The Table

BEING

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

EDITED BY
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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	Suspended											
Jersey	⊙	⊙	⊙	⊙	⊙	⊙						
Isle of Man	⊙	⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙	⊙
Canada — Federal Parliament	⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙	⊙	⊙
Canada — Ontario			⊙	⊙	⊙	⊙				⊙	⊙	⊙
Canada — Quebec		⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙	⊙
Canada — Nova Scotia		⊙	⊙	⊙								
Canada — New Brunswick			⊙	⊙	⊙							
Canada — Manitoba			⊙	⊙	⊙	⊙						
Canada — British Columbia	⊙	⊙	⊙							⊙		
Canada — Prince Edward Island		⊙	⊙	⊙								
Canada — Saskatchewan	⊙	⊙	⊙	⊙							⊙	
Canada — Alberta		⊙	⊙	⊙						⊙	⊙	
Canada — Newfoundland			⊙	⊙	⊙	⊙						
Canada — Northwest Territories	⊙					⊙				⊙		
Australian Commonwealth — Commonwealth Parliament		⊙	⊙	⊙	⊙	⊙		⊙	⊙	⊙	⊙	⊙
Australian Commonwealth — New South Wales		⊙	⊙					⊙	⊙	⊙	⊙	⊙
Australian Commonwealth — Queensland			⊙	⊙				⊙	⊙	⊙	⊙	⊙
Australian Commonwealth — South Australia		⊙	⊙			⊙	⊙	⊙	⊙	⊙	⊙	⊙
Australian Commonwealth — Tasmania			⊙	⊙		⊙	⊙		⊙	⊙	⊙	⊙
Australian Commonwealth — Victoria		⊙	⊙	⊙	⊙			⊙	⊙	⊙	⊙	⊙
Australian Commonwealth — Western Australia				⊙	⊙		⊙	⊙	⊙	⊙	⊙	
Australian Commonwealth — Northern Territory		⊙		⊙	⊙			⊙			⊙	
Papua New Guinea		⊙	⊙		⊙	⊙		⊙	⊙		⊙	
New Zealand		⊙	⊙		⊙	⊙	⊙	⊙	⊙	⊙	⊙	
Western Samoa			⊙	⊙	⊙			⊙	⊙	⊙		
Sri Lanka	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
India — Central Legislature		⊙	⊙	⊙	⊙			⊙	⊙		⊙	⊙
India — Andhra Pradesh		⊙	⊙			⊙	⊙				⊙	⊙
India — Bihar		⊙	⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙
India — Gujarat		⊙	⊙	⊙				⊙	⊙		⊙	⊙
India — Haryana	No settled practice											
India — Kerala			⊙	⊙			⊙	⊙		⊙	⊙	⊙
India — Madhya Pradesh		⊙	⊙	⊙			⊙	⊙			⊙	
India — Tamil Nadu	⊙	⊙	⊙	⊙			⊙	⊙	⊙			⊙
India — Maharashtra		⊙	⊙	⊙			⊙	⊙	⊙		⊙	⊙
India — Karnataka		⊙	⊙	⊙			⊙	⊙		⊙	⊙	⊙
India — Orissa		⊙	⊙	⊙				⊙	⊙			
India — Punjab			⊙	⊙	⊙	⊙					⊙	⊙
India — Rajasthan		⊙	⊙	⊙				⊙	⊙	⊙		
India — Uttar Pradesh		⊙	⊙	⊙	⊙		⊙	⊙	⊙		⊙	⊙
India — West Bengal		⊙	⊙	⊙			⊙		⊙		⊙	⊙
Ghana			⊙			⊙			⊙			⊙
Malaysia				⊙	⊙		⊙	⊙				
Sarawak	No settled practice											
Singapore	No settled practice											
Sierra Leone			⊙	⊙			⊙				⊙	
Tanzania		⊙			⊙	⊙				⊙		⊙
Jamaica			⊙	⊙	⊙						⊙	⊙
Trinidad and Tobago	⊙	⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙	
Uganda	⊙	⊙	⊙	⊙	⊙	⊙			⊙		⊙	⊙
Kenya		⊙			⊙	⊙			⊙	⊙	⊙	
Malawi	No settled practice											
Zambia	⊙	⊙	⊙	⊙			⊙	⊙			⊙	⊙
Bermuda	No settled practice											
Guyana	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
British Solomon Islands			⊙				⊙				⊙	
Gibraltar	⊙	⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙	⊙
Malta, G.C.	No settled practice											
Mauritius			⊙	⊙	⊙	⊙	⊙		⊙	⊙	⊙	⊙
St. Vincent	⊙	⊙	⊙	⊙				⊙	⊙	⊙	⊙	⊙
Belize		⊙	⊙		⊙	⊙	⊙		⊙	⊙	⊙	⊙
Cayman Islands		⊙			⊙			⊙			⊙	
Lesotho	Dissolved											
Cook Island	No settled practice											
Seychelles	No settled practice											
Grenada	No settled practice											
St. Lucia	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Bahamas	No settled practice											

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The Table

BEING

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

I. EDITORIAL

As readers will see, this is the first volume of THE TABLE since the journal was launched in 1932 which is neither published by Messrs. Butterworth nor printed by Billing & Co. It is always sad to break long and valued connections; but so far as the publishers were concerned, the break was not of our choosing, while the facts of inflation forced the Editors to seek elsewhere economies which Billings could no longer provide.

We are confident, however, (and the present volume bears testimony to the fact) that J. Looker Limited will provide us with a printing service as good and reliable as any in the past. As far as publication is concerned, the Editors intend to handle the necessary distribution direct from Westminster, not only to members of the Society (as they have always done) but also to other purchasers of the journal. Time alone will tell how successful they have been in maintaining the present circulation but the Society itself should benefit financially from handling the distribution of its own journal.

Notwithstanding the problems inherent in these changes, the Society continues to prosper and it is worth recording that the Table clerks in South Australia now wear the Society's tie when officiating at the Table of the House! This is in itself an indication of the high esteem in which the Society of Clerks-at-the-Table is now held and of the important role it plays throughout Commonwealth Parliaments.

Edwin Keary DeBeck, Q.C.—Mr. DeBeck, Clerk Consultant of the Legislative Assembly of British Columbia, died on 12th January 1975, after a brief illness. He was 91 years old. Mr. DeBeck was Clerk of the Legislative Assembly from 1949 to June, 1973. Upon his resignation as Clerk of the House following his 90th birthday, he was appointed Clerk Consultant, which position he held at the time of his death.

Edwin DeBeck was born in The Dalles, Oregon, on March 7, 1883, the son of United Empire Loyalist George Ward DeBeck and Emma Keary, the first white child born in New Westminster. He moved with his family

to British Columbia the same year, where he lived all his life. He graduated from McGill University, Montreal, where he had studied law, and was called to the Bar of British Columbia in 1910. He practised law in Vancouver until 1937. In that year Mr. DeBeck moved to Victoria and became the first Provincial Inspector of Credit Unions, as well as Superintendent of Brokers. He retired as Superintendent of Brokers in 1948, at the age of 65 years, and the next year accepted the position of Clerk of the House, where he served until the time of his death.

Mr. DeBeck was married in 1910 to Marie Ann Foster, who died in 1949. He is survived by five children, 21 grand-children and seven great-grandchildren.

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

We also record with regret the deaths of the following ex-members of the Society:

Frank Clifton Green, C.B.E., M.C., Clerk of the Australian House of Representatives, 1937–1955.

William George Browne, Clerk Assistant and Usher of the Black Rod, Legislative Council, Western Australia, 1956–1963.

Sir David Stephens, K.C.B., C.V.O.—As was briefly recorded in the last volume of THE TABLE, Sir David Stephens retired from the office of Clerk of the Parliaments at the end of July 1974 after nearly 40 years in the public service. His career as a Clerk in the Parliament Office was somewhat unusual in that he left the service of the House of Lords in 1938 and did not return till 1961. During that long interval Sir David had a varied and interesting career, starting with the Runciman Mission to Czechoslovakia in 1938 before he joined the Treasury.

The Lord Privy Seal and Leader of the House, Lord Shepherd, in paying tribute to Sir David on his retirement recalled that there were two periods of special interest in Sir David's life at the Treasury. First, he was principal Private Secretary to the Lord President of the Council and Leader of the House of Commons, described by Lord Shepherd as "that great Parliamentary figure, the late Lord Morrison of Lambeth". Lord Shepherd went on to say: "I can think of no better tutor in the art of Parliamentary Government than Herbert Morrison. No doubt Sir David himself would pay testimony to the value of that period of his working life". Secondly, he was for many years Secretary for Appointments to two successive Prime Ministers—Sir Anthony Eden and Mr. Harold Macmillan.

In 1961 Sir David returned to the House of Lords as Reading Clerk, (the Third Clerk-at-the-Table), a post which he held until 1963 when he became Clerk of the Parliaments, succeeding the late Sir Victor Goodman, who had to retire suddenly due to ill health after holding office for all too short a time. During the eleven years in which Sir David served as

Clerk of the Parliaments the House changed considerably in character and became a very much more active place. It was no easy task to be the chief adviser to a House which so rapidly expanded and evolved. As Lord Windlesham (the Leader of the Opposition) said in the House when he paid his tribute to Sir David, "We ought to remember that at the Table we see only the public side of the work of the Clerk of the Parliaments. He is also now the chief executive of a considerable staff. It is now an even more demanding and skilled job than it has been in the past".

Members of the House from all sides joined in the tribute paid to Sir David and I suspect that he was most gratified by the remarks made by the Archbishop of Canterbury, who summed up the feeling of the House by saying that he had "served with great dignity, great efficiency and great personal kindness through the years of his office"; and by the Lord Chancellor, who said that Sir David had rendered immense service to the House and to Parliament. His services stretched beyond Westminster and, in the Lord Chancellor's words, "not least in his role . . . during the many international conferences that he has attended".

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

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

K.C.B.—Sir Peter Henderson, Clerk of the Parliaments, Westminster.

K.C.B.—Sir David Lidderdale, Clerk of the House of Commons, Westminster.

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

O.B.E.—Mrs. L. B. Ah Koy, Clerk of the House of Representatives, Fiji.

II. AUSTRALIAN PARLIAMENT—JOINT SITTING OF SENATE AND HOUSE OF REPRESENTATIVES

By R. E. Bullock, O.B.E.
Deputy Clerk of the Senate

On 6th and 7th August 1974, for the first time since Federation, the two Houses of the Australian Parliament met together in a Joint Sitting, pursuant to the "deadlocks" provisions of the Constitution. The Constitution provides for such a joint sitting as the climax to continuing disagreement. Precedent to any such Joint Sitting there must be a dissolution of both Houses, and a recourse to the electorate. Only twice previously in the 74 years of Federation had there been a double dissolution—1914 and 1951—and on neither of those occasions had a Joint Sitting followed. In each case, the elections which followed the double dissolution had resulted in the return of a Government with majorities in both Houses. There were therefore no continuing disagreements in the new Parliaments.

The 1974 double dissolution saw the return, after the ensuing elections, of the same Government, the Whitlam Labor Government, with a reduced majority in the House of Representatives, and still lacking the numbers to ensure passage of its legislation in the Senate. Disagreement continued on proposed legislation for which the Government believed it had a mandate, and on 6th and 7th August, the historic Joint Sitting took place; "an occasion", the Hon. J. F. Cope, Speaker of the House of Representatives, stated on assuming the Chair at the sitting, "of great constitutional significance in the history of this Parliament".

The procedures and proceedings of the Joint Sitting will be referred to in some detail in ensuing pages. Possibly as significant as the Joint Sitting itself, however, were the events which led up to it, and the consequences which are flowing or may flow from it. Suffice to say at this stage that double dissolutions and perhaps Joint Sittings may not, regrettably, be as rare in the future as they have been in the past. The full political and constitutional harvest of the precedents set in 1974 has yet to be reaped. The significance of the events of 1974, however, cannot be really appreciated without some reference to Australia's political and constitutional history and an understanding of the "deadlock" provisions of the Constitution.

Constitutional "deadlock" provisions

In their memorable classic work *The Annotated Constitution of the Australian Commonwealth* (December, 1900), Quick and Garran pointed out that the Australian Constitution was the outcome of exhaustive debates, heated controversies, and careful compromise, and that the debates on the

deadlock provisions were second to none in interest.

The three smaller of the six States seeking federation wanted a guarantee that their interests would not be swamped by the more populous States, and this guarantee they sought particularly in a strong Senate, in which all States were represented equally.

The Constitution in providing a strong Senate (it has the power under section 53 to veto *any* Bill) also provided the machinery for resolving disagreement. Section 57 of the Constitution reads:

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

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

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

As Quick and Garran stated at page 687 "the whole of this complex and elaborate machinery for the settlements of deadlocks is founded on the assumption that two Representative Chambers, directly elected by the same class of people in all the States, will not work in harmony, but may at times come into deadly conflict".

The section was mainly the result of the fears of some representatives of the more populous states that "through the principle of equal representation the less populous States would be able to exercise undue influence in the Senate, so as to thwart the will of the popular majority of the whole Commonwealth". It will be noted that the section applies only to Bills which have been initiated in and passed by the House of Representatives, and that there is no limitation or qualification on the class of measure to which it applies. It embraces every proposed law which may be passed by the House of Representatives.

Interesting in this repect is the comment made by Quick and Garran, at page 181, when referring to the debate on the "deadlocks" provisions at the Adelaide Session of the Constitutional Convention in 1897:

The fact is that in this debate the word deadlock assumed a new and extended meaning, which, in subsequent discussion of the question, it has since retained. A "deadlock" originally meant a disagreement as to a Money Bill or some vital measure, the failure of which would paralyze the machinery of Government; but it now came to be used—for want of a better word—to describe any disagreement between the Houses on any matter of legislation. It was as yet by no means generally recognized that for "deadlocks," in this wider sense, any cure was necessary or desirable; and fears were expressed lest a clause intended to cure deadlocks should in fact have the effect of creating them.

The provision for the dissolution of the Senate was something quite unique, "the latest and greatest experiment in Federal Government". "No other second Chamber", wrote Quick and Garran, "in any federal system is liable to be dissolved on any question of general legislation . . . Immunity from dissolution *en masse* has been hitherto one of the recognised privileges, and certainly the strongest bulwark, of Upper Houses generally.". (page 687).

The 1914 and 1951 Double Dissolutions

As already stated, prior to 1974 there had been only two occasions on which there had been a double dissolution. On both occasions, as in 1974, the Government of the day lacked a majority in the Senate, and on both occasions the granting by the Governor-General of a double dissolution met with strong protest from the Senate.

The 1914 double dissolution was granted as a result of the Senate twice rejecting a Bill entitled "Government Preference Prohibition Bill"—a measure which the Senate contended was not a vital measure. The Senate claimed a real deadlock did not exist. In an historic address to the Governor-General, it stated, *inter alia*, that the precedent created must most seriously affect the future position of the Senate, that His Excellency's decision appeared to be fatal to the principles upon which the Senate had hitherto acted in strict accordance with a truly federal interpretation of the Constitution, and that the dissolution of the Senate "ought not to follow upon the mere legitimate exercise of its functions under the Constitution, but only upon such action as makes responsible government impossible".

The 1951 double dissolution was based on the Senate's "failure to pass" the Commonwealth Bank Bill.* The papers relating to the granting of the double dissolution, as subsequently tabled on 14th May 1956, are of particular interest in regard to views expressed, especially by the Solicitor-General, on the meaning of the words "fails to pass".

Events leading to the Double Dissolution of 1974

The 1974 double dissolution was precipitated not by the Senate's failure to pass certain Government proposals a second time, but by a threat to Supply, made by the Senate for the first time in its history.

The circumstances were unusual. A new session of Parliament had been opened by Her Majesty the Queen on Thursday 28th February,

*See THE TABLE Vol. XIX, pp. 191–3; Article by A. A. Tregear, Clerk-Assistant of the House of Representatives, entitled "Australian Parliament – Double Dissolution".

and the Senate's periodic election (for half its members) was due to be held on 18th May 1974. Early in April, however, a storm of protest broke out when the Senate learnt that the Leader of the Democratic Labor Party in the Senate, Senator the Hon. V. C. Gair, had been appointed by the Government as Ambassador to Ireland, an appointment which was interpreted by the Opposition members as an attempt by the Government to gain a major electoral advantage at the forthcoming Senate election, through the practical operation of the proportional representation system and the need for the electors of the State of Queensland to vote for an additional Senator. The debates and counter-moves which followed, while of particular interest, cannot be detailed here. On 10th April 1974, the Leader of the Opposition in the Senate, Senator Withers, moved an amendment to add the following words to the motion that the Appropriation Bill (No. 4) 1973–74 be read a second time—

> "but not before the Government agrees to submit itself to the judgment of the people at the same time as the forthcoming Senate election, the Senate being of the opinion that:
> (1) Because of its mal-administration, the Government should not be granted funds until it agrees to submit itself to the people;
> (2) The Government has, as pointed out in the Senate's Address-in-Reply to Her Majesty's Opening Speech:
> (a) created an intolerably high level of inflation . . .
> (3) The Government should resign because of its handling of the Gair affair, in which it attempted to manipulate Senate elections for party advantage."

