsequent Parliaments, and the role which Garter King of Arms had acquired by that time in the marshalling of the lords in Parliament. The narrative is taken up to 1540, by which time the removal of the abbots and the Act of 1539 " concerning the placing of the Lords in the Parliament Chamber " had drastically changed the appearance of the House and had arranged it in the order which has been preserved substantially to the present day.

In his Introduction, Mr. Powell emphasises the effect which " one particular place, building or even room " may have on the character of the institution which resides there. For this reason, the authors have carefully recorded details of the topography not only of the Palace of Westminster but of other places where Parliament sat during the Middle Ages. Particular attention is paid to the topography of the abbey of St. Peter at Gloucester where the Parliaments of 1378 and 1407 met, and this is illustrated in two of the plates. At times, con-

clusions are drawn about the topography of Parliament which are not fully substantiated by the evidence. Thus, it is stated that " by 1531 the commons seem already to have found accommodation in the palace of Westminster itself ". The evidence for this statement is that in 1531 " the convocation of Canterbury met, not, as usual, at St. Paul's, but in the chapter house of Westminster Abbey " and it is implied that the Commons had been meeting in the Chapter House up to this time and that they must therefore have had to seek for alternative accommodation in the palace. However, the Rolls of Parliament from 1397 onwards (when they are specific) name the Refectory of the Abbey as the Commons' meeting-place and not the Chapter House, which they had used from time to time during the fourteenth century. There seems to be no evidence that the Commons moved from the Refectory until they were finally transferred to St. Stephen's in about 1550.

Although the authors attach such importance to the influence of physical location on Parliament, they appear to attach far less to the influence of its clerical organisation. It is true that they describe the work of Gilbert of Rothbury, who kept the rolls of Parliament from 1290 until 1314 or later, and suggest that he is in effect the earliest known " clerk of the parliaments "—although it can be argued that John of Kirkby, who had responsibility for organising the business of Parliament between 1280 and 1290, occupied a similar position. The clerk John Taylor is mentioned as having kept the first Lords Journal (1510) which survives at Westminster, but the work of the intervening medieval clerks in receiving and filing petitions, making up the rolls and reading and engrossing bills receives little comment. The fact that from 1497 the clerk began to preserve certain records at Westminster instead of transmitting them to Chancery and that from the early sixteenth century there is other evidence of the development of a " Parliament Office " independent of Chancery, is not mentioned. As Mr. M. F. Bond has pointed out, John Taylor was not a Chancery clerk and in 1509 had to be admitted as a master in Chancery so that he might have " recourse to the records of Chancery ".

Certain of the records relating to Parliament receive particularly detailed examination and are illustrated in the book with plates. These include the enrolled lists of writs for 1265 and 1295, the *Vetus Codex* (containing copies of Parliament rolls and other documents from 1290 to 1320) and the " Fane fragment " of the Lords Journal of 1461. With regard to the latter document there is, *pace* the authors, surely no doubt that it is a sixteenth century copy and not the original. Also it is difficult to see why the Fane " daily journal may be presumed to be one of the elements entering into the compilation of the rolls of parliament " since it largely consists of daily lists of those peers expected to attend and stages in the reading of bills, both of which are omitted from the rolls. The first Lords Journals surviving at Westminster, for the Parliaments of 1510 and 1512, are described as " only copies " because they do not contain the daily lists of attendances

which appear in the " Fane fragment " and in the Journals of 1515 onwards, but it should be pointed out that the 1510 and 1512 Journals are written in the hand of the clerk, John Taylor, and can therefore be regarded as minutes of the business transacted rather than as later copies.