The Leader of the Government in the Senate (Senator Murphy) spoke in the debate shortly afterwards and denounced the amendment as a "ridiculous and hypocritical device", "a slick motion which will say that they are not really refusing Supply but are asking that it be deferred conditionally upon the Prime Minister agreeing to submit to a dissolution". He concluded as follows:

> Mr. President, to put an end to this matter I will tell you that I intend to move "That the question be now put". If that motion is defeated, the Government will treat that as a denial of Supply. If that motion is carried and this absurd amendment is carried, the Government will treat that also as a denial of Supply. In either event the Prime Minister of Australia, who is conversant with the absurd proposition which has been put here, will call forthwith upon His Excellency the Governor-General and tender him certain advice not only in regard to the denial of Supply but also in regard to certain other measures to which I have referred. Therefore, I move:
>
> That the question be now put.

The closure motion was defeated by 26 votes to 31, and the debate continued. Three hours later Senator Murphy announced to the Senate that the Governor-General had acceded to the Prime Minister's request for a double dissolution, subject to Parliament making provision for supply. Senator Withers withdrew his amendment and the Appropriation Bill (No. 4) and other supply measures were passed.

The Double Dissolution of 1974

On 11th April 1974—the next day—the Governor-General issued a proclamation dissolving the two Houses simultaneously. In his proclamation he stated that the conditions upon which he was empowered to dissolve the Houses had been fulfilled in respect of six proposed laws which he listed, viz: three electoral measures (one for representation of the Territories in the Senate), two Health Insurance measures, and a proposal to set up a Petroleum and Minerals Authority. Apart from the manner in which it was precipitated, the 1974 double dissolution therefore differed from the 1914 and 1951 double dissolutions in two marked respects:

(*a*) The Governor-General's proclamation listed not one but six bills as being grounds for granting the double dissolution. It was apparent, therefore, that although section 57 of the Constitution refers to "proposed law" in the singular, the Governor-General had acted on advice that the singular in that context included the plural, and that the several "proposed laws" listed in proclamation could be dealt with, if necessary, at a joint sitting.

(b) As three of the proposed laws listed—the three electoral measures—had been negatived for the second time by the Senate in the previous year, 1973, and in a previous session (and the validity of their insertion in the proclamation therefore questioned), a complete new concept was implied: That of a Government able to build up a stockpile of rejected Bills to be used as a basis for seeking a double dissolution as and when it suited the Government to do so.

The constitutional validity of the inclusion of the Petroleum and Minerals Authority Bill in the Governor-General's proclamation was questioned by the Opposition and constitutional authorities on the ground that there had not been the three months interval between the first and second rejection of the measure, as required by section 57. Its inclusion implied yet a new interpretation by the Government of the expression "fails to pass".

Elections; resumption of Parliament; and the convening of the Joint Sitting

On 18th May 1974, the elections were held. As already stated, the Government was returned, with a reduced majority in the House of Representatives (66 of the 127 seats) and again without the numbers to control the Senate (29 of the 60 seats). The Senate which previously had 26 Government, 26 official Opposition (Liberal-Country Party) 5 Democratic Labor Party, and 3 Independent Senators, now had 29 Government, 29 official Opposition (Liberal-Country Party), 1 Independent, and 1 Senator representing the Liberal Movement. The Australian Democratic Labor Party, which had played an important role in the closely divided Senate for many years, was no longer represented in Parliament.

Parliament resumed on 9th July 1974. The Government lost no time in resubmitting the six bills listed in the Governor-General's proclamation granting the double dissolution; and the Opposition in the Senate took little time in again rejecting them. On 30th July 1974, the Governor-

General, on the advice of the Government convened a Joint Sitting. The proclamation read as follows:

WHEREAS a Proclamation made on 11 April 1974 by the Governor-General of Australia then holding office recited that the conditions upon which the Governor-General is empowered by section 57 of the Constitution to dissolve the Senate and the House of Representatives simultaneously had been fulfilled in respect of the several proposed laws intituled:—

Commonwealth Electoral Act (No. 2) 1973
Senate (Representation of Territories) Act 1973
Representation Act 1973
Health Insurance Commission Act 1973
Health Insurance Act 1973
Petroleum and Minerals Authority Act 1973:

AND WHEREAS, by the said Proclamation, the said Governor-General dissolved the Senate and the House of Representatives accordingly:

AND WHEREAS, since that dissolution and the election of the Twenty-ninth Parliament, the conditions upon which the Governor-General is empowered by section 57 of the Constitution to convene a joint sitting of the members of the Senate and of the House of Representatives have been fulfilled in respect of each of the said proposed laws:

NOW THEREFORE I, Sir John Robert Kerr, the Governor-General of Australia, do by this my Proclamation convene a joint sitting of the members of the Senate and of the House of Representatives, to commence in the House of Representatives Chamber at Parliament House, Canberra at 10.30 o'clock in the morning on 6 August, 1974, at which they may deliberate and shall vote together upon each of the said proposed laws as last proposed by the House of Representatives:

AND all members of the Senate and of the House of Representatives are required to give their attendance accordingly.

The preparations for the Joint Sitting

Prior to the Governor-General issuing his proclamation convening the Joint Sitting, anticipatory discussion on possible procedural arrangements had been taking place between the Parliamentary officers of the two Houses, between those officers and officers of Executive Departments involved, and between the Leaders of the two Houses. As would be expected in such circumstances, there were many issues and questions to be resolved, and no precedents to serve as a guide. The Joint Standing Orders of the Houses provided only that the members present at the Joint Sitting should appoint a Chairman by ballot, and that until such appointment the Clerk of the Senate should act as Chairman. Not least among the issues to be resolved so far as the officers of the Houses were concerned was where the Joint Sitting should take place, and which Standing Orders should be followed as the basic rules of procedure. Much discussion took place on the rival claims of the two Chambers and Standing Orders of the two Houses, and compromise, at an officer level, was not easily forthcoming.

So far the as venue was concerned, the Chambers are approximately the same size. Advocates of the Senate Chamber claimed that it was in keeping with ceremonial and historical precedent that the Joint Sitting should be held there, while advocates of the House of Representatives claimed that that Chamber was better equipped in seating and sound re-inforce-

ment facilities and that the secret wartime meetings of the two Houses had been held there. In his proclamation issued on 30th July, 1974, the Governor-General convened the Joint Sitting to commence in the House of Representatives Chamber.

So far as the Standing Orders were concerned, agreement was reached that there should be special rules of procedure for the Joint Sitting, with a provision that in matters not covered by the rules, the Senate Standing Orders should apply. The proposed rules were submitted first to the Senate for approval, and there amended, and then the amended rules were submitted to the House of Representatives which agreed to their adoption.

Rules of Procedure

The special rules, agreed to by the two Houses, numbered 18 in all. They provided *inter alia*, that:

- The Clerks of the two Houses act as Joint Clerks.
- The hours of sitting each day, unless otherwise ordered, be 10.30 a.m. to 1.00 p.m., 2.15 p.m. to 6.00 p.m. and 8.00 p.m. to 11.00 p.m.
- No member speak for more than 20 minutes on any question.
- The closure not to be moved until the expiration of 4 hours consideration of any proposed law, or 12 speakers had spoken.
- The guillotine not to apply.
- The question to be put from the Chair on any proposed law before the Joint Sitting to be "That the proposed law be affirmed", and a division to be taken on that question; which question "shall be resolved in the affirmative if, and only if, an absolute majority of the total number of the members of the Senate and House of Representatives vote in the affirmative".
- Each Senator and each Member of the House of Representatives, including the person chosen to preside, to have one vote.
- On the televising of the proceedings, each speaker to speak from a place near the Table; and that there be a balanced presentation of the affirmative and negative arguments put before the Joint Sitting.

Extension of Privilege

Action had to be taken to ensure that the Joint Sitting proceedings were protected in matters pertaining to privilege. Three measures were accordingly specially enacted to extend to the Joint Sitting the protection and privilege that accompanied normal sittings and the broadcasting of the two Houses, viz—the Evidence Act 1974, Parliamentary Papers Act 1974, and Parliamentary Proceedings Broadcasting Act 1974. The Evidence Act provided for judicial notice to be taken of the official signature of the member presiding at the Joint Sitting and for copies printed by the Government Printer of the formal record of proceedings to be admitted in court as evidence. The Parliamentary Papers Act extended to the publication of the proceedings, or documents laid before the Joint Sittings, the same protection against actions for defamation or other legal proceedings as applied with ordinary sittings. The Parliamentary Proceedings Broadcasting Act extended the provisions of the

existing Act to permit the broadcasting of the proceedings of the Joint Sitting. It enabled the Parliamentary Joint Committee on the Broadcasting of Parliamentary Proceedings to make determinations covering such broadcasts, and afforded those broadcasts the same protection as applied to normal Parliamentary broadcasts. It also provided that the proceedings could be telecast direct to air or recorded in a visual form for telecasting at a later time.

Each House also separately passed resolutions that it be a rule and order of the House that, at the Joint Sitting, the proceedings be proceedings in Parliament, and that the powers, privileges and immunities of its members be, *mutatis mutandis*, those relating to a sitting of the House.

Broadcast and Telecast arrangements

The Joint Committee on the Broadcasting of Parliamentary Proceedings on 2nd August 1974 issued a special notice advising that the proceedings throughout the Joint Sitting were to be broadcast by the Australian Broadcasting Commission, with live telecasts between the hours of 10.30 a.m.–1.00 p.m.; 4.00 p.m. to 6.00 p.m.; and 8.00 p.m. to 8.40 p.m. It provided that announcements were to be confined to a straight description of procedure and business before the sitting, and were not to include political views or forecasts. Comment on the presence or absence of Senators and Members was not to be made except that during divisions reference could be made to the way in which specific Members voted.

Documentation

Special Division Rolls and Ballot Papers etc. were prepared by the House Departments. All members of the Parliament were also supplied prior to the Joint Sittings with two documents—one a glossy 15 page printed brochure, and the other a six page duplicated statement. The 15 page brochure contained the texts of the Governor-General's proclamation convening the Joint Sitting, the Governor-General's Messages to the Presiding Officers in connection with the sittings, a copy of section 57 of the Constitution, the Rules of procedure agreed upon, the short titles of the proposed laws to be considered and the proposed order of proceedings, and a list of the Ministry and Members and officers of the two Houses. The six-page duplicated statement gave details of the seating arrangements, ballot procedure (subsequently not required as Mr. Speaker was appointed unopposed), division procedure (bells to be rung for 3 minutes, and 3 tellers from each side), the manner in which Senators and Members would be called from the Chair, broadcast and television arrangements, sitting hours, visitors arrangements, *Hansard*, and the taking of photographs.

The Joint Sitting

The Joint Sitting was attended by every member of the Parliament—

the 60 Senators and 127 Members of the House of Representatives. It was essential that every member of the Government be present to ensure that the six proposed laws be affirmed. Total Government membership was 95—66 Members of the House of Representatives and 29 Senators; and the Constitution required an absolute majority, i.e., 94 votes, for the passage of each of the measures. All six proposed laws were affirmed, with affirmative votes ranging between 95 and 97.

One might, in the circumstances, be excused for again quoting Quick and Garran—written 1900—page 687.

> The effect of the requirement of an "*absolute majority*" to carry a proposal is that the opponents of a proposal need not muster in force to defeat it; whether they are present or absent the proposal cannot be carried unless its supporters have an absolute majority, and will be carried if its supporters have that majority. On the other hand, the supporters of the proposal must be present to the required number, or they cannot succeed. In view, however, of the fact that a joint sitting, when it occurs, will be the final stage in a long political struggle, the difference between a simple and an absolute majority loses much of its importance. If the supporters of a proposal do not number an absolute majority, they will be unlikely to win in any case; and if they do number an absolute majority, it is very unlikely that any member of that majority will absent himself and thereby betray his party at the moment when victory is within their grasp.

The proceedings opened with the Clerk of the Senate reading the Governor-General's proclamation convening the Joint Sitting. He then informed Members that the rules adopted by both Houses provided that the Joint Sitting should proceed to the appointment of a Chairman, and asked if there was a proposal. Only one proposal was received—that of the Speaker of the House of Representatives, the Hon. J. F. Cope, who then assumed the Chair, and read Prayers.

After making a statement on the constitutional significance of the Joint Sitting, the Chairman called on the first proposed law named in the Proclamation and, pursuant to the rules agreed upon, proposed the question (without motion being moved)—That the proposed law be affirmed. Debate ensued, the Question was put, the Joint Sitting divided and after the question had been resolved in the affirmative, 96–91, the Chairman declared the proposed law affirmed by an absolute majority of the total number of members of the Senate and of the House of Representatives, as required by section 57 of the Constitution. Similar procedure was followed in respect of the remaining five proposed laws. The sittings took place over the hours agreed upon in the Rules, and concluded on the second day at precisely 11.00 p.m. In all, 21 Senators and 45 Members of the House of Representatives participated in the debates, and of the total of 66 who so participated, 34 were Government members. Three Members, leading members of the Opposition, spoke twice.

The first speaker called was the Prime Minister, Mr. Whitlam, who began by stating the Government's attitude in regard to the Joint Sitting. "Momentous as the sitting is", he said, "the reasons for it are not a matter for pride. It has come about because of the repeated refusal of the Senate

to pass legislation which has been approved by the House of Representatives . . . Let it be understood that this Joint Sitting is a last resort, a means provided by the Constitution to enable the popular will—the democratic process—ultimately to prevail over the tactics of blind obstruction". The Leader of the Opposition, Mr. Snedden, followed Mr. Whitlam. "The Prime Minister", he said, "in opening this historic sitting said that it had been caused by the repeated refusal of the Senate to pass some Bills. That is certainly true. But the construction put upon it by the Prime Minister was that the Senate and the Opposition were resolved to obstruct the passage of legislation. We are not resolved to obstruct legislation. We are resolved not to let legislation go through the House of Representatives and the Senate which we believe is bad in principle and which would detract from the constitutional principles of parliamentary democracy. When such legislation is put before either House of the Parliament we will do all we can to prevent its passing, and if that is what 'obstruct' means then the word has found a new meaning in the dictionary".

The closure was moved once only during the two days of sitting—by a Minister, and carried; but it was moved not in connection with debates on the proposed laws but on a *dissent* motion against a ruling of the Chair. The dissent motion constituted the only real incident of the sittings. It occurred on the afternoon of the second day after the fifth of the six proposed laws had been affirmed. Before the question on the sixth proposed law was put from the Chair, Mr. Wentworth, an Opposition Member, moved that so much of the Standing Orders be suspended as would prevent him moving forthwith:

"That this Joint Sitting of the Houses should not be finally adjourned until either it has adequately discussed the present economic and industrial situation in Australia or else the Government has indicated that both Houses will meet next week to discuss these matters."

The Chairman ruled the proposed motion not in order. The Proclamation by the Governor-General, he stated, convened a Joint Sitting for the purpose of deliberating and voting upon each of the 6 proposed laws. In his opinion, neither section 57 of the Constitution nor the Proclamation authorised the consideration of any other matters by the Joint Sitting. The dissent motion moved by Mr. Wentworth was negatived on the voices.

As the Chairman was calling on the next proposed law—the Petroleum and Minerals Authority Bill—Mr. McMahon, Opposition Member and a former Prime Minister, took a further point of order, and began to refer to part of a judgment in the High Court by the Chief Justice the day before. When the Chairman ruled there was no point of order involved, as a point of order could only relate to the Standing Orders and the rules governing the Joint Sitting adopted by both Houses, Mr. McMahon protested that the Chair was acting on proclamations which the Chief

Justice had said were improper. He did not proceed further in the matter on being again called to order by the Chair.

The proof *Hansard* and Minutes of Proceedings of the debates were available on the morning after each day's sitting. The final *Hansard* report, embracing both days debates, covers 175 pages, and has been issued in a "neutral" white cover—as contrasted with the Senate *Hansard* debates which are issued in a red cover, and the House of Representatives debates in a green cover.

The first three proposed laws, affirmed 6th August, received the Governor-General's assent on 7th August, and the remaining three, affirmed 7th August, were assented to on 8th August.

High Court challenge to the Joint Sitting

For a brief period there was some doubt as to whether the Joint Sitting would take place. The Governor-General's proclamation of Tuesday, 30th July 1974, convened the Joint Sitting for 10.30 a.m. the following Tuesday, 6th August 1974. On Thursday, 1st August 1974, a writ was filed in the High Court by two Opposition Senators, Senator the Hon. Sir Magnus Cormack, K.B.E. (President of the Senate prior to the double dissolution) and Senator James Webster (the Senate Chairman of Committees) challenging the legality of the Joint Sitting and seeking an interlocutory injunction to prevent it being held. The High Court heard evidence on Friday, 2nd August, and Monday, 5th August, and dismissed the action on the very eve of the Joint Sitting.

The Chief Justice, in his judgment, stated that it was important to bear in mind that the proceedings before the Court had been of an interlocutory character, and that the suit itself was not before the Court or otherwise ready for a final hearing. A writ issued by the Queensland Government at the same time, seeking a declaration that the Bill intituled Petroleum and Minerals Authority Bill was not a Bill passed a second time as required by section 57 of the Constitution and not a bill properly to be deliberated and voted upon at the Joint Sitting, was also dismissed. In his judgment on that writ, the Chief Justice stated he would not grant an injunction or make any declaration because undoubtedly the State of Queensland would have an interest to attack the proposed law if the Joint Sitting should affirm it and it should receive the Royal Assent.

Regrettably the arguments put to the High Court and the comments made by the Justices in their several judgments cannot be dealt with adequately here. Queries were raised and discussion ensued on many aspects of the wording of section 57—the references to "proposed law" in the singular and the "storing up" of proposed laws; the interpretation of, and bearing upon the several proposed laws of "interval of three months", "in the same or the next session", and "fails to pass". What did seem to emerge from the judgments handed down, however, was that:

(*a*) A Joint Sitting could consider more than one Bill; and

(*b*) The eventual fate of the Petroleum and Minerals Authority Act,

in particular, was very much in doubt.

In regard to (*b*), the Chief Justice stated: "If this were the hearing of a suit and the evidence stood as it stands now, I would have little difficulty in finding that in fact the proposed law consisting of the Petroleum and Minerals Authority Act 1973 did not qualify as a proposed law which could be deliberated and voted upon in a Joint Sitting of the Houses under s. 57".

The Attorney-General, Senator the Hon. Lionel Murphy, Q.C., appeared for the Government at the hearing, and took a strong stand on the correctness of the action taken and proposed in regard to the Joint Sitting. He queried the right of Court intervention in what he asserted was a process of Parliament itself. This brought strong comment from the Chief Justice in his judgment: "I should advert, at this point, to a submission made by the Attorney-General, of a very wide-ranging kind. It was submitted that the Governor-General, when performing his functions under s.57, was participating in the Parliamentary process of lawmaking so as to attract to all that he did what was referred to as the privileges of Parliament. Thus, according to the submission, this Court could not inquire into the regularity of what the Governor-General had done or, indeed, into the regularity of any of the steps in the law-making process required by s.57 . . . Whilst the Court will not interfere in what I have called the intra-mural deliberative activities of the House, . . . there is no Parliamentary privilege which can stand in the way of this Court's right and duty to ensure that the constitutionally provided methods of law making are observed . . . I would therefore reject entirely the Attorney-General's submission that this Court is powerless to decide upon the regularity of any of the steps in the law-making process under s.57, including the proclamation of the Governor-General purporting to convene a Joint Sitting".

The form of the Governor-General's proclamations dissolving the two Houses and convening the Joint Sitting was criticised by several of the Justices. The Chief Justice stated that in neither of the proclamations should the Governor-General have specified the particular Bills and that it was not part of the Governor-General's functions to determine what should occur at the Joint Sitting:

". . . It is important to observe that the full power which s.57 gives to the Governor-General when the occasion is appropriate is to 'convene a Joint Sitting of the Members of the Senate and of the House of Representatives'. It is no part of the Governor-General's function to determine what shall occur at the Joint Sitting or to direct what proposals may be discussed or what not discussed at such a sitting or what is the purpose of the Joint Sitting. That is determined by the Constitution in the third paragraph of S.57."

and elsewhere

"Whilst it is true that there must have been in fact the required rejection of a proposed law by the Senate before the Governor-General may lawfully dissolve both Houses he does not dissolve the Houses in relation to or in respect of any particular law. He merely dissolves the Houses."

The opinions expressed by the Chief Justice and other Justices in respect of Governor-General's proclamations, and submissions made by the Attorney-General to the Court, would seem, in retrospect, to throw doubt on some of the procedures at the Joint Sitting. This applies particularly to the putting from the Chair (without motion moved) the Question "That the proposed law be affirmed" and to the refusal of the Chair to permit other matters to be debated at the Joint Sitting. Certainly reconsideration will need to be given to these aspects in the event of another Joint Sitting. As to the putting of the Question, the view had been taken that it was unnecessary for a motion to be put, in view of the wording of s.57 and the wording of the Governor-General's proclamation. S.57 states that "The members present at the Joint Sitting may deliberate and shall vote together upon the proposed law . . .", and the Proclamation convening the Joint Sitting stated "at which they may deliberate and shall vote together upon each of the *said* proposed laws . . .". If any future Proclamation convening a Joint Sitting does not spell out the proposed laws to be considered, some new procedure will need to be devised for bringing on the proposed laws which fall within the scope of s.57.

As to the Joint Sitting being able to discuss, and presumably arrive at a decision carrying some weight on, matters other than proposed laws which fall within the scope of s.57, the writer, as a Senate officer, sees much cause for alarm. The Senate has, in the past, tended to look with distrust on any proposal which would bind it, particularly legislatively, to a decision arrived at by a meeting with the numerically stronger lower house. The dangers are obvious. During the High Court hearings, however, the Leader of the Government in the Senate, Senator Murphy, asserted vigorously the right of the members at the Joint Sitting to debate any measure or motion they wished. He considered it incompatible with the freedom of speech which appertained to the parliament and to the proceedings in parliament—and the Joint Sitting, he emphasized, was a proceeding in Parliament—that members could be constrained from debating such matters as they thought fit.

What attitude will be taken by the Chair at any future Joint Sitting to any motion other than one relating to the relevant proposed laws will need to be, as already stated, a matter for further consideration. In the meantime, at least, the Chairman's ruling, upheld by the Joint Sitting, stands as a precedent.

Senate has cause for uneasiness

At the commencement of this paper, it was stated that double dissolutions and perhaps Joint Sittings may not, regrettably, be as rare in future as they have been in the past—and that the full political and constitutional harvest of the precedents set in 1974 has yet to be reaped.

There are grounds for this statement. As already indicated one of the things that did seem to emerge from the judgments handed down in the

High Court action was that a Joint Sitting could consider more than one Bill. The Chief Justice's comment in his decision is relevant:

"I am conscious of the fact that such a view of s.57 leaves open the possibility that, as it were, a storehouse of proposed laws could be built up during the life of a Parliament so that after a double dissolution they might be presented at the one time to a Joint Sitting, thus making a considerable inroad upon the basic concept of the Constitution which provides for a bi-cameral system of Parliament. But whilst this is perhaps a possibility it seems to me it is not to be prevented by what to my mind would not be merely a strained but an unwarranted construction of s.57. The control of such a possibility must lie in the formation and observance of Parliamentary conventions designed to implement the spirit of Parliamentary government as under the Constitution".

At the time of writing—March 1975—the Government has a further stockpile of no less than nine bills which it could use as a basis for yet another double dissolution if and when it so wished.

Last year's precedents appear to be a double-edged sword, a two-way political menace. The Government is concerned that the Opposition, through its numbers in the Senate, may again use the threat to Supply to force another election—and that it probably could be expected to do so, notwithstanding the many political purists of the Opposition ranks who oppose any such use of supply, if the electoral climate is considered right. Senators, well aware of the build up of "double dissolution" bills, appreciate the implication that if the Government is forced to go to the polls, it can be expected, as it did last year, to take the whole Senate with it.

It is a situation not good for the Senate as an institution, its image, or its power. In view of the opinions expressed at the High Court proceedings referred to, there is no need to expand on that.

The wisdom of 1900 seems rather appropriate to 1975. Quick and Garran, at page 688 of their work, wrote:

It would be premature as well as unwise to indulge in speculations as to whether its liability to dissolution will tend to weaken the effective power of the Australian Senate. If the Senate is well led, a dissolution may result in its being supported and strengthened by the States. Although the Senate represents the States, as corporate units, it is based on the elective principle, as much as the House of Representatives. It will feel what Goldwin Smith describes as the "sap of popular election in its veins." In a disagreement with the House, it may assert its views with ability, dignity, and determination, it will fully realize its responsibility to the States, and will insist that its responsibility to its corporate constituents is as great as that of the other chamber to the people as individual units. If an uncompromising attitude on the part of both Houses leads to a double dissolution, the Senate may be reconstituted with added, and not diminished, authority. On the other hand, is it equally possible that the Senate, badly led, may be badly beaten in the appeal to the people and to the States. This much is certain, that the people as final arbiters will be the gainers of power by the liability of both Houses to dissolution.

Recent events

The following events recent to the writing of this article might be noted:

1. Two days prior to the Parliament resuming on 11th February, 1975, it was announced that the Leader of the Government in the Senate, Senator Murphy, had resigned as a Senator to take up an appointment, made by the Government, to the High Court.*
2. On 24th, 25th, 26th and 27th February 1975, the High Court heard argument in connection with writs issued on behalf of the States of Victoria, Queensland, Western Australia and New South Wales, against the constitutional validity of the Petroleum and Minerals Authority Act approved at the Joint Sitting.

   Chief Justice Barwick announced at the beginning of the hearing that while it was usual, in constitutional cases, for the bench to be composed of all justices available to participate in the decision, Mr. Justice Murphy had indicated to him that because of his earlier association with the subject matter of the proceedings, he did not regard himself as available to participate in the hearing and decision of the case. He, the Chief Justice, had accepted that view. The Court reserved its decision at the conclusion of the hearings.
3. Writs have also been issued in regard to the three electoral laws approved at the Joint Sitting, viz.—Senate (Representation of Territories) Act 1973, the Commonwealth Electoral Act (No. 2) 1973 and Representation Act 1973.
4. On Friday, 21st March 1975, Mr. Malcolm Fraser was elected by the Liberal Party as its Leader in place of Mr. Snedden. Since the resumption of Parliament in 1975 there had been speculation as to whether the Opposition, through its numbers in the Senate, would again threaten "supply" to bring about another early election—speculation enhanced by the Government's announcement that the Supply Bills would contain provision for funding the politically opposed "Medibank" Health Scheme due to come into operation on 1st July 1975. Mr. Fraser, shortly after his election, announced *inter alia*, that the Opposition would not be opposing the Bills.

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*The New South Wales Parliament, at a Joint Sitting of its two Houses specially convened in accordance with Constitutional requirements, appointed a "political neuter", Cleaver Ernest Bunton, to fill the casual vacancy caused by Senator Murphy's resignation. Senator Bunton will hold office until the next Senate or House of Representatives election.

III. THE OFFICE OF THE INVESTIGATOR-GENERAL IN ZAMBIA

By N. M. Chibesakunda
Clerk of the National Assembly

Introduction

Since Sweden established the office of Ombudsman in 1809, the Ombudsman institution has gradually become so important that with growing complexity of government administration, more and more countries have adopted the institution as the most adequate arrangement in any genuine effort to redress citizens' grievances against the conduct of public officers. In Zambia the attainment of Independence in 1964, released a dynamic drive to expand the scope of government activities into areas (rural areas) hitherto neglected by the colonial rulers. With inadequate and poorly trained indigenous personnel on which government administration was based, it was reasonable to expect that difficulties would be experienced by both the public and the administration. Mobilisation of the masses for development was necessary if every Zambian were to enjoy the fruits of Independence. To afford protection to the public, against administrative short falls, a grievance-handling institution was created in 1974.

Background

To appreciate fully the place of the Commission for Investigations in the Zambian context, a brief discussion of some salient factors is necessary. As alluded to in the introduction, at Independence, Zambia inherited an administration whose senior personnel was for practical purposes, wholly drawn from non-Zambians.

This represented a major constraint to development programmes with an administrative personnel whose continuity in the service of the government could not be assured. Indigenous personnel had to be drawn into the administration in the certainty that it was better for Zambians to make mistakes from which they would learn than to be held to ransom by non-Zambians to the detriment of development.

During the colonial era, threats were an element in the 'success' of colonial administrations. In response, many people tried to avoid contacts with the administration if they could help it. Those who could not, learnt to put up with mal-administration and abuse of power. Against this background, the creation of the Commission for Investigations is expected to strengthen the Philosophy of Humanism (Zambian National Philosophy) and to protect the rights of the citizens.

Constitutional Basis

The Commission for Investigations was established by Article 117 of the Constitution of the Republic of Zambia which provides *inter alia*, that the Commission shall have jurisdiction to inquire into the conduct of any person to whom this Article applies in the exercise of his office or authority, or in abuse thereof.

Article 118 provides for the composition of the Commission which consists of an Investigator-General, who was appointed by His Excellency the President in consultation with the Judicial Service Commission, and three Commissioners who were appointed by the President. It is a constitutional requirement that a person shall not be qualified to be appointed an Investigator-General unless he is qualified to be appointed a judge of the High Court. In addition, it is pertinent to note the Investigator-General's tenure of office is secured by the Constitution.

It is clear that the Zambian Government attaches great importance to the success of the Commission for Investigations; hence it has enshrined its permanence in the Constitution. The very fact that the Government had to divert the services of a very prominent and able Zambian Judge into this new office, underlines the significance the Commission for Investigations is accorded by the Government.

Jurisdiction and Powers

As far as the jurisdiction and powers of the Commission are concerned, section 10 of the Commission for Investigations Act states:—

> Subject to the provision of this Act, the jurisdiction and powers conferred on the Commission may be exercised notwithstanding any provision in any written law to the effect that an act or omission shall be final, or that no appeal shall lie in respect thereof, or that no proceeding or decision shall be challenged, reviewed, quashed or called in question.

Section 11 of the Act goes further and states:—

> Where it appears to the Commission that any of its powers under this Act is likely to be frustrated by any action taken or about to be taken by any person to whom this Act applies, the Commission may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of conducting any investigation, and any such order, writ or direction shall have the same force as an order, writ or direction of the Court.

Sections 12 to 14 variously confer upon the Commission powers to summon witnesses, or to order their arrest if they defied the summonses. The Commission has power to order the production of documents provided the documents are not prejudicial to the security of the State. With a few exceptions, the Commission, for the purposes of the Act, may by warrant enter upon any premises and thereon carry out any inspection for the purposes of an investigation. It is concluded that the Commission has enough power to make its work a success.

Scope of Inquiry

Section 7 of the Act empowers the Commission to inquire into the conduct of any person to whom the Act applies in the exercise of his office or authority, or in abuse thereof, whenever so directed by the President and may, unless the President otherwise directs, inquire into such conduct in any case in which it considers that an allegation of misconduct or abuse of office or authority by any such person ought to be investigated. However, the Commission shall have no power to question or review any decision of any court or of any judicial officer in the exercise of his judicial functions, or any decision of a tribunal established by law for the performance of judicial functions in the exercise of such functions, or any matter which is sub-judice, or any matter relating to the exercise of the prerogative of mercy.

People subject to investigation include any person in the service of the Republic; any person holding office in the Party; members and persons in the service of a local authority; members and persons in the service of statutory corporations, bodies or boards, including institutions of higher learning, established wholly or partly out of public funds and members and persons in the service of any Commission established by the Constitution or any Act of Parliament.

The President of the Republic of Zambia, private institutions, or any person employed by such institutions or indeed, any person in his individual capacity, will not be subject to investigation by the Commission.

Functions of the Commission

The Commission receives, processes and investigates complaints lodged with it orally or in writing, by residents of Zambia, against mal-administration or abuse of power.

Inquiries are secret and no person other than the members of the Commission and such of the Commission's officers as may be required for duty are in attendance. The intention in doing this is to allow the complainant and his witnesses to give evidence in the absence of the the official complained against. Evidence may be given on oath but no inflexible adherence to the rules of evidence is observed as is the case in courts of law. Significantly, members of the Commission themselves conduct investigations. Unlike some Ombudsman institutions elsewhere, no special investigators are employed. The Commission has no executive power. It is limited to an expression of opinion and making recommendations to the President as to what action should be taken to review the act or decision complained against and to remedy the injury, if any, suffered by the complainant. As required by the Constitution, the Commission presents to Parliament an annual report embodying a summary of the Commission's activities for the year under review. The Commission's report to Parliament published in book form, is available to the public at a given price.

Justification for the Commission

The usual Parliamentary method of raising questions for oral or written answers, is inadequate in very extreme cases. Asking for departmental inquiries as a parliamentary method of probing into mal-administration, leaves much to be desired. For one thing, it does not go far enough. For another, it is burdensome to the Member of Parliament whose main duty is to concentrate on legislation, and has no personal full time staff to attend to details of complaints from individuals. In Zambia, although the population is small, constituencies are still too big (they were recently reduced in size by increasing the number of them from 105 to 125) to be adequately covered by the members representing them, particularly in respect of rural areas some parts of which are inaccessible for a large part of the year.

Courts and tribunals share some in-built weaknesses so far as the handling of grievances is concerned. Courts and tribunals can be, and often are, dilatory in their procedures. It is acknowledged that courts are expensive to use and that only persons claiming a right sustainable in law or equity may be entertained. When it is remembered that in the colonial era, courts represented the power of the colonial masters, most people have not psychologically lost the fear they then had for the courts. The are averse to using the courts to remedy grievances. The courts too, are rendered ineffective in dealing with abuse of the use of discretion in day to day administration.

It is earnestly and honestly hoped that the Commission for Investigations will adequately handle the complaints of people resident in Zambia. To this end, the Commission has decided to conduct its proceedings in a relaxed atmosphere whose main characteristics are simplicity, informality and speed. There are no illusions as to the difficulties to be encountered. To defend the common man and at the same time protect the administration against frivolous and vexatious complaints is not an easy job. Time and patience are required to allow the new institution to become part and parcel of the Zambian Participatory Democracy. The hopes and expectations of the people are high. They look forward to seeing individual administrators, who unlike the politicians, are not accountable to any electorate, hence have no reason to feel sensitive to the wishes of the common man, respond to the people's yearning desire for a fair deal. Politicisation of the administration may help to develop a "conscience for responsibility" in accordance with the national concern for the welfare of the common man. To assist the common man to appreciate the position of the administration in cases in which misunderstandings arise from the fact that adminstrative agencies are not explicit enough, or at all, in their decisions or acts in so far as these affect the citizen, the Commission may assume the role of an explaining agent for the public official.

The Commission is aware of the dangers inherent in undue disruptions of the administrative machinery of the State. To the extent that the Commission satisfies both the need for a smooth, responsive administration,

and the redressal of the grievances of the people, to that same extent will its success be measured. Already, indications are that the Commission is meeting this challenge admirably.