In discussing the business transacted in medieval councils and parliaments, the emphasis of the book is very much on high politics, " the great affairs of the realm and of his (the king's) foreign lands " as a document of 1280 puts it. The authors show how the Norman and Angevin kings sought to obtain the " common counsel " and consent of their barons on such matters as the framing of codes of law, the imposition of new taxes, and the waging of war. They outline the process by which the claim of the baronage to speak, and to grant taxes, " on behalf of the realm " was modified in the course of the thirteenth century as representatives began to be summoned from the shires and the boroughs to give their consent in Parliament and other assemblies. The judicial business, whose importance in the Parliaments before the reign of Edward III has been stressed by Richardson, Sayles and others, receives little mention. The political crises of the thirteenth and fourteenth centuries and the attempts of the baronage to exercise control over the king and his ministers are, however, described in considerable detail. Grants of subsidies during these two centuries also receive frequent mention, as does the process by which such grants had come, by 1402, to be made by the commons " with the assent of the lords spiritual and temporal ". The legislation of this period receives little attention, for example the Parliaments of 1388 to 1397 are passed over with the comment that they were " largely concerned with economic and social matters " and the narrative is taken up again from the political crisis of the latter year. The description of the business of the upper house in the fifteenth century is almost entirely confined to that bearing directly on the peerage, namely trials by peers, Acts of Attainder and Restitution and peerage claims.

Mr. Powell's main conclusions are set out in the Introduction to the book. His account of the stages by which the assemblies of tenants-in-chief of Norman times evolved into the fifteenth century peerage with its clear-cut body of membership, will be generally accepted. Mr. Powell's views on the relationship of this body of peers to Parliament in general and to the organs of government, are more controversial. It is, for example, surely too great a simplification to say that between 1370 and 1460 " the tightly drawn circle of the lords of parliament . . . possessed a prestige and power which made them masters of the government when the Crown was feeble and unsure ". Mr. K. B. McFarlane has pointed out that men of great wealth and administrative experience were to be found amongst the Commons in the late fourteenth and fifteenth centuries and that society at this time could not be divided into " powerful barons on the one hand and humble com-

moners on the other". McFarlane's conclusion that in the later middle ages " power was not concentrated in the hands of a few. It was distributed among king, magnates and commons in various and varying degrees, according to each man's wealth, affiliations and political capacity " seems closer to the political realities of the time.

Mr. Powell and Mr. Wallis's book is, nevertheless, a reference work of considerable value for the history of the peerage and the antiquities of Parliament. The book is handsomely produced, with twenty-four plates and full indexes of subjects and names.

(*Contributed by H. S. Cobb, an Assistant Clerk of the Records, House of Lords.*)

Constitutional Law in Northern Ireland. By Harry Calvert. (Stevens & Sons Ltd. & Northern Ireland Legal Quarterly Inc. U.K., £5.)

The practitioner in Northern Ireland, whether he be in legal or parliamentary practice, suffers inevitably from a lack of text books dealing expressly with Northern Ireland law, since the very small circulation cannot justify, from a commercial point of view, the expense of producing such a textbook. We must therefore welcome Mr. Harry Calvert's *Constitutional Law in Northern Ireland* to the narrow but select shelf of law books dealing solely with Northern Ireland subjects.

The wish has often been expressed that Sir Arthur Quekett's work *The Constitution of Northern Ireland* should be brought up to date and re-edited with new notes and additional matter, unfortunately Mr. Calvert's book, as he readily admits, does not seek to do this and it's value may therefore lie more in its use to the student of constitutional law than to the practitioner.

Recent events in the Stormont Parliament, in particular the Commons debate of 29th January, 1969, on United Kingdom Status, have roused the sleeping nymph of constitutional law from her long sleep and it is most appropriate that Mr. Calvert's work should appear, if not in time for the awakening, at least in the brief interval before she resumes her customary repose.

One is reminded of how soon change comes in matters of law by Mr. Calvert's references to the Legislative Procedure Act (Northern Ireland) 1933 in the context of Bills contingent upon United Kingdom consent (on page 159): the Legislative Procedure Act (Northern Ireland) 1968, has already received Royal Assent and should supersede the Act of 1933 during the present Parliamentary Session. In these days of instant legislation a legal textbook has to be born with a supplement in its mouth.

Mr. Calvert's work is a careful and comprehensive study of this subject, he propounds arguments on various aspects of many constitutional matters and leaves it to his readers to form their own conclusions. After studying some of these arguments one cannot be entirely surprised at the lack of interest which the ordinary Northern

Irelander shows in the working of his constitution. If the Constitution of Northern Ireland was at birth an unwanted child, it has become no more attractive when clothed in the pretentious garments of the law; nevertheless the infant has somehow reached the maturity permitted by its parentage, can it be that constitutions, like children, depend as much on devotion and goodwill as on rules and regulations?