Conclusion

It is hoped that the Commission will strengthen democratic institutions in Zambia by raising the level of public awareness of the acceptable and accepted standards of public administration. By publishing in the daily and other newspapers, matters of interest in the report, the public will get to know the issues that could be raised with the Commission. The bureaucracy will also feel the impact of the exposure of issues which the public hitherto had not known they could complain against. Zambians are anxiously awaiting the publication of the Commission's first report any time this year, 1975. It is also hoped that individual administrators will take note of this publicity on the rights of individuals. Participatory Democracy only works well when the public knows its rights and responsibilities. Privileges must not be confused for rights, nor rights for privileges. Tours undertaken by the Commission to all parts of the country, to the extent that this is possible, serve as general education to the people. Coupled with the growth of adult-education, and the willingness of a very strong and united Government to back the Commission for Investigations, it is sincerely hoped that the quality of administrative performance will improve and the machinery of Government will be reshaped to respond to the wishes of the people quickly.

Complaints started trickling into the Office of the Investigator-General before the Act was passed. If evidence is wanted to prove the seriousness with which Zambians view this institution, this is it. The Government is committed to the success of the institution. Although it is too early to comment on the work of the Commission for Investigations, one is encouraged to hazard the conclusion that in God's good time, all things being equal, success will be achieved.

IV. MEMBERS' INTERESTS

By C. B. Winnifrith
An Acting Deputy Principal Clerk, House of Commons

Introduction

The eighteenth edition of Erskine May contains only five pages under the heading of "Personal Pecuniary Interest" inserted rather artificially at the end of a chapter on the process of debate. Almost all of these five pages are concerned with the effect on voting of personal interests. By the time the next edition of May appears, there is a strong probability that a whole new chapter will be needed, going far wider than the question of voting, covering the current practice in relation to both registration and declaration of outside interests by Members of the House of Commons. The present article seeks first to describe the evolvement of the House's concern with the pecuniary interests of Members, leading up to the passing of two Resolutions on 22nd May 1974 and the subsequent Report of a Select Committee; it then sets out the main conclusions of the Committee which, following their adoption by the House on 12th June 1975, will determine future practice.

Early Practice

As indicated in May, until comparatively recently the House of Commons has only considered the question of Members' pecuniary interests in relation to voting. The basic ruling is that of Mr. Speaker Abbot on 17th July 1811 that "no Member who has a direct pecuniary interest in a question shall be allowed to vote upon it". Mr. Speaker Abbot alluded to this practice as "established" 200 years before and then spoken of as an ancient practice.

The development of Private Bill procedure in the latter half of the nineteenth century led to the House requiring any Member appointed to serve on an opposed Private Bill Committee to sign a declaration disclaiming any local or personal interest in the Bill.

Developments in the law relating to declaration of interests in the spheres of local government and companies contributed to the gradual establishment of a convention (not a rule) which required a Member to disclose any relevant pecuniary interest he might have in a debate. By 1940 this custom was fully recognised, as can be seen from the findings of a Select Committee appointed to inquire into the conduct of a Member. The Committee concluded that his conduct was "contrary to the usage and derogatory to the dignity of the House and inconsistent with the standards which Parliament is entitled to expect from its Members" since "he took no steps at any time to disclose to the House of Commons as a whole or to Members to whom he wrote urging particular action

or to the Treasury that his private interests were in any way affected by what might be done about the Czech assets".

The 1969 Committee

In 1969 doubts were beginning to arise whether the convention regarding declaration of interests was adequate. There was in particular concern over the growing activities of what might be called pressure groups; on 26th March 1969 the Prime Minister referred to "the operation of public relations and other organisations holding an account or a commission on behalf of an overseas Government or an overseas political interest". As a result of this concern the House on 14th May 1969 appointed a Select Committee "to consider the rules and practices of the House in relation to the declaration of Members' Interests and to report thereon".

After hearing a good deal of evidence from Members and others the Committee finally reported on 4th December 1969. They recommended that the House should adopt two resolutions "which together would compose a code of conduct for Members". These resolutions were:—

(i) That in any debate or proceeding of the House or its Committees or transactions or communications which a Member may have with other Members or with Ministers or servants of the Crown, he shall disclose any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, that he may have had, may have or may be expecting to have.

(ii) That it is contrary to the usage and derogatory to the dignity of this House that a Member should bring forward by speech or question, or advocate in this House or among his fellow Members any bill, motion, matter or cause for a fee, payment, retainer or reward direct or indirect, which he has received, is receiving or expects to receive.

The Committee also recommended that the Committee of Privileges should make an annual examination of this code of conduct to see whether it had proved adequate. They came down, firmly, however, against any idea of a register of interests which they regarded as a "cumbrous inquisitional machinery which is likely to be evaded by the few Members it is designed to enmesh".

The Resolutions of May 1974

The Report of the 1969 Committee was never debated, and for a time interest in the subject lapsed. However the recent series of prosecutions for corruption in local government, particularly those involving John Poulson, caused a great deal of public concern about standards of conduct in public life generally. Before the present Government came to power in March 1974 inter-party discussions had taken place about the question of declaration of Members' interests. The Government finally decided to put forward their own proposals to the House. Accordingly on 22nd May 1974 the following Resolutions were agreed to after a full day's debate and by substantial majorities:—

(i) That, in any debate or proceeding of the House or its committees or transactions or communications which a Member may have with other Members or with Ministers or servants of the Crown, he shall disclose any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, that he may have had, may have or may be expecting to have.

(ii) That every Member of the House of Commons shall furnish to a Registrar of Members' Interests such particulars of his registrable interests as shall be required, and shall notify to the Registrar any alterations which may occur therein, and the Registrar shall cause these particulars to be entered in a Register of Members' Interests which shall be available for inspection by the public.

It will be observed that the first of these Resolutions is in identical terms to that proposed by the 1969 Committee. The second, however, which imposes a compulsory register of interests, goes totally contrary to the recommendations of the 1969 Committee. The tenor of the debate indicated a distinct shift in opinion in favour of compulsory registration as being necessary, if not desirable.

The House had clearly expressed itself on the principle of compulsory registration and declaration. It had not, however, at that stage worked out the means of making these principles workable. Accordingly on the same day it passed a third Resolution appointing a Select Committee with the following terms of reference:—

"to consider the arrangements to be made pursuant to the Resolutions of the House this day relative to the declaration of Members' interests and the registration thereof, and, in particular:—

(a) what classes of pecuniary interest or other benefit are to be disclosed;

(b) how the register should be compiled and maintained and what arrangements should be made for public access thereto;

(c) how the resolutions relating to declaration and registration should be enforced;

(d) what classes of person (if any) other than Members ought to be required to register; and to make recommendations upon these and any other matters which are relevant to the implementation of the said Resolutions;

to report to the House, within the shortest reasonable period, their recommendations, especially with regard to paragraphs (a), (b) and (c)."

The Committee did not complete that task by the time of the dissolution in September, but their successors were able to report to the House on 12th December 1974, and the Report was published on 8th January 1975. The following paragraphs seek to summarise the main conclusions and recommendations of the Committee.

Proposals for the registration of interests

The most difficult task which faced the Committee was to determine the scope of the register. They recommended the registration of nine specific classes of pecuniary interest or other benefit:—

(1) remunerated directorships of companies, public or private;

(2) remunerated employments or offices;

(3) remunerated trades, professions or vocations;

(4) the names of clients when the interests referred to above include personal services

by the Member which arise out of or are related in any manner to his membership of the House;

(5) financial sponsorships (a) as a Parliamentary candidate where to the knowledge of the Member the sponsorship in any case exceeds 25 per cent of the candidate's election expenses, or (b) as a Member of Parliament, by any person or organisation, stating whether any such sponsorship includes any payment to the Member or any material benefit or advantage direct or indirect;

(6) overseas visits relating to or arising out of membership of the House when the cost of any such visit has not been wholly borne by the Member or by public funds;

(7) any payments or any material benefits or advantages received from or on behalf of foreign Governments, organisations or persons;

(8) land and property of substantial value or from which a substantial income is derived;

(9) the names of companies or other bodies in which the Member has, to his knowledge, either himself or with or on behalf of his spouse or infant children, a beneficial interest in shareholdings of a nominal value greater than one-hundredth of the issued share capital.

In putting forward these definitions the Committee stressed that they should be regarded as broad guidelines within which Members should proceed with good sense and responsibility. The register was not intended as a public income tax return, and the amounts of renumeration or benefits, as distinct from the sources, should not be disclosed. The purpose of the register was spelt out in a definition which would be sent to all Members; it is "to provide information of any pecuniary interest or other material benefit which a Member of Parliament may receive which might be thought to affect his conduct as a Member of Parliament or influence his actions, speeches or vote in Parliament".

Given the deliberately wide terms of the classes of interest to be registered, it was clearly essential to provide for some regular system of supervision and if necessary revision. The proposal put forward by the Committee was for there to be a permanent Select Committee on Members' Interests; the Registrar, who would be a senior member of the Clerk's Department, would act as Clerk to the Committee. The Committee would be charged with the tasks of giving guidance to the Registrar and interpreting the general guidelines on registration, making proposals for changes in the light of experience, and dealing with any complaints which might arise either from Members or from the general public. While a good deal would be left to the discretion of the Registrar, who as a Clerk would be used to discussions with Members on a confidential basis, in the early stages of the scheme in particular the Committee would be required to interpret particular difficulties. In the last resort the matter could come before the House, but it is clearly not envisaged that this would happen very frequently.

The Resolution of 22nd May 1974 required the register to be "available for inspection by the public". The Committee envisaged this requirement being largely met by their proposal that the register should be published as a House of Commons paper available through the Stationery Office.

The public would, however, still have a right physically to inspect an up to date copy of the register. The Committee suggested certain rules for this as a matter of administrative convenience; again much would be left to the discretion of the Registrar.

Proposals for the Declaration of Interests

The declaration of an interest in debate is, as has already been stated, something with which the House had been familiar for some time. The Committee did not, therefore, find it necessary to say much about this aspect of the first Resolution passed on 22nd May, and indeed it is already effective in any proceeding of the House or Committees when the Member has an opportunity to speak. Difficulties arose in devising procedures to overcome the problems arising out of the requirement to declare an interest in *all* proceedings of the House or its Committees. The particular forms of proceedings where difficulties would arise were Questions, Notices of Motions or Amendments (including Amendments to a Bill) and voting.

So far as the first two proceedings were concerned, the Committee put forward a rather complicated scheme involving the use of particular symbols on the Notice Paper, the symbols varying according to whether or not the interest was already registered. So far as voting was concerned, the Committee regarded it as impossible for all interests to be declared, and recommended that the obligation to declare in respect of voting should only apply to interests which were not already registered.

The Committee clearly felt it their duty to put forward schemes of this sort to implement the terms of the Resolution. It was, however, implicit in their Report that they found some of these schemes excessively cumbersome, and they left it open for the House to think again about the procedural consequences of implementing its Resolution in full. In fact after debate and on a division the House agreed on 12th June 1975 that no symbols should be used on the Notice Paper.

Extension of the Register to classes of persons other than Members

The Committee dealt very briefly with this aspect of their order of reference. They pointed out that no evidence or representation had been submitted to them for the register to be extended beyond Members, to include, for example, "lobbyists", parliamentary journalists or close relatives of Members. The only class of persons with which they were concerned was Parliamentary candidates, since it seemed to them unfair that a candidate who had been a Member of Parliament would have his pecuniary interests recorded and available to the electorate while other candidates would be under no obligation to disclose anything. They concluded, however, that this problem was not a matter for them but for a Speaker's Conference on Electoral Law; they recommended accordingly that the question of registering the interests of all Parliamentary candidates should be referred to the next such conference with a view to

the introduction of legislation before the next general election. Although a Speaker's Conference has frequently been promised, it has not so far materialised, and there are a formidable array of problems awaiting its consideration, so it must be rather doubtful whether the Committee's recommendation on this aspect will be put into effect.

Conclusion

On 12th June 1975 the House agreed with the principal recommendations made by the Committee on registration. It remains to be seen how the register will operate in practice.

(*Report from the Select Committee on Members' Interests (Declaration), 1974–75* (H.C. 102).)

V. WINDS OF CHANGE IN THE LEGISLATIVE ASSEMBLY OF THE PROVINCE OF BRITISH COLUMBIA

By I. M. Horne, Q.C.
Clerk of the Legislative Assembly

The Legislature of British Columbia consists of some fifty-five members, of whom 19 are Ministers, one being without portfolio. The present Party standings are: 38 Government (New Democratic Party), Official Opposition 11 (Social Credit Party), 2 Liberals, 3 Independents and 1 Progressive Conservative.

Upon the new Government taking office in 1972, the previous one having been in power for approximately 20 years, the Standing Orders, which had not undergone any substantial change for about one hundred years, came under review. Shortly after assuming power, the new Government caused to be enacted the "Legislative Procedure and Practice Enquiry Act".

This Act, *inter alia*, empowered the Speaker (the Hon. Gordon Hudson Dowding) (*a*) to engage Counsel, Clerks and others, and (*b*) to appoint persons having the powers of a Select Standing Committee of the House and the powers of a Commissioner under the "Public Inquiries Act" to assist him to enquire into and make recommendations to the House respecting the rules generally, and in particular with reference to the following matters:

(*a*) Public access to and attendance at the Legislative Assembly and the regulations respecting such access and attendance.

(*b*) The broadcast by radio or television of the proceedings of the Legislative Assembly and Committees thereof.

(*c*) The recording and reporting of the debates and proceedings of the Legislative Assembly and the Committees thereof.

(*d*) The use of closed circuit television or sound systems to relay proceedings of the Legislative Assembly and Committees thereof.

(*e*) A review of the Standing Orders of the Legislative Assembly relating to:

(i) The days and hours of sittings of the Legislative Assembly.

(ii) An oral question period and the rules pertaining thereto.

(iii) Private Members' privileges including private members' bills and motions.

(iv) Standing Committees of the Legislative Assembly and their duties and responsibilities.

(v) Special Committees of the Legislative Assembly to carry out special enquiries, functions and duties during and between Sessions of the Legislative Assembly and the rules of such Committees.

(vi) Publication of the orders and decisions of the Speaker.

(*f*) The accommodation of the Legislative Assembly and Committees thereof, including:
  (i) Accommodation and staff for the Members during and between Sessions within the Legislative precincts and in the constituencies of the Members, and the necessary communications relating thereto.
  (ii) Accommodation and staff for Committees of the Legislative Assembly when required.
  (iii) Library and research facilities for the Members.
  (iv) Restaurant and lounge facilities during Sessions of the Legislative Assembly for the Members thereof, their constituents and guests.

(*g*) The provision of officers and staff for the Legislative Assembly and accommodation therefor.

(*h*) Facilities and accommodation for representatives of the press, radio and television media in the Legislative Assembly and Committees thereof and in the Legislative Buildings.

(*i*) The conduct of the Members of the Legislature in the Legislative Assembly and Committees thereof, and the privileges of Members pertaining thereto.

(*j*) The appointment of delegates and observers to meetings and conferences of the Canadian Parliamentary Association, the Commonwealth Parliamentary Association and similar conferences relating to the Legislative process.

(*k*) Such other matters as the Speaker may consider advisable to enquire into pertaining to the conduct and governance of the Legislative Assembly.

To date, the Speaker has tabled in the House five reports recommending more than twenty changes in either existing or additional rules of the House, as well as recommendations relating to press and broadcasting facilities, broadcasting and Parliamentary privilege, Parliamentary privilege and the publication of radio and television broadcasting and Parliamentary debate.

Among the recommendations the following specific matters were referred to committee, namely:

(i) The advisability of instituting an experimental question period for a trial period, using one of two variations, either an oral question period with notice, or an oral question period for urgent and important questions without notice. Heretofore, all questions and answers directed to Ministers have been on notice and in writing, the answers tabled in writing.

(ii) The advisability of closed circuit television facilities and office loudspeakers being installed in Members' offices and caucus rooms for the purpose of following proceedings in the House.

(iii) That message bills, save on extraordinary occasions, be introduced without undergoing referral to a Committee of the Whole House.

(iv) That permission be given for the broadcast of regular programmes from the Legislative Chamber by permitting radio systems to connect their equipment to the sound system of the said Chamber.

(v) The obtaining of broadcast facilities for dissemination of proceedings of the Legislature during its Sessions, and the placement and use of television within the Chamber.

(vi) The advisability of obviating the necessity for the seconding of motions.

(vii) To consider some limitation of speeches on second reading of bills and in Committee, and an overall time restriction for Throne and Budget debate speeches, so as to ensure fair presentation of Members' views without unduly prolonging the proceedings of the House.

(viii) Consideration of the rules relating to motions to adjourn the House on a matter of urgent public importance, and to determine whether or not the existing rules relating thereto are too restrictive in their effect.

To date, as a result of the enquiry, the following changes have been adopted by the House:

(i) *Message Bills.* Upon Mr. Speaker reading the message from His Honour the Lieutenant-Governor, the Minister in charge of the bill asks leave to move the first reading of the bill. Any Member may refuse leave, in which event the prior procedure of referring the bill to a Committee of the whole House and reporting and recommending introduction of the bill becomes necessary.

(ii) *Seconding of Motions.* Seconding of motions no longer required except the motion for an address in reply to the Speech from the Throne and the motion "that Mr. Speaker do now leave the Chair" for the House to go into Committee of Supply and any amendments thereto.

(iii) *Use of Loudspeakers.* Speakers with On-Off and volume controls have been installed in each caucus room, press gallery, Speaker's, Clerks' and Leaders' offices to permit debates to be transmitted outside the Chamber.

(iv) *Question Period.* A fifteen-minute oral question period for urgent and important questions without notice to be allowed commencing at the opening of each day's sitting except Fridays.

(v) *Time Limit on Speeches and Duration of Debates.*

In the House

Address in Reply:

Mover and Seconder	60 minutes
Leader of Government or designated member	No limit
Leader of recognised opposition parties or designated member	No limit
Any other member	40 minutes

Total time for debate—6 sitting days comprising not less than

8 sittings. (A sitting is normally of 4 hours' duration).