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

Parliamentary Privileges and their Codification. By P. Govinda Menon (Institute of Constitutional and Parliamentary Studies, 3 rupees.)

This is a short pamphlet embodying an address by the Indian Union Minister of Law to a seminar organised by the Institute of Constitutional and Parliamentary Studies in July 1967.

The pamphlet deals largely with the vast and complex subject of privilege from an Indian point of view. It points out that privilege, as it is understood today in the United Kingdom, is the result of many hundreds of years struggle by the House of Commons for those rights they enjoy today. Shri Menon acknowledges that freedom of speech is an undoubted right in any parliamentary democracy but he is doubtful whether all of the other privileges claimed by the British House of Commons can, or should, apply to the Indian Parliaments. Yet this is what they do! Article 106 of the Constitution of India enjoins that all powers, privileges and immunities of the Indian Parliament (apart from freedom of speech which is specifically protected by the Constitution) shall be those of the House of Commons as at the commencement of the Constitution.

Shri Menon argues that it should be possible for the Indian Parliaments to codify their own privileges and so sweep away much of the complications of English privilege, and at the same time rid themselves of the difficulties of trying to apply English precedents to their own situations. But he concludes by saying that the best way to deal with the subject is to avoid making a fetish of parliamentary privileges and powers.

This is a thought provoking discussion, well worth the reading by those who find privilege, as your reviewer does, a difficult subject.

The Body Politic. By Ian Gilmour. (Hutchinson, London, 1969, 70s.).

The aim of this book is to perform for the British political system today an analysis on the pattern of that carried out by Bagehot in *The British Constitution* with conspicuous success a century ago; Mr. Gilmour's achievement is shown by this comparison. Following his predecessor, he is concerned with the reality rather than the myth in the working of the body politic in Britain, and his book is clearly the result not only of a very wide reading but also of a life spent as a barrister, as a journalist, following Bagehot in the editor's chair of the *Spectator* and as a Conservative Member of Parliament. The only

pity is that, so far, the author has not had the chance of seeing the workings of government from the inside. It is to be hoped that he will be able to revise his book, or write another after serving as a Minister. To remedy this lack of experience he has been at pains to read the available works of those who have held ministerial office recently; he has also made meticulous examination of the other possible sources; works of history; memoirs; political science; books about parliament by parliamentarians; about cabinet government and the civil service by those who have devoted their lives to them; newspaper articles; Royal Commission and committee reports; white papers and blue papers and so on. He has also amassed information and views from private conversation, and the reader will be interested to glean some hitherto unpublished opinions on the history of the last half century, for example on page 235, note 140.

The results of Mr. Gilmour's great labours have been this book, and as the author states in the preface, " the thesis, if there is one, evolved during research and writing; it was not preconceived from the start. The book produced the thesis, not the thesis the book." In doing so, he analyses, and seeks to explode some of the myths of contemporary political communicators, for example, the dangerous and increasing might of the executive, the impotence and decline of Parliament, the presidential power of the Prime Minister and the evils of the interest groups.

In their place, Mr. Gilmour suggests that the British body politic has other ills which need to be rectified. He sums up, " the chief weakness of the British political system is that because British government works as a closed circuit it has insufficient means of reaching and persuading public opinion. Total ministerial responsibility prevents parliament from gaining access to the Civil Service, but it also cuts down the executive's effective access to the governed. Hence constitutional power is not translated into political power " (page 429). There exists, he argues, too much strength in the " no " lobby—the negative principle in British government usually wins, and the lack of decision-taking in part results from a system in which the gaining of consent is more important than the quality of the decision. The result has been that this country has failed to make the right decisions in the last half century or has acted when it is too late—*e.g.*, in the management of the economy in the 1920s; in foreign policy and defence in the 1930s; on the refusal to take part in the birth of the Common Market in the 1950s.