Budget Debate:

Minister of Finance	No limit
Leaders of recognised opposition parties or designated member	No limit
Any other member	40 minutes

Total debate not to exceed 10 sitting days comprising not less than 14 sittings.

Public Bills and other Proceedings not otherwise specifically provided for:

Mover of motion	60 minutes
Leaders of recognised parties or designated member	No limit
Any other member	40 minutes

Committee of Supply:

Each member 30 minutes

at any one time, but with no limitation on the number of such 30-minute periods.

Proceedings in Committee of Supply to be limited to not more than 45 sittings, provided that if at the conclusion of the 45th sitting 135 hours shall not have been utilised for debate, Committee to sit again for such additional time as may be required to bring the total time for Supply to 135 hours;

Provided that at the conclusion of 45 sittings or the conclusion of the 135 hours, whichever shall last occur, the Chairman of the Committee shall forthwith put all questions necessary to carry every vote and item of each Estimate, such questions not being subject to amendment or debate.

At the time of writing, the Legislative Assembly has taken no action with reference to live broadcasting or televising of proceedings in the House or any of its Committees. In this area, the Parliamentary immunities of the House are set forth in the "Constitution Act" of British Columbia, which, in general, limits privilege and immunities to those existing in the United Kingdom in 1871. The following recommendations of Dr. Edward McWhinney, Q.C., commissioned by the Speaker as Special Commissioner, may be of interest to readers who are facing similar problems in their own parliaments. Dr. McWhinney has reported to the Speaker, in part, as follows:

"Having regard to the detailed responses to the specific questions referred for inquiry and report to the Special Commission, the following recommendations are advanced:—

1. Any decision by the Legislative Assembly to permit radio and/or television broadcasting of Parliamentary debates and proceedings should be implemented through specific, enabling legislation directed to that end: and such enabling legislation should preferably extend also to the other, more traditional modes of publi-

cation of Parliamentary debates and proceedings in printed form so as to restate and up-date the existing law in that area.

2. Such enabling legislation should, so far as it applies to radio and/or television broadcasting, provide, expressly and in terms, that no action or proceeding, civil or criminal, shall lie in the Courts against any person for the publication, in the official reports or in broadcasting by radio or television, of the Parliamentary debates and proceedings, where such publication is made under the authority of the Speaker of the House pursuant to such enabling legislation.
3. The enabling legislation should also provide, expressly and in terms, that no action or proceeding, civil or criminal, shall lie in the Courts against any Member of the Legislative Assembly for anything he may have said in the Parliamentary debates and proceedings, when such debates and proceedings are published in the official reports or in broadcasting by radio or television, made under the authority of the Speaker of the House pursuant to such enabling legislation.
4. In respect to delayed or re-played radio or television broadcasting of the Parliamentary debates and proceedings and in respect also to broadcasting of excerpts from the debates or commentaries upon the debates, it is not recommended that any express provision, one way or the other, be made at this time in the enabling legislation. This would leave any such questions, if they should arise in the immediate future, to be regulated by induction from the existing "received" British Parliamentary law and the Common Law decisions thereon; and to be regulated on a pragmatic, empirical, case by case basis, as the specific problems arise. The reasons for counselling the virtues of delay in this particular area, with its specialised legal defences, is sufficiently ancient and historically grounded to suggest that its reform or re-writing to meet contemporary conditions would better be considered comprehensively, and not piecemeal or *ad hoc* in the interstices of a particular problem of the limits of Parliamentary privilege as to publication. Second, the newer communication media—and especially television with its immediacy and intimacy and at the same time its direct nation-wide impact—are sufficiently different from the other, more traditional forms of communication through publication of the printed word to suggest the merits of making an ally of time in order to decide whether the policies (interests) in response to which the old positive law rules as to printed publication were worked out are necessarily deserving to be applied, in the same emphasis and degree, to the newer communication media too".

The dusting off of the rules and the other matters referred to above have created little stir as between Government and Opposition, with the exception of the time-limit now in effect for consideration of Estimates in Committee of Supply. The present Session is the first test of the effect

of the limitation and a major storm has erupted, not unexpectedly in view of the previous lack of any limitation and the fact that the opposition Parties expressed strong opposition at the time of adoption of the limitation by the House. The Estimates of the Premier and Minister of Finance were first considered in Committee, and approved after 27 hours of the total time allowed of 135 hours had expired, and after the expiration of 60 hours only two of nineteen Ministers' Estimates had been passed by the Committee. At this point, instead of calling each Minister's estimates in the traditional alphabetical order—and upon one being approved, moving to the next—a schedule was distributed indicating an allotment of time for consideration of each Minister's Estimates (in effect for the discussion of Minister's salary vote), with an indication that upon conclusion of that schedule the Committee would return to the additional items in the Estimates of each Minister's Department. In a very heated atmosphere, of cries of "Closure" from one side and "Failure of responsibility" from the other side, one Member to date has been ordered by the Speaker from the House, and the storm remains unabated. No longer while the House is engaged in Committee of Supply, is it a time of relative peace and tranquility, nor a 'day of rest' for the Clerks.

VI. NORTHERN IRELAND: THE APPOINTMENT OF AN EXAMINER OF STATUTORY RULES

By J. A. D. Kennedy
Clerk Assistant

The Northern Ireland Constitution Act 1973 provided the opportunity for a fresh approach to certain aspects of Northern Ireland parliamentary affairs and as a result several novel features were incorporated in the Standing Orders and procedures of the Northern Ireland Assembly. Because of the Assembly's short life (it met for the first time on 31st July 1973, was prorogued on 29th May 1974 and dissolved on 28th March 1975) these changes did not have long enough to develop or to be thoroughly tested (*vide* Vol. XLII, page 87). There was however an exception which survived Prorogation and Dissolution. This was the institution of a new system for the technical scrutiny of delegated legislation.

Parliamentary control of delegated legislation in Northern Ireland had largely followed the system devised in the United Kingdom House of Commons, the Northern Ireland Joint Committee on Statutory Rules, Orders and Regulations (commonly called the SR & O Committee) having almost exactly the same Order of Reference as the Commons Select Committee on Statutory Instruments. The Northern Ireland Committee was composed of Members from both Houses of Parliament and in this respect foreshadowed the setting up of the Joint Committee on Statutory Instruments at Westminster in February 1973.

The SR & O Committee though doing much valuable work was time consuming for Members and for the Civil Servants who were invariably in attendance to explain the Rules. But the overwhelming reason for replacing the Committee was the advent of Consultative Committees in the Assembly and the consequent problem of finding a pool of Members to draw on for Committees, old and new style alike. Competition for places on the SR & O Committee would have been even less keen in view of its terms of reference restricting Members to technical scrutiny.

In this situation the Assembly passed the following Resolution on 7th May 1974:

Statutory Rules. That an Examiner of Statutory Rules be appointed to consider every Statutory Rule which is laid before the Assembly with a view to determining whether special attention should be drawn to it on any of the following grounds:

(i) that it imposes a charge on the public revenues or contains provisions requiring payments to be made to the Consolidated Fund or any Department or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment;

(ii) that it is made in pursuance of any enactment containing specific provisions excluding it from challenge in the courts, either at all times or after the expiration of a specific period;

(iii) that it purports to have retrospective effect where the enactment under which it is made confers no express authority so to provide;
(iv) that there appears to have been unjustifiable delay in its publication or in the laying of it before the Assembly;
(v) that there appears to be a doubt whether it is *intra vires* or that it appears to make some unusual or unexpected use of the powers conferred by the enactment under which it is made;
(vi) that for any special reason its form or purport call for elucidation;
(vii) that its drafting appears to be defective; or

on any other ground which does not impinge on its merits or on the policy behind it; and to report to the Clerk to the Assembly in any particular case.

That the Examiner of Statutory Rules have power to require any department concerned to submit a memorandum explaining any instrument which may be under consideration.

That the Examiner of Statutory Rules have power to report to the Clerk to the Assembly from time to time on matters connected with his scrutiny.

That the Clerk to the Assembly shall lay Reports from the Examiner of Statutory Rules before the Assembly.

The Clerk to the Assembly was fortunate in securing the services of Mr. William Leitch, C.B., LL.M., (formerly First Parliamentary Draftsman, Northern Ireland) a distinguished retired Civil Servant and a man of immense industry and profound legal scholarship, also noted for the clarity of his exposition and a dry sense of humour. Mr. Leitch's high standing in the legal community in Northern Ireland and wider afield gave him unique qualifications for undertaking the role formerly fulfilled by the SR & O Committee. Those matters which impinge on the merits or policy of delegated legislation were of course to remain the responsibility of the elected Members.

Between 7th May 1974 and 28th February 1975 Mr. Leitch scrutinized 208 Statutory Rules and presented three Reports.

In practice the main part of his work has been the day to day conduct of correspondence with Departments concerning those Rules which have been laid and fall within one of the grounds specified in his Terms of Reference. What gives the Examiner effective teeth, however, is his authority to have accounts of his work published through the presentation of Reports to the Clerk who automatically lays them on the Table of the Assembly. The contents of these Reports are too complex to describe in detail here but it would be correct to characterize them as being composed of two elements; (1) the drawing of attention to particular Regulations and (2) points which should be borne in mind with suggestions for overcoming common errors. Each Report also contains an Appendix listing Rules coming within the terms of the grounds of the Resolution. Under the first of the two broad headings mentioned, a spotlight is brought to bear on Departments and the Rules made by them. By drawing attention to certain Regulations offending one or more of the grounds set forth in his Terms of Reference, the Examiner not only compels those Departments who have made the Rules to at least re-consider them when he finds fault but it also serves as a striking example and warning for other Departments.

The second major strand of the Report is the section which arouses most interest. It is written on this basis. As the Examiner completes the scrutiny of each Rule, he carefully notes in a section of the correspondence file relating to it any point which he possibly regards as being of sufficient importance for bringing to the attention of elected Members, the general public and the Civil Service. Then at the end of every three months or so, all these matters which have been carefully documented are culled from the files with a view to Mr. Leitch making a judgment about their inclusion in the Report. According to how he regards their importance they are mentioned in the Report in either general or specific terms and condensed or expanded from the original exchange with Departments. These rulings obviously become matters which have to be borne in mind when Departments are preparing instruments. Such problems as those of retrospectivity, delay in publication, defects in drafting, excessively Short Titles, and *ultra vires* have been some of the items discussed in this context.

Departments have recognised that the Examiner's vigilance has helped raise the standards of delegated legislation and the Department of Finance has issued an instruction to them which draws attention to the importance of complying with Mr. Leitch's suggestions. In fairness, he has acknowledged the efforts being put in by Departments generally to effect improvements. There is no doubt too that if the Assembly had remained in existence it would have expressed itself as being very well satisfied with the achievements of the Examiner after only one year in office.

VII. QUESTION HOUR IN THE PUNJAB LEGISLATIVE ASSEMBLY

By Partap Singh
Secretary of the Punjab Legislative Assembly

Question Hour is a very important parliamentary device for Members of the Assembly who wish to obtain information on matters of public interest, or explain Governmental shortcomings and press for action. During Question Hour the onlooker sees thrusts and counter-thrusts, battles of wit, flashes of humour, repartee, salvoes and a display of mental alertness. Members may show forensic skill with which they capture the attention of the House but sometimes a back-bencher, not necessarily an accomplished orator, can outshine the skilful speaker during Question Hour by asking a seemingly innocent question. During Question Hour, a back-bencher may pose a short yet loaded question, and yet gain from the Minister concerned a substantial assurance, ultimately necessitating a vital change in Government policy.

Ministers, who may have to face a volley of supplementary questions during the Question Hour, come fully prepared and equipped with facts and figures and, since they are fully briefed by their Departments, they emerge unscathed by and large. Occasion may arise, however, when a Minister is caught out and in this case his Chief may come to his rescue by clarifying a point, making an important pronouncement on behalf of the Government or by stoutly defending or justifying a particular policy or action of Government. Often Question Hour provides an opportunity for a Minister to explain the policies of his Government and the working of Government Departments falling within his portfolio.

Under the Rules of Procedure and Conduct of Business in the Punjab Legislative Assembly, unless the Speaker otherwise directs, the first hour of every sitting (after the swearing-in of Members, if any, and obituary tributes when appropriate) is available for answering starred questions orally. It is very rare for Question Hour to be dispensed with. However, this may be done either on the suggestion of the Leader of the House or by a Minister or Member, after ascertaining the wishes of the House.

Under the present Rules of Procedure, a question can be asked for the purpose of obtaining information on a matter of public concern within the special responsibility of the Minister to whom it is addressed. A question may be asked by giving 15 clear days notice. The Speaker can, however, with the consent of the responsible Minister, allow a question to be asked at shorter notice. Where the answer to a question is not ready following the expiry of the period of notice, the Speaker can, on such intimation by the Minister concerned, extend the time for answering the question and if the question is included in the List of Questions for that

sitting of the Assembly it is not called.

Notice of a question has to be given in writing to the Secretary of the Assembly and should specify the official designation of the Minister to whom it is addressed. A member who wants an oral answer to his question must distinguish it by an asterisk and it is known as a starred Question. Where he does not so distinguish it, the question is printed on the list of questions for written answer as an Unstarred Question. The two categories are printed separately.

Under the Rules, not more than three Starred Questions from the same member can be placed on the List of Starred Questions for any one sitting. Questions in excess of these are spread over other days. The order in which the Starred Questions are placed is indicated by the member giving notice but if no such indication is given, the questions are placed on the List in the order in which notice was received.

According to existing practice, not more than twenty-five Starred Questions in all, to include not more than three questions from any one member in the order of priority of the receipt of their notice (unless he has indicated any preference) may be placed on the List of Starred Questions. Starred Questions which fulfil the condition of fifteen clear days' notice from the last day of the Session but which do not find a place in any list of questions are converted into Unstarred Questions and are included in a Supplementary List for the last date of the Session.

If any question placed on the list of Starred Questions is not called for answer within the time available on a particular day (and unless the Speaker otherwise directs) the Minister to whom the question was addressed forthwith lays upon the Table of the Assembly a written reply to the question. No oral reply is therefore given to such a question and no supplementary question can be asked in respect thereof.

A question in order to be admissible should:—

(*a*) relate to the public affairs with which the Minister to whom it is addressed is officially connected or to a matter of administration for which he is officially responsible;

(*b*) ask for information and not an expression of opinion; should be self-contained and intelligible;

(*c*) not bring in any name or statement not strictly necessary to make the question intelligible;

(*d*) not contain arguments, inferences, ironical expressions or defamatory statements;

(*e*) not contain references to newspapers by name nor ask whether statements in the Press or of private individuals or unofficial bodies are accurate;

(*f*) not ask for an expression of a legal opinion nor the solution of an abstract legal question nor of a hypothetical proposition;

(*g*) not ask as to the character or conduct of any person except in his official or public capacity;

(*h*) not ask for information on any matter which is under adjudication

by a court of law having jurisdiction in any part of India;

(*i*) not be of excessive length;

(*j*) not require information contained in documents ordinarily accessible to the public or in ordinary works of reference;

(*k*) not raise questions of policy too large to be dealt within the limits of an answer and matters for dealing with which the rules provide a more convenient method;

(*l*) not amount in substance to a suggestion for any particular action but it may ask for a statement of the intentions of Government in respect of a matter on which a question can be asked;

(*m*) not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion;

(*n*) not make or imply a charge of a personal character;

(*o*) not repeat in substance questions already answered or to which an answer has been refused;

(*p*) not ask for information on trivial matters, nor raise matters under the control of bodies or persons not primarily responsible to Government;

(*q*) not ask for information on matters under consideration before a Committee of the Assembly and;

(*r*) not ask about proceedings in a Committee which have not yet been placed before the Assembly by a report from the Committee. Further, if a question contains a statement, the Member asking the question should make himself responsible for the accuracy of the statement.

The rule regarding the admissibility of questions relating to Public Undertakings, Municipal Committees, Cooperative Societies or autonomous bodies like the Social Welfare Board and Universities is a difficult one to apply and it is not easy to draw a clear line between those notices which can be admitted and those which should be disallowed. Each notice is examined on its merits.

As regards Public Undertakings, quasi-Government institutions and companies, in which the Government has invested money, the following broad principles are followed:—

(i) where a question relates to a matter of policy or refers to an act or omission of an act on the part of the Minister, or raises a matter of public interest, it is ordinarily admitted for oral answer.

(ii) A question which calls for information of statistical or descriptive nature is generally admitted as unstarred.

(iii) A question which clearly relates to day-to-day administration and tends to throw work on the Ministries and the Corporations incommensurate with the results to be obtained therefrom is normally disallowed.

As for notices of questions relating to Municipal Committees, those pertaining to the reservation of posts for Scheduled Castes under Local Government Institutions, loans and grants sanctioned by the Government

for Local Government Institutions, elections to Municipal Committees, supersession of Committees, removal of Executive Officers by the Municipal Committees, consideration by Government of resolutions passed by the Municipal Committees and sewerage systems of Municipal Committees are considered for admission.

So far as notices of questions relating to the autonomous bodies like the Social Welfare Board are concerned, a notice may be admitted where the Government has invested public funds in it, on the ground that the Government is accountable to the legislature to the extent of investment of its funds.

As regards notices of questions relating to Cooperative Societies, those relating to supervisory responsibilities of the Government may be admitted, having due regard to the provisions of the Cooperative Societies Act. Abundant caution is exercised in admitting notices of questions relating to such Societies.