This lack of ability to take decisions at the right time is all the more surprising when compared with the theoretical " constitutional " powers of our Government which is monarchical in essence (*i.e.*, government carried out by the executive rather than by Parliament), and controlled by an electoral democracy rather than by the votes of the electorate at general elections. There exist a startling lack of institutions able to say " no " to the executive once in power, for no longer is

the Monarchy able to do so, nor the hereditary House of Lords, while a well-whipped Commons normally passes all Government legislation, and local government is under the control of the central administration for reasons of finance. We have no formal constitution and no constitutional barriers, no Bill of Rights to give protection to the citizenry, nor do we possess a Supreme Court, able to rule illegal the actions of a sovereign legislature, nor to nullify the actions of an over mighty executive.

In its place we have a series of forces, not in theory enthroned in the text-books of our constitution, but implacably present to ensure that the executive does not go too far—or in fact that it does not do anything which is not generally acceptable. But the excessive secrecy of British Government—the occult nature of the practices of administration, performed behind closed doors by the priesthood, the Civil Service and Ministers—aggravates the natural weakness of a democracy towards its own public opinion.

Mr. Gilmour does not only analyse, he diagnoses some remedies. Firstly—and fashionably—he suggests a measure of decentralisation of government by giving some real power to the regions, by which he means regions analogous to the present economic planning regions—some eight to twelve in number, rather than the city regions favoured by Whitehall, and the Redcliffe-Maud report. The local chief executives and councils would be chosen by direct election, both to make them more efficient, and to give the electorate a greater interest and say in their own affairs. Scotland and Wales would be given their own Parliaments, and though not quite a federalist, Mr. Gilmour would favour a second chamber elected on a regional basis, which he admits would be normally rather differently aligned from the Commons, but this might produce useful controversy!

His second remedy is the creation at the centre of administration of controversy by " opening up " the political system. The executive must abandon the dogma of its unity and infallibility as the processes of administration become clearly public—and worthy of public interest. To achieve this, the doctrine of full Ministerial responsibility, cloaking as it does the departments where the decisions in question are taken should be much reduced—the anonymity of civil servants likewise—and the Official Secrets Act modified. The House of Commons should strengthen the committee system, not legislative committees, but those concerned with the work of the great departments of State, on particular subjects of enquiry. This extension of the committee system should be backed by a comprehensive State audit system, and access by Parliament to civil servants. To help engage the interest of the public the Commons (and presumably its committees) would be televised.

These two main proposals are by no means the sum of the suggestions put forward by the author: others include smaller Cabinets based on a rationalised and therefore smaller number of government departments; a wholesale reform and extension of administrative law; the removal

or modification of the " right " of dissolution of Parliament on request by the Prime Minister; modifications in the hierarchical nature of the civil service; and the substitution of four-year Parliaments instead of the five years laid down by the Parliament Act 1911.

To give even the barest outline of the theme of this book is to suggest its richness for those interested in Parliament or the working of the political system in Britain today. Some of the judgments expressed may seem quaint—others very much *à propos*. For example, the doctrine of " collective responsibility " has clearly taken some hard knocks of late, as has the practice of secrecy of government, while his observation of the idea of an inner cabinet—" an official inner cabinet is only mooted when the Prime Minister is in trouble " (p. 231) needs no comment. There are also strange omissions, for example nothing is said of the great influence and constraint imposed on British government today by international forces and defence commitments over which we have little or no control. Similarly there is almost nothing about the effect on the body politic of a shaky economy, the pound, our international indebtedness, and foreign creditors and the bankers, or even our own City.

These omissions suggest one consideration to which Mr. Gilmour does not allude, namely that when things are out of joint we tend to look to our institutions, rather than to recognise the historic explanations of our situation as an ex-great power—which has too long lived on our past, and our capital. Put another way, cannot it be that the decision not to lead the European Common Market in the 1950s stemmed from the insularity and hankerings for an Imperial past, rather than deep-seated faults in our political system.

However, it is to be hoped that parliamentarians at home and abroad will take the time to read and ponder over this thoughtful book.

(*Contributed by M. A. J. Wheeler-Booth, a Senior Clerk in the House of Lords.*)

XXI. RULES AND LIST OF MEMBERS

The Society of Clerks-at-the-Table in Commonwealth Parliaments

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1. The name of the Society is " The Society of Clerks-at-the-Table in Commonwealth Parliaments ".

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(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.

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XXII. 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.