Questions relating to the day-to-day internal administration of the Cooperative Societies are never admitted. However, Questions relating to complaints against the Cooperative Societies, cases of embezzlement in the Cooperative Societies, enquiries held against the Cooperative Societies, Service Rules of the employees of the Cooperative Societies, demands of Cooperative Secretaries Union pending with the Government, closure of defaulting Cooperative Societies, are considered for admission. In any case where the Speaker comes to the conclusion that a particular question relates to the internal working of the Societies, he disallows it.

Notices of questions concerning the administration of the Universities are not admitted on the ground that Universities are autonomous bodies. This point was discussed at the Conference of Presiding Officers of legislative bodies in India held at Srinagar in June, 1954 and the Chairman of the Conference summed up the position as follows:

"where autonomous bodies are receiving money from the Public treasury, it cannot be maintained that no question can be asked. On the other hand, questions about day-to-day administration, the details of internal administration, should not be permitted. The bodies are given autonomy for better and efficient working and that autonomy should not be interfered with by any kind of pressure of public opinion, or opinion in the Legislature. They should be allowed to function freely. These are two extremes of the proposition. As regards cases falling between these two, I think it will be difficult to give any general rule. Every question will have to be decided on its facts and merits. It will all depend upon the nature of question, the nature of the allegation implied in the question, and then it will have to be decided as to whether the question should or should not be allowed".

The Speaker decides whether a question or a part thereof is, or is not, admissible under the rules and can disallow any question or part thereof when in his opinion it is an abuse of the right of questioning, or calculated to obstruct or prejudicially affect the procedure of the Assembly or is in contravention of the rules. However, the Speaker can in his

discretion amend the question in form or give the member concerned an opportunity of amending it. The Secretary informs the relevant member that his question has been admitted or admitted as amended, or disallowed for specific reasons as the case may be. The Speaker can also direct that copies of a question which he has disallowed, be sent to the appropriate authority if he thinks that action on the part of the Government in respect of the subject-matter of the question is called for.

Where in the opinion of the Speaker, any starred question is of such a nature that a written reply would be more appropriate, the Speaker can direct that such question be placed on the list of Unstarred questions. Questions which are not disallowed are entered in the list of questions for a day not earlier than fifteen days from the date on which the notice was received by the Secretary.

Starred Questions are called, if the time made available for questions permits, in the order in which they stand on the list.

However, a question not reached for oral answer may be answered at the end of the Question Hour with the permission of the Speaker, if the Minister tells the Speaker that the question is one of special public interest to which he desires to give a reply.

A member can, by notice given at any time before the sitting for which his question has been placed on the list, withdraw his question or postpone it to a later day specified in the notice and on such later day the question is placed on the list after all questions which have not been so postponed. A postponed question cannot again be placed on the list until two clear days have expired from the time when the notice of postponement had been received by the Secretary.

During the Question Hour, the Speaker calls successively each member in whose name a question appears on the List. The member rises in his place and, unless he states that it is not his intention to ask the question standing in his name, asks the question by reference to its number on the list of questions. If on a question being called it is not asked or the member in whose name it stands is absent and no one has been authorised by him to ask it, the Speaker at the request of any member may direct that it should be answered.

No discussion is permitted during the time for questions in respect of any question or of any answer given to a question. Any member when called by the Speaker can put a supplementary question for the purpose of further elucidation but the Speaker can disallow any supplementary question, if in his opinion, it infringes the rules regarding questions.

A question relating to a matter of public importance can be asked with less than fifteen days notice, if the Speaker is of opinion that the question is of an urgent character. He can also direct that an enquiry be made from the Minister concerned if he is in a position to reply and if so, on what date. If the responsible Minister agrees to reply, the question is answered on a day indicated by him and is called immediately after the Starred Questions have been disposed of. Where, however, the Minis-

ter is unable to answer the question at short notice, it is treated as an ordinary Starred Question and is entered in the List of Starred Questions. Further, where a member wants an oral answer to be given at short notice, he has to state briefly the reasons for asking the question at short notice. A notice which does not indicate the reasons for asking the question at short notice, is returned to the member.

Answers to questions which a Minister proposes to give in the House are not released for publication until the answers have actually been given on the Floor of the House or laid on the Table.

While no discussion is allowed in respect of any question or of any answer given to a question during the Question Hour, there is a specific provision in the Rules for half-an-hour discussion on a matter of sufficient public importance which has been the subject of a recent question, oral or written, and the answer to which needs elucidation on a matter of fact. Such discussion, if allowed by the Speaker, under the rules, can take place after the hour of interruption or after the conclusion of the business of the day, whichever is earlier.

Sometimes a mistake occurs in the reply given to a question by the Government. To meet such a contingency and to ensure that the reply is corrected the Speaker, in exercise of the residual power vested in him under the Rules of Procedure has issued a direction for the correction of the answer.

Members do on occasions raise a question of privilege in the House alleging that the reply given to a question is wrong and the Minister who gave the reply has misled the House. The procedure adopted in such cases is that on receipt of the privilege motion, it is closely examined by the Assembly Secretariat. Normally, in such cases the Speaker gives an interim ruling to the effect that he has asked for clarification from the Minister concerned and on receipt of his clarification he would give his ruling. The Minister is accordingly requested to clarify the position. On receipt of the clarification, the matter is further examined by the Assembly Secretariat with reference to the clarification received from the Minister, the reply given earlier by the Minister and the replies to the supplementaries. Thereafter, the matter is placed before the Speaker, who gives his ruling on merits.

In order to constitute a breach of privilege, three ingredients are necessary. It has to be conclusively established that the Minister gave wrong information *deliberately, intentionally and with a view to mislead the House.* So far as the author knows no such question of privilege has been referred to the Committee of Privileges.

During the period from 1952 to 3rd February 1975 notices of 46,047 Starred Questions and 14,647 Unstarred Questions were received from Members of the Punjab Legislative Assembly and dealt with by the Secretariat. Out of them 32,222 Starred Questions and 10,500 Unstarred Questions were admitted by the Speaker. In addition, out of 989 Short Notice Questions received from various members during the same period,

414 notices were admitted.

An analysis of notices of questions admitted in the various Sessions reveals that so far the maximum number of questions admitted for any one Session related to the Education and Home Departments. The maximum number of Starred Questions admitted in one particular Session, between 1963 and the Budget Session, 1975, was 1849. The maximum number of Unstarred Questions admitted in any one Session during the same period was 728.

Similarly, the maximum number of supplementaries put in any one Session was 2363, the number of sittings held in that Session being 41.

Among various rulings given with regard to Questions, the Chair has held that it is not the function of the Legislative Assembly Secretariat to scrutinise the replies received from the Government with a view to seeing that a reply sent by the Government is to the point or not. The Chair has also held that a Minister can give a reply to a question pertaining to the portfolio of some other Minister; that the rules do not provide for interference by the Speaker with the reply given by the Minister, and the Speaker has to accept as correct the answers given by the Government; that Question Hour is meant for seeking information and drawing the Government's attention to some wrongs alleged to have been committed by the Government; and that if a Member is detained or arrested, his questions become unstarred.

It has been observed that the number of Members present in the House, as also of the visitors in the Visitors' Galleries, is greatest during the Question Hour. It would be right to say that without Question Hour the proceedings would not be as lively or interesting as they are under the present democratic arrangements. It is true that sometimes heat may be generated and bitterness created but on such occasions a remark made in a lighter vein by some Member or humorous observation by the Chair may cool down the ruffled atmosphere.

VIII. NEW SOUTH WALES: PRESENTATION OF A BLACK ROD TO THE LEGISLATIVE COUNCIL AND VISIT OF THE PRINCE OF WALES

By A. W. Saxon
Clerk of the Parliaments, New South Wales

On 25th August, 1974, the Legislative Council of New South Wales commenced the 150th Anniversary celebrations of its first meeting and the inauguration of parliamentary institutions in Australia. On 25th September, 1974, Sir John Fuller informed the House that His Royal Highness Prince Charles, Prince of Wales would be present in the Legislative Council Chamber at 4.00 p.m. on Tuesday, 15th October, 1974 to deliver a message from Her Majesty The Queen commemorating the 150th Anniversary of the first Council Meeting. Arrangements were then made for the Gift by the Bank of New South Wales of a Black Rod of traditional design to mark the 150th Anniversary to be presented on that day and to precede His Royal Highness' arrival.

The Legislative Council met at 3.30 p.m. on the Tuesday in question with approximately four hundred persons crowded into the small chamber. The President, Sir Harry Budd, after being announced by the Usher of the Black Rod, proceeded to open the Sitting with the Prayer. In the previous week, the Legislative Assembly had been invited to be present in the Legislative Council Chamber at a later hour (3.55 p.m.) to hear the message from Her Majesty The Queen read by His Royal Highness, and following the prayer, formal acceptance of that invitation was reported by the President.

The President of the Bank of New South Wales, Sir John Cadwallader, on the motion of Sir John Fuller, by consent, was admitted through the Bar onto the floor of the House for the purpose of making the presentation of the new Black Rod. Before making the presentation to the President, Sir John Cadwallader referred to the association between the Legislative Council and the Bank—the oldest Bank, if not the oldest private institution in Australia, having been formed in 1817, seven years prior to the first meeting of the Council. The history of the two institutions, he said, had been inter-twined over this long period of years in the development of the State of New South Wales and the Commonwealth of Australia. Sir Harry Budd accepted the gift, made a brief acknowledgment of the Bank's gesture and then entrusted the Black Rod to the custody of the Usher (Mr. K. C. McRae) with the following words—"Black Rod, I hereby entrust to your care this Black Rod, The Baton of your Office in the Legislative Council of New South Wales. I sincerely trust that while it is in your charge you will do and perform all such lawful acts and deeds as shall, under the Rules and Orders of the Legis-

lative Council of the State of New South Wales, or otherwise, howsoever, appertain to that Office." The Ceremony being concluded, Sir John Cadwallader withdrew and the President of the Legislative Council then directed the Usher, to proceed to the portico to lead the Speaker, Officers and Members of the Legislative Assembly into the Chamber preparatory to the arrival of His Royal Highness.

At the appointed time His Royal Highness The Prince of Wales arrived in the courtyard of Parliament House and was greeted by the President and the Speaker. The Clerks of each House and the Usher were also assembled outside. His Royal Highness, attended by his private secretary, Squadron-Leader D. Checketts, C.V.O., and his Australian Equerry, Lieutenant-Commander I. M. Speedy, D.F.C., RAN, proceeded into the Chamber, where, at the Bar, His Royal Highness' presence was announced by the Usher. The Prince then moved to the Vice-Regal chair on the dais where, with his private secretary and the President of the Legislative Council on his right and his Equerry and the Speaker of the Legislative Assembly on his left, he read the message of congratulation from Her Majesty The Queen. The message was then handed to the President of the Legislative Council. The Prince of Wales then addressed both Houses of Parliament, after which he was escorted from the Chamber to the Council vestibule, where later he unveiled a plaque to mark his visit.

A reception followed in the Parliamentary dining room, where many distinguished guests (earlier present in the Chamber) including a former Governor-General of the Commonwealth and Premier of the State (The Right Honourable Sir William McKell), the Chief Justice of the State (The Honourable Laurence W. Street), heads of the Armed Services, church leaders and others in various spheres of activity in the State, were presented to The Prince of Wales.

The following day in the Legislative Council, the Leader of the Government, The Honourable Sir John Fuller, M.L.C., moved a Resolution of Appreciation for the gift of the Black Rod by the Bank. The motion was supported by the Leader of the Opposition, The Honourable L. D. Serisier, M.L.C. and certain other Members and carried unanimously. The Resolution, printed on vellum and suitably inscribed, was presented to Sir John Cadwallader before the entire Board of Directors of the Bank of New South Wales at a luncheon given in their honour by the President of the Legislative Council on 15th November, 1974.

The Legislative Council is now the proud possessor of three Black Rods, all of which are on public view in the Legislative Council vestibule in an armour-plated glass and cedar case. Each Rod is designated by a plaque bearing an appropriate description. The first Black Rod is thought to have been carried by the first Usher of the Black Rod at the opening of the first session of the first Parliament under responsible government on 22nd May, 1856. The newspaper report of the day refers to the Usher, Major Edmund Lockyer, "In full costume of black velvet, lined with

crimson satin, and with his Baton of Office in his hand." The five foot four inch Rod of black enamelled cane is surmounted by a small brass ferrule with a silver crown dominating the kangaroo and emu underneath. The second Black Rod is thought to have come into use following Federation about 1902, but no record of its purchase or presentation can be found. It is made of black enamelled wood, is approximately five foot six inches in length and surmounted with a carved silver replica of St. Edward's Crown. Beneath the Crown, and to either side is a shield enclosed in sprays of wattle leaves; one shield is inscribed with the letters "L.C." and the other bears an early unofficial Australian Coat of Arms. The Rod has a silver ferrule base and midway down the Rod is a silver ornamented band within which the words "Legislative Council" are engraved. The present Black Rod was designed along traditional lines and made of ebony and silver gilt by Garrard & Company, the Crown Jewellers of Regent Street, London. The Rod is three foot three inches long and at its top is surmounted by a lion sejant, holding in its paws a replica of a shield from the Coat of Arms of New South Wales which has been executed in coloured enamel. Beneath the Coat of Arms and midway down the Rod and also at the base are silver gilt knops in the shape of the State's floral emblem—the waratah. On the base of the Rod is the simple inscription—"Donated by The Bank of New South Wales 1974", while on the central knop the words "Legislative Council of New South Wales" are inscribed.

Since the new Rod was borne by the Usher for the first time in leading His Royal Highness into the Council Chamber, The Prince of Wales has graciously granted permission for the "feathers" from his Coat-of-Arms to be attached near the head of the Rod. These have been executed in 18-carat gold by Garrard & Co. and affixed in Sydney by Fairfax & Roberts, Limited, Jewellers.

IX. AN ACCOUNT OF THE PROCEDURES OF TYNWALD

By T. E. Kermeen
Clerk of Tynwald

One of the great migrations of history occurred at the end of the first millenium of the Christian era with the invasion by the Vikings in their longboats of the Western seaboard of Europe and the coast of the Mediterranean. In their direct path stood the Hebrides and the Isle of Man and here, first as conquerors and then as settlers, the Norsemen set up their kingdom of Mann and the Islands with a form of Government based on a principle of freemen knowing the law and observing it. The proclamation of this law took place on occasions like the pagan feast of the Summer Solstice and usually to an assembly in an open field.

Vestiges of this parliament field (in old Norse, Thing Vollr) remain in Scandinavia and Scotland. However, as the name indicates, in Tynwald, the Parliament of the Isle of Man, there has existed since the earliest times a type of popular Government preceding the Anglo-Saxon and Norman development at Westminster and fundamentally different in origin.

Throughout the Middle Ages when the Island came successively under foreign domination, then during the 300 years when it was held in fief by the Stanley family, there is a continuous record of Tynwald and since the Island reverted in 1765 to the Crown it has, even more remarkably, survived as a Parliament of the British Islands having substantial automony. Readers are referred to the Report of the Royal Commission on the Constitution (Cmnd. 5460 Part XI, pages 407 to 440) for further commentary.

In the earlier days, Tynwald acted more in a judicial than a legislative capacity but with the development of democratic government there gradually evolved a unique type of legislature, in effect, "tri-cameral". The two Branches of Tynwald, the Legislative Council and the House of Keys, now sit separately to pass in three readings Bills which are then submitted for the Royal Assent of The Queen, Lord (Proprietor) of Mann.

Assembled jointly, however, the High Court of Tynwald transacts the financial and administrative business of the Island, levying taxes (it has complete control over direct taxation), voting money and declaring Manx Government policy. Such a gradual evolution of a parliamentary system over so many years has inevitably led to the growth of a complex and intricate procedure. The Manx community has an essentially political maturity and is very concious of the stability of its institutions.

The major political parties have never taken root to any degree in the Isle of Man as they have in the United Kingdom nor has there been any great upsurge of nationalist political movements like those in Scotland

and Wales. Not that Manx culture and the Manx Gaelic language are moribund—indeed there is a steady and significant revival even among recent arrivals from Britain—the new Manx. It will be appreciated therefore that there are certain distinctive features of procedure in a Parliament where decisions are reached by consensus of opinion and where the dichotomy of Government and Opposition is not known.

The House of Keys is elected on a universal adult franchise with a life of five years. It has consisted from time immemorial of twenty-four members (the Manx Gaelic name for the Branch is Kiare-as-feed, the Four and Twenty). The other Branch, the Legislative Council, comprises certain ex-officio members but the majority are members elected by the House of Keys. In exercising this special function as an electoral college the House need not but invariably does elect from its own members. As the Legislative Council only has nine voting members, the numerical preponderance of the Keys has an interesting effect. A resolution of Tynwald requires a majority of the votes of members present and voting or occasionally a quorum of both Branches, i.e. five members of the Council and 13 members of the Keys, to pass, voting separately in both cases. If, however, the motion is accepted by the Keys and not by the Council it may be brought before Tynwald again for a vote by the whole body, i.e. 33 members. Voting as one assembly a minimum of 17 votes is thus required to pass the resolution.

Students of parliamentary voting practices will see that this provides a very effective check and balance in so far as the Upper House is granted a responsible but not obstructive power of veto. Indeed the complete structure of parliamentary procedure in the Isle of Man in itself militates against autocracy.

The role of the Lieutenant Governor is also exceptional in that, unlike many other Governors of British possessions, he is President of Tynwald with specific powers and duties of an executive nature. Nevertheless, as one of his predecessors remarked in the 19th century: "The constitution of the Isle of Man has changed, is changing and is susceptible to change", and the devolution of his authority acting through its elected Boards or administrative bodies has progressed considerably in recent years.