Doyle, Robert David.—Third Clerk-at-the-Table, House of Assembly, Tasmania; *b.* 1944; educated Hobart High School; joined Legislative Council staff 1962; appointed Clerk of Papers in Legislative Council 1965; appointed to present position 24th April, 1969.

Lawrence, Michael Hugh.—Clerk of the Overseas Office, House of Commons, London; *b.* 9th July, 1920; *ed.* Highgate School and St. Catharine's College, Cambridge (M.A.); Indian Army 1940–6; Clerk in the House of Commons since June 1947.

Fortier, Robert, Q.C., LL.B., B.A.—Clerk of the Senate of Canada. *b.* 24th January, 1914; *ed.* University of Ottawa and University of Montreal; *m.*, 1 *s.*, 1 *d.*; a Barrister; Admitted to Bar of Que. 1937; apptd. Q.C., 1953; Private Sec. to Min. of Public Works, 1942–53; Private Secretary to the Chairman of the Canadian delegation, economic and social council of United Nations, Geneva, 1950; Dept. Sec. of Public Works, 1953–66 and Dir. Administrative Serv., Dept. of Public Works, 1966; Mem. Prov. of Quebec Bar Assn., Le Barreau de Hull and Rural Bar Assn. of Que. Apptd. Clerk of the Senate and Clerk of Parliaments, 1st Feb., 1968.

Palekar, A. B., B.A.(Hons.), LL.B. (Bombay).—Deputy Secretary to Maharashtra Legislature, *b.* 22.5.1933, joined the Indian Audit and Accounts Service on 30th December, 1957; served as Assistant Accountant General in Bombay and Rajkot (Gujarat) (1959–62); served as Deputy Accountant General in Bhuvaneshwar (Orissa); also served as Deputy Chief Auditor, Central Railway Bombay; on deputation to the Maharashtra Legislature Secretariat, Bombay since July 1964; appointed Justice of Peace in 1966.

Paquette, Alcide, B.A.—*b.* 10th September, 1912; *ed.* University of Ottawa; *m.*, 1 *s.*, 3 *d.*; Entered Public Service of Canada in 1938, and served on secretarial staff of the Leader of the Opposition, House

of Commons, until 1957; from June 1957 to June 1958 was secretary to the Prime Minister of Canada. Sec. Can. delegation N.A.T.O. Parliamentarians Conference, Paris, 1957; Executive Secretary of the Canadian Group of Inter-Parliamentary Union, 1960–5. Mem. Ass. of Secretaries General of Parliaments (Parl. Procedure and Administration); Mem. of International Executive of same, 1965–8; Apptd. Clerk Assistant of the Senate, 12th June, 1958.

Scott, John Meredith.—Clerk of the Legislative Assembly, Cook Islands; *b.* 21st November, 1940, Christchurch, New Zealand; *m.*; *ed.* Ealing Grammar School, London; Narrenbeen High School, Sydney; Auckland Grammar School, New Zealand; joined New Zealand Public Service in 1961 after five years in commercial employment and travel (Singapore and Australia); seconded to Cook Islands Public Service 1962 and appointed to present position in that year.

Tamane, M. J., B.A., LL.B., Dip. in Edn.(Os), H.(H.S.).—Deputy Secretary to Maharashtra Legislature, *b.* 11.11.1913; Entered Government Service in 1939 in Ex-Hyderabad State and served in the Education Department for two years; for more than three years in charge of Marathi Section at Broadcasting Station, Aurangabad; worked as Publicity Officer, Reforms Department; taken up in the Ex-Hyderabad Legislative Assembly Secretariat in 1947 as Editor of Debates; after the dissolution of the Legislative Assembly Secretariat, in Ex-Hyderabad State, Assistant Election Commissioner; Private Secretary to the Minister for Rural Reconstruction, and Minister for Education and Local Government and Assembly Affairs respectively; allocated to the then Bombay State in 1956 in the reorganisation of States; appointed Deputy Secretary, Maharashtra Legislature from 17th June, 1968.

INDEX TO VOLUME XXXVII

ABBREVIATIONS

(Art.) — Article in which information relating to several Territories is collated. (Com.) = House of Commons.

24 105

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