It is significant though that, generally speaking, this type of colonial role has been of an enlightened character. One hundred years ago one Governor wrote: "that in practice he was thrown into constant communication with the people who approach him on every kind of business and, politically confronted not with his Council alone but with the two Branches of the Legislature in Tynwald, he necessarily learns to mould his views to his people's wishes and to give shape and effect to their wishes".

The relationship between the U.K. and Isle of Man Governments is necessarily a close one. The Isle of Man falls within the British Common Travel Area and has a Customs Union with the United Kingdom. There has been negotiated a special arrangement with the European Community which is enshrined in Protocol 3 of the Treaty of Accession.

Among the peculiarities of parliamentary procedure in the Isle of Man, again illustrating the particular role of the Legislative Council, are the instances where the Council, being opposed to the enactment of a Bill passed by the House of Keys, may reject the Bill in each of two successive sessions (i.e. two legislative years). However, if the Keys introduce the Bill without change in the following year and give it three readings the endorsement of the Council is no longer necessary and the Bill goes forward for the Royal Assent with the authority of the Keys alone.

There is another most unusual practice in the passage of Manx legislation. If the two Branches publicly disagree during their respective readings on the contents of a Bill their representatives can meet in private to resolve (in most cases) their differences, report back to the Council and Keys respectively.

Another unorthodox feature is the role of the Speaker of the House of Keys—in the House he acts as Chairman (with a right, rarely exercised, of leaving the chair to take part in any debate if he so wishes). In Tynwald, however, his historical role has been the spokesman of the House—especially during the struggle of the Keys as the democratically elected body to attain their present measure of political power.

As mentioned above, Tynwald acts through Boards, the most important of which is the Finance Board. A Bill or money resolution authorising public expenditure may not be moved either in Tynwald or in its Branches without the consent of the Governor and the Finance Board. However, by declaratory resolution Tynwald can make its wishes known on matters of financial or economic policy.

The Governor is advised by a representative body of Tynwald called the Executive Council. In certain ways, it is analogous to the Cabinet in the United Kingdom administration but in the absence of Party Government too close a comparison should not be drawn. In fact, Tynwald has been described by one Lieutenant Governor as the only Cabinet which sits in public.

That a small Island of less than 60,000 inhabitants in the middle of the Irish Sea, surrounded by sovereign states, should have retained and developed a parliamentary system of such sophistication may be surprising. Perhaps it is because the Manx have that resilience and independence which is so ably expressed on their national flag, the Three Legs, with its motto: "Quocunque Jeceris Stabit"—"Whichever way you throw it, it stands".

X. THE SHORTHAND WRITER TO THE HOUSES OF PARLIAMENT

By A. R. Kennedy, O.B.E.
Formerly Shorthand Writer to the Houses of Parliament

The Shorthand Writer to the Houses of Parliament is appointed to the House of Lords by the Clerk of the Parliaments and to the House of Commons by the Clerk of that House, pursuant to the following resolution agreed to by both Houses in 1813:

"That the Clerk of this House do appoint a shorthand writer, who shall by himself or sufficient deputy attend when called upon to take minutes of evidence at the Bar of the House or in Committees of the same.'.

Accordingly, the duties of the Shorthand Writer are to provide the qualified staff necessary to cover the verbatim reporting in both Houses of evidence tendered on oath to committees on private bills as well as that tendered to select committees and to joint committees.

Private bill committees sit normally from 10.30 a.m. till 4.0 or 4.30 p.m., the transcript of the minutes of evidence being required early the following morning. Until recent times the transcript was, by leave of the House whose committee was considering the bill, printed—the promoters of the bill being responsible for the printing, for which purpose they would instruct a private firm of printers. The present day practice is for the Shorthand Writer's office to duplicate the required number of copies (which varies from 25 to 100) of the day's proceedings and to deliver them to the promotors of the bill an hour or so before the committee resumes on the following morning, This applies, too, in the case of a committee sitting to consider a Special Procedure Order.

Select committees usually sit for about two hours, and normally the minutes of evidence are not required with so much urgency, the transcript being delivered to the Stationery Office for printing about 24 hours after the rising of a committee. If the Stationery Office are overburdened, as they sometimes are at periods of maximum pressure, the Clerk to a committee will ask the Shorthand Writer to provide duplicated copies pending delivery of the prints.

The Shorthand Writer is also required to attend the House of Lords sitting in its judicial capacity. The Lords of Appeal in Ordinary, who now sit as a committee to hear appeals (the Appellate Committee) announce, at the conclusion of a hearing, that they will in due course report their Opinions to the House. No shorthand note is taken of the arguments before the committee; the Shorthand Writer attends to take a note of any point raised on procedure or which may be relevant to the final Order of the House—for example, a statement by Counsel that his

clients have agreed to pay costs in any event, or that the Court of Appeal has given leave to appeal only on condition that the appellants shall, even if successful, pay all or part of the respondent's costs.

A week or more before the date fixed for the delivery of Opinions in the House, the Shorthand Writer is handed typescript copies of the Opinions which it is his duty to proof read, checking quotations from the Law Reports, the Statutes and other documents. If he finds a passage which he thinks is unclear—due, it may be, to a misunderstanding by the person who has typed the particular Opinion—he will amend it and submit his suggested amendment to the Lord of Appeal concerned for his approval. The typescript copy then goes to the Stationery Office for printing and when the required number of prints are returned the Shorthand Writer will prepare a heading page, giving the dates of hearings, the Lords present, the names of counsel and solicitors, and will add the Question put from the Woolsack—

"That the Report of the Appellate Committee be now considered".

If any late amendments have been made after printing, the Shorthand Writer's clerk will write these into the prints which are then distributed to interested parties, to Law Reporters and to the Press. No use may be made of prints until the House has risen and the Shorthand Writer has given the "go-ahead" for publication. He will also in the official House copy add the Questions put from the Woolsack and any discussion on costs or on any other matter.

It may be of interest to add a short historical note of the circumstances which led to the appointment in 1813 of W. B. Gurney, that being the first appointment of a shorthand writer to any legislative or similar assembly in the world.

The Representation of the People Act provides that the Shorthand Writer to the House, or sufficient deputy, shall attend at the trial of an Election Petition—the jurisdiction of election committees having been transferred to the judges.

In the early part of the 18th Century one Thomas Gurney, the grandfather of the first appointee, bought at a sale an odd lot of books which included one on the Mason system of shorthand called La Plume Volante. Finding it complex and difficult, he spent a great deal of time revising it, and finally, in 1750, published the Gurney system. After many years of constant practice he acquired a considerable skill at verbatim reporting and, together with his son, Joseph, who had mastered the art of verbatim reporting and had joined his father, full and accurate reports were produced of many of the sensational trials of that period—among them the trials of Lord Baltimore, the Duchess of Kingston and Lord George Gordon; they also reported the Inquiry into the Mutiny on the Bounty. (The Gurney system was much used in the 18th and 19th Centuries by many famous people, including the immortal Charles Dickens, who was for some years a Parliamentary reporter, who in David Copperfield

describes in his characteristic fashion the Gurney shorthand alphabet as "An Egyptian Temple in itself", and the abbreviations as "a procession of new horrors . . . the most despotic characters I have ever known").

Towards the end of the 18th Century Thomas and his son were, by leave, engaged by private parties to take notes of debates at the Bar of the two Houses. They were also engaged by the House of Commons to take verbatim notes in some of the committees. In 1789 Joseph was instructed by the House to take the verbatim note of the evidence and speeches in the trial of Warren Hastings, which lasted some five years. In the course of that trial a dispute arose as to whether Mr. Burke had accused Sir Elijah Impey of murder. A vote of censure having been moved in the House, Joseph Gurney was called to the Bar to read from his notes the exact words used by Mr. Burke. The House thereupon passed a resolution censuring Mr. Burke for exceeding his instructions. This is noteworthy as the first instance on record of reliance being placed on a shorthand note—a practice which has now become familiar.

An Act of 1802 authorised the use of shorthand, at the expense of the parties, for the minutes of election committees; and in the following year a committee of the House reported that so much benefit had resulted by expediting the business of election committees that the arrangement was extended to other committees.

In 1806 William Brodie Gurney, who had been trained by his father, Joseph, and his grandfather, Thomas (by then deceased) was told by the Speaker that he was to consider himself Shorthand Writer to the House, and from that date until the appointment was made official in both Houses in 1813 he attended, on the instructions of the House, many trials and investigations: the trial of Lord Melville, the investigation into the charges preferred against the Marquess of Wellesley, the investigation into the charges preferred against the Duke of York in 1809, and the inquiry into the Walcheren Expedition in 1810.

XI. INITIATIVE IN NOVA SCOTIA: A CLERKS' MEETING

By Sir Barnett Cocks, K.C.B., O.B.E.
Formerly Clerk of the House of Commons, Westminster

Institutions lose their authority unless a firm framework exists to support them; this simple axiom has yet to be comprehended by less experienced parliamentarians in the Commonwealth who regard their Clerks with a mixture of suspicion and annoyance, as persons liable to obstruct Members' wishes! It was therefore a token of a mature and deeper insight into the fabric of parliament when the government of Nova Scotia, headed by its Premier, the Hon. Gerald Regan, Q.C., sponsored the meeting in Halifax of the members of the Association of Clerks-at-the-Table in Canada. As the new Speaker of the Legislature of Nova Scotia, the Hon. Vincent MacLean, declared in a significant message of welcome:

"The transitory tenure of those who occupy the Speaker's Chair points up the wisdom of a wide measure of permanence applying to those who serve as Clerks-at-the-Table. Their skills and knowledge as parliamentary technicians are indispensable to the workings of the democratic parliamentary process."

To be effective, parliament must be supported by a strongly entrenched official cadre endowed with both independence and a personal and vested interest in the survival of the institution it serves. Nova Scotia needs no teaching in this respect. The Clerk of their Legislature, Mr. Roy Laurence, Q.C., is only the seventeenth holder of the office since 1749—a record no less proud than that of Westminster itself, where there have been only thirty-nine Clerks of the House since the first grant of letters patent in 1363 in the reign of King Edward III. This important theme was implicit in the final item on the agenda of the Conference, inaugurated by the President, Mr. W. H. Remnant, Clerk of the Council of the North-west Territories.

The keynote of the Conference—the independent status of Clerks-at-the-Table—was borne out by the effectiveness of the debates and the scope of the topics brought forward. Mr. George MacMinn, the Deputy Clerk from British Columbia, spoke on the limitation of speeches and on interim supply procedure. A paper from the Secretary-General of the National Assembly of Quebec, M. Rene Blondin, on the creation of a charge on the public revenue was ably supported by his colleagues, M. Jacques Lessard and M. Pierre Duchesne. Equally interesting questions were raised by Mr. Gordon Barnhart's two contributions from Saskatchewan regarding seconding of motions and parliamentary scrutiny of Crown corporations.

Mr. Bill MacDonald from Alberta brought in the topical subject of a committee on Members' Services; the subsequent debate canvassed the

perils of ineptitude—not confined to any one parliament—when Members themselves seek to reorganise the services provided for them. From Ontario, Mr. Roderick Lewis (absent in view of his heavy responsibilities for the Toronto C.P.A. Conference) sent two experienced colleagues to speak on papers prepared jointly. These were the functions of committees on statutory regulations, introduced by Mr. Alex McFedries, and on the exclusion of the press from committee meetings, raised by Mr. David Calfas. Mr. Blake Lynch from New Brunswick inaugurated another highly relevant debate on the conflict arising between Members' parliamentary work and their outside interests and the code of conduct appropriate in such instances. Extensive contributions were made over the whole field by Mr. Jack Reeves, Clerk of the Legislative Assembly of Manitoba, well supported by the Clerk Assistant, Mr. Andy Anstett, while Mr. Hugh Coady, Clerk of the Newfoundland House of Assembly, expressed a traditionally independent viewpoint on many subjects. Two equally keen participants were the then doyen of all parliamentary officers, the Clerk Consultant from Victoria, Mr. E. K. DeBeck, now unhappily deceased, and Mrs. Gwen Ronyk, Assistant Clerk of the Regina Assembly, in her first year of service. Mr. Kenneth Langille, Assistant Clerk of the Nova Scotia Assembly, took on the self-sacrificing role of Secretary of the Conference.

Finally the House of Commons sent a very strong team from Ottawa, led by the Clerk of the House, Mr. Alistair Fraser, who was accompanied by Mr. Gordon Dubroy, Clerk Assistant and Editor of Bourinot's Rules of Order, Mr. Alex Small, whose paper on the application of the computer to parliamentary publications in Ottawa was of great interest, and by Mr. James Cooke, whose research is continuously available for the Clerks-at-the-Table.

The natural setting of the Conference and the generosity of its hosts added much to its success. August in the Maritimes has a compelling beauty reminiscent of an earlier age in Canada's history, which the delegates were given ample opportunities to appreciate. They included a cruise on the schooner "Bluenose II', Nova Scotia's famous sailing ambassador, luncheons by Mr. Speaker and the Deputy Speaker, Mr. Joe Casey, and a splendid reception and dinner as guests of Premier and Mrs. Regan. At the end of the week, the delegates left Halifax for the historic old town of Annapolis Royal for a reception at the home of the Clerk and Mrs. Roy Laurence. They then visited Port Royal and the reconstruction of the Habitation where Canada's earliest settlers lived in 1605. Here the delegates were received by the Deputy Premier, the Hon. Peter Nicholson, as Member for the riding.

The results of the Conference in Nova Scotia must be the strengthening of the links, both official and personal, which exist between the parliaments of Canada. Future benefits will flow from the calm survey by parliamentary officials of the problems which arise daily in every assembly. It is the common experience of Clerks that no two days in parliament are

alike; but it is also true that somewhere in the Commonwealth in another assembly, an identical problem will have arisen and a solution found or tried. It was this comradely review of problems which made the Association's meetings in Halifax so justified and memorable.

XII. PRESENTATION OF A MACE TO THE LEGISLATIVE ASSEMBLY OF WESTERN SAMOA

By J. F. Sweetman, T.D.
A Deputy Principal Clerk, House of Commons

The decision to present a Mace to the Legislative Assembly of Western Samoa was announced to the House of Commons in answer to a question on 14th December 1972. (Western Samoa has in fact been independent since 1962, having been administered successively by Germany from 1899 to 1914 and by New Zealand from 1914 onwards, but she did not apply to join the Commonwealth until 1970). The usual Address to Her Majesty asking for directions to present the Mace and assuring her of making good the attendant expenses was passed on 4th July 1974 and the reply in agreement was reported on 25th July. The general election on 10th October delayed the making of further arrangements until on 30th October leave of absence was given in the new Parliament to Mr. Laurie Pavitt and Mr. Paul Hawkins to make the presentation on behalf of the House.

The outgoing journey was comfortable but lengthy. The Delegation left London on 7th November and travelled via New York, Los Angeles and Hawaii. Having crossed the international dateline they arrived in Fiji two days later, early on Saturday morning. After a most welcome rest, the Delegation left Fiji on Sunday and flew back across the international dateline to arrive in Apia, the capital of Western Samoa, on Saturday. A curious effect of criss-crossing the dateline was the enjoyment of two Sundays in quick succession. We were welcomed by Mr. George Fepulea'i, the Clerk of the Legislative Assembly, two Members of the Assembly and the High Commissioner for Tonga and Western Samoa, Mr. Humphrey Arthington-Davy, all of whom did much to make a success of our visit.

Western Samoa comprises two large and several small islands. The two main islands, where most of the population live, are Upolu and Savai'i. The total population is about 150,000, mainly Polynesian in origin and containing small groups of Euronesians, other Pacific islanders, Chinese and Europeans. There is substantial migration to New Zealand, the former trustee power. Apia, the only town, is on the north coast of Upolu.

The islands are composed mainly of volcanic rock and are mountainous and rugged, Savai'i rising to over 6,000 feet and Upolu to over 3,000 feet. There are many dormant volcanoes and old lava fields. The last period of volcanic activity was fortunately some years ago between 1905 and 1911. There are numerous streams and rivers and in some craters deep lakes have formed. Tropical vegetation covers much of the area

though we were surprised to come across grassy highlands with grazing cattle more reminiscent of Shropshire than Samoa. Coral reefs fringe considerable parts of the coastline.

The system of parliamentary government in Western Samoa is a blend of Polynesian and British practice. There is a Head of State, whose functions are analogous to those of a constitutional monarch, a Legislative Assembly and a Cabinet. All legislation passed by the Assembly must have the assent of the Head of State before it becomes law. The Legislative Assembly comprises 47 members, of whom 45 are elected by holders of matai titles (heads of extended families, of whom there are about 10,000 on the rolls) and two are elected by adult suffrage to represent those registered on the individual voters' roll. The Assembly is presided over by a Speaker, the Honourable Toleafou Talitmu. Elections are held every three years. There are no formally established political parties.

On Monday, 11th November the Delegation paid a formal visit to Mr. Speaker, followed by a formal call on the Prime Minister. The latter explained how the economy of Western Samoa depended on three basic cash crops, namely, copra, cocoa and bananas, all of which are subject not only to the natural hazards of hurricanes, plant diseases and pests but also to sharp price fluctuations in world markets. In the afternoon of the same day two rehearsals were held of the ceremony to be followed in presenting the Mace. Quiet dignity being a characteristic feature of the Samoans we paid particular attention to devising a drill for the opening of the case and for handing over the Mace to the Leader for him in turn to hand to the Serjeant at Arms. Fortunately the brackets holding the existing Mace were so positioned that they held the new Mace securely; otherwise some rapid carpentry would have been required.

The presentation took place in the Chamber of the Legislative Assembly on Tuesday 12th November. Most of the 47 Members of the Assembly appeared to be in attendance. The ceremony was conducted both in Samoan and English, the translation of one following the other. Proceedings were opened by Mr. Speaker who read to the Assembly the letter from Mr. Speaker Lloyd introducing the Delegation. Having ascertained the willingness of the Assembly to receive the Delegation, Mr. Speaker instructed the Serjeant at Arms to admit them and after warmly welcoming the Delegation, called on Mr. Pavitt to address the Assembly.

In his speech Mr. Pavitt expressed his gratitude for the privileges extended to the Delegation of being received on the floor of the Assembly and of catching Mr. Speaker's eye. He went on to outline the evolution of the Mace from instrument of war to symbol of parliamentary power and authority. The Mace being presented was a beautiful piece of modern craftsmanship with a motif of shell forms ecrusted on a central shaft emphasising Samoa's links with the sea. He concluded by expressing the

hope the Mace would be a continuing witness of the friendship in years to come between Britain and Samoa.

Thereafter in a simple dignified ceremony the Mace was presented to the Serjeant at Arms who placed it on the Table in front of Mr. Speaker, the old Mace having been veiled moments before. A vote of thanks to the House of Commons was then moved by the Prime Minister and seconded by the Hon. Tupola Efi. The resolution of thanks was agreed to *nemine contradicente* and a formal copy of it was handed to the Delegation for communicating to the House of Commons.

During our visit we were entertained by the Government, by Mr. Speaker, by the High Commissioner, by the local branch of the C.P.A. and by the Rotary Club of Apia. We were able as a result to meet a wide range of people. Quite the most interesting and enjoyable part of our visit was the day we spent touring the plantations of the Western Samoa Trust Estates Corporation. A three-man team from the Commonwealth Fund for Technical Co-operation under Mr. Stan Fleming is carrying out a two-year mission of drawing up a development plan for the future operation of the plantations. This involves crop selection and grafting, cattle breeding, staff training and financial control. We were impressed by the size and by the quality of the cattle herds—splendid looking Herefords, at one stage treking in a column as far as we could see through the upland countryside. We also watched the operation of scooping out coconuts, each one being dealt with virtually in a single movement by a deft twist of the knife. The copra is then smoked and processed for export. (The Leader of the Delegation made a valiant attempt to deal with a coconut, fortunately with no danger to himself).

The Delegation left Apia on Thursday, 14th November, eight days after leaving London, and flew back across the international dateline to Fiji whence by various routes we returned to the United Kingdom. It had been a most rewarding and enjoyable visit.

XIII. THE UNITED KINGDOM DELEGATION TO THE EUROPEAN PARLIAMENT

By C. H. Cumming-Bruce
A Clerk in the House of Lords

The Treaty of Rome establishing the European Economic Community provides, in Article 138, that the Assembly of the Community "shall consist of delegates who shall be designated by the respective Parliaments from among their members in accordance with the procedure laid down by each Member State". The Article goes on to state that for each of the four largest Member States—Germany, France, Italy and the United Kingdom—the number of these delegates shall be thirty-six.[1] The method by which each delegation is appointed may thus vary from one Member State to the next, so also may the balance of the political parties represented in each delegation and, where the national parliament is bi-cameral, the proportion of delegates designated in each of the chambers.

The United Kingdom delegation is designated by a Government motion in each House naming those who have been selected to serve after consultation through the "usual channels".[2] The first delegation to be nominated consisted initially of thirteen members of the House of Commons and eight members of the House of Lords. Fifteen places in the delegation which had been allocated to the Opposition remained vacant as a result of the Labour Party's decision to remain unrepresented in the European Parliament. One Independent Labour M.P., Mr. Taverne, was added to the delegation on 3rd April 1973 following his success in the Lincoln by-election. The balance of the main parties has at the time of writing prior to the Referendum remained unaltered, although Mr. Taverne resigned from the delegation in April 1974.

In general it is the practice that national delegations reflect the main party divisions of national parliaments although this practice has not always been followed. Neither Italy nor France appointed any communists to their delegations until 1969 and 1973 respectively despite the proportional strengths of communists in the national parliaments. The balance of parties in the United Kingdom Delegation after the addition of Mr. Taverne was as follows.

	H.L.	H.C.
Conservatives	6	12
Liberals	1	1
Cross Benchers	1	–
Independent Labour	–	1

There is nothing in the Treaty of Rome which provides that a member of a national delegation must be an *elected* member of his national parlia-

ment and the United Kingdom is not the only Member State whose upper chamber contains members who are not elected, directly or indirectly.[3] It is, however, the only Member State in which membership of the upper chamber may be determined by birth and is consequently the only national delegation to include representatives whose seat in the national parliament is hereditary. Peers at present comprise over a third of the present delegation although this proportion is not invariable.

Following the designation of a delegation in a national parliament the President of the European Parliament is informed of those named in each House, by the Speaker and the Lord Chancellor respectively. Once the national procedure has been completed the delegates may take their seats in the European Parliament, but their membership remains subject to the verification of their credentials. This process is accomplished in part by the letters sent by the Speaker and the Lord Chancellor, which provide the necessary authority that the delegates have been designated in a manner complying with national procedures, and it is completed when the Bureau of the European Parliament have satisfied themselves that each appointment complies in other respects with the treaties of the Communities. The President then makes a report to this effect to the European Parliament on behalf of the Bureau, which is comprised of the President and Vice-Presidents of the Parliament.

Resignation of membership of the European Parliament is notified to its President by the delegate who is resigning. Since January 1973 one member of the U.K. delegation has resigned.

The duration of a delegate's appointment is dependent upon two considerations. Under Rule 4 of the European Parliament's Rules of Procedure a delegate may continue to sit in the Parliament until a new appointment is made by the national parliament, provided that the original appointment has not expired, and that he has not lost his seat in the national parliament. The question of the duration of the appointment has been referred to more than once in the House of Lords;[4] in the event it was held that the validity of the original appointment lasted until the end of the Parliament.[5]

Under this view of the duration of the appointment, it was clear that the European Parliament's Rule 4 could not apply to any of the delegates. Accordingly, after the announcement that Parliament was to be dissolved on 9th February 1974, the House of Lords on 8th February[6] and the House of Commons on 9th February[7] ordered that the original and subsequent orders of appointment should be respectively a Motion of indefinite duration in the House of Lords and a standing order of the House of Commons. Thus it was made clear that the delegates' appointments had not expired, and the first condition of the European Parliament's Rule 4 was met.

Four Commons members of the delegation were not returned to the House at the election on 28th February, and they accordingly failed to satisfy the second condition of Rule 4 of the European Parliament,

that delegates should not have lost their seats in their national parliament. However Rule 4 goes on to provide that where a delegate has lost his seat in his national parliament he may continue to sit in the European Parliament for up to six months, or until his successor is appointed (whichever is the shorter period). As well as giving all delegates the right to attend the European Parliament during the period of dissolution this Rule also enabled the four Members concerned to continue to attend the European Parliament, until fresh appointments to the delegation were made. All four members exercised this right, and before the period of six months had elapsed, the House of Commons made an order designating four members as their successors on 24th July 1974.[8]

If an M.P., upon losing his seat in the House of Commons, is elevated to the peerage, his position remains the same as that of a Member who is not re-elected at an election. Accordingly he may continue to sit for up to six months, but he must be appointed by the House of Lords if he is to sit thereafter as a delegate of that House. Thus Lord Chelwood (formerly Sir Tufton Beamish) continued to attend the European Parliament after his elevation to the peerage, until his successor in the House of Commons was nominated. His membership of the Parliament then ceased and he has not since been designated a member of the Delegation of the House of Lords.

The work of the members of the delegation consists in attendance at plenary sessions of the Parliament and in membership of its Committees. The Parliament meets at least eleven times a year (once in each month excepting August) and in recent years has tended to meet more often owing to the increase in the volume of its work. The plenary meetings which are known as 'part-sessions' usually last between three and five days and it is at these that the Parliament expresses its opinions on Community matters, and at which members of the Commission and the Council of Ministers may be asked to explain or defend proposals for Community policies.

Most members of the delegation are members of at least two of the Parliament's thirteen Committees, and it is in these committees that most of the detailed consideration of Commission proposals for EEC legislation takes place. The meetings are generally held in Brussels and involve their members in a considerable amount of travelling. Many members of the delegation spend an average of four days a month (usually not consecutive days) on the Continent in weeks when the Parliament is not sitting and for some it is more than six days a month. This work is conducted in addition to the constituency responsibilities of M.P.'s and in addition to their ordinary work in Westminster. The strain imposed on members, particularly M.P.'s, by so much travelling is considerable and has come to be regarded as one of the arguments in favour of ending the dual mandate by introducing direct elections to the European Parliament.

The delegation is accompanied to all part-sessions of the Parliament by a secretariat which is drawn from the Overseas Offices of both Houses.

The duties of the secretariat include the extension of the administrative support and procedural advice which is provided by the Offices in Westminster. At the accession of the United Kingdom to the European Communities much of the writing of '*The European Parliament*',[9] which is the first work to provide a comprehensive survey of the functions and procedure of the Parliament, was undertaken by the European section of the Overseas Office in the House of Commons.

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[1] Article 138 of the Treaty of Rome (1957), as amended by Article 10 of the Act of Accession (1972), and modified by Article 4 of the Decision of the Council of the European Communities of 1st January 1973 adjusting documents concerning the accession of new Member States to the European Communities, which is known as the Adaption Decision (*Official Journal of the European Communities* No. L2, 1 January 1973, p. 1).

[2] The House of Commons members were designated first on 19th December 1972 (Votes and Proceedings 1972–73, p. 154); the House of Lords members on 20th December 1973 (Minutes of Proceedings 1972–73 p. 299).

[3] e.g. 11 members of Saenad Eirann are appointed by the Prime Minister.

[4] H. L. Deb. (1972–73) 337, c.1092–114; *ibid.* 345, c.638–64.

[5] H. C. Deb. (1972–73), 848, c.1253–93.

[6] Minutes of Proceedings 1973–74, p. 476.

[7] Votes and Proceedings 1973–74, p. 274.

[8] Votes and Proceedings, 1974, p. 474.

[9] Sir Barnett Cocks, *The European Parliament* (HMSO 1973). A section on the European Parliament will be included in the nineteenth edition of Erskine May.

XIV. RENOVATION OF THE NEW SOUTH WALES LEGISLATIVE COUNCIL CHAMBER, 1974

By L. A. Jeckeln
Clerk Assistant of the Legislative Council

In April 1974, part of one of Australia's oldest buildings again saw the light of day after being hidden for 118 years. The occasion was the removal of flooring and portion of a wall of the New South Wales Legislative Council Chamber. The Council Chamber and the correspondingly placed Assembly Chamber form the legs of an "H" shaped building arrangement, the centre portion of which was originally the Surgeons' Quarters of the General Hospital erected between 1811 and 1816. At the time of its commencement the Colony was but twenty-three years old. The Surgeons were accommodated in the northern wing of the Hospital which consisted of three sandstone buildings standing on the eastern side of Macquarie Street, Sydney. The southern building, which also still stands, was for many years the Sydney branch of the Royal Mint. The original centre building was demolished to make way for the present Sydney Hospital opened in 1893.

On his arrival in January, 1810, the Governor, Major-General Lachlan Macquarie, was faced with the pressing need to replace the original General Hospital erected in 1790. Without funds to provide this much needed facility, Macquarie entered into what must be regarded as a most unusual contract—a very "rum" contract in fact. Under this arrangement, three gentlemen of the Colony—Messrs. Garnham Blaxcell, Alexander Riley and, it is interesting to note, D'Arcy Wentworth, the Principal Surgeon—offered to build the hospital in return for a qualified monopoly of the spirit trade, the right to import 45,000 gallons of spirits over a period of three years. For the Government's part all that was required was the use of twenty convicts, twenty draught bullocks and eighty oxen for slaughter. The contractors' monopoly was qualified in that spirits could still be imported for the Garrison and for the use of civil and military staff. It was the quantity here involved that soon caused them concern, but the period of the contract was later extended to four years and the contractors permitted to import a further 15,000 gallons.

At the time, there was widespread use of spirits in the Colony, especially in payment of wages, and such was the craving for rum that it was almost impossible to have work done for wages without it. In the light of this demand the contractors hoped to recoup their outlay and reap a tidy profit into the bargain. Despite Macquarie's failure to seek the prior sanction of the Imperial Government—and Lord Liverpool was very critical of the arrangements made—the contractors set about their task. The foundation stone was laid in October 1811, and by 1816 the Colony

had acquired an imposing General Hospital which ever since has been known as the "Rum" Hospital. Before taking over the building, however, Macquarie appointed a survey committee whose inquiries brought forth severe criticism of the work done. The Hospital eventually was handed over in May 1817.

The eight rooms of the Surgeons' Quarters were gradually used to accommodate other Officers of the Crown and in 1829 the first meeting of the Legislative Council, established five years earlier, was held in one of those rooms. The Council subsequently met in an adjoining Chamber erected in 1843 and, in 1856, upon the introduction of Responsible Government, transferred to the present Chamber. The Chamber abuts the southern end of the Surgeons' Quarters and consists of an iron-framed building, the front of which is of cast iron sections bolted together. The face of cast iron sections gives the building a neatly columned appearance. In 1973 it was decided that the uncomfortable and much worn seating in the Chamber should be replaced. At the same time, the carpet laid down for the Royal Visit in 1954 was to be renewed. Upon removal of the carpet the results of widespread white ant activity were discovered and the decision was then made to replace completely the bearers, joists and flooring boards. During removal of the floor and portion of modern wall board, long-hidden parts of the Surgeons' Quarters were revealed. The verandah foundation wall of substantial sandstone blocks ran two-thirds the length of the Chamber; heavy, roughly-hewn timbers from the verandah roof had been used as floor joists; original sandstone columns lay where they had been toppled over into the rubble below the Chamber and much of the verandah surface was still in position. In addition, removal of the wall board exposed to view a doorway leading from the Surgeons' Quarters onto the verandah, and also the south-eastern corner of the building where it met the iron frame of the 1856 Chamber.

Also revealed was the original internal wall of the Chamber over which there still remained strips of the first wallpaper applied. This internal wall consisted simply of pieces of the timber packing cases in which the prefabricated building had arrived in 1856! The iron-framed building had been purchased in Melbourne for the sum of £1,875 and shipped to Sydney. It was newly erected for the occasion of the Opening of Parliament on 22nd May, 1856, which inaugurated Responsible Government in New South Wales. In the knowledge that these discoveries would soon be covered again—perhaps for another 118 years—the opportunity was soon taken to record all that had been found. The official photographer from the Government Printing Office exposed a great deal of film and architects from the Historical Buildings Section of the Public Works Department thoroughly examined the foundations. Detailed measurement were taken of the original structure and, by the introduction of scaffolding and lifting equipment, the columns resting in the rubble were removed for future restoration of the "Mint" Building.

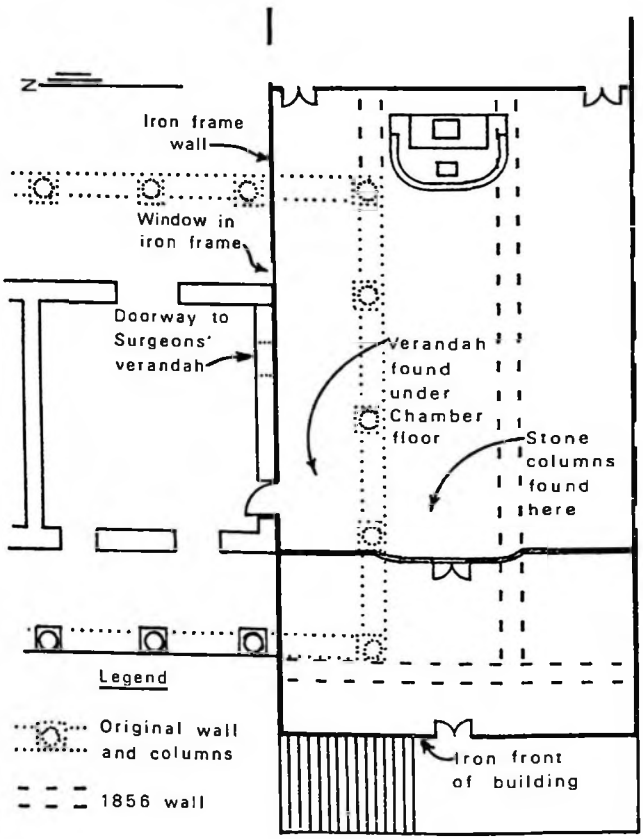
A further discovery, to which no reference appears in Council records, was made when Members' benches were stripped by the upholsterer. The backs were topped with a horizontal rail but removal of the upholstery revealed delicately carved cedar scroll work, the top of which had been altered from its original curved appearance by cutting off the upper parts and substituting a long straight length of cedar. The benches were, in fact, those installed in 1856 which had later been altered! Although it was found impracticable to re-use the frames of this seating one bench, approximately 9 feet long, has been restored to its original appearance and may now be seen by all entering the Council vestibule.

Before replacement of the flooring commenced, numerous items were collected for display to the many visitors who come to Parliament House. These included hand-made nails, old bottles found in the rubble, Leyden glass-jar batteries used long ago to operate the bell system, sections of the original packing case timber, and pieces of the several wall-papers which have adorned the Chamber over the years.

By early June the new flooring had been completed, but not before action had been taken to curb the activities of the ubiquitous white ant, whose presence at Parliament House has been well-documented for almost 150 years. Before the last flooring board was nailed down, two large envelopes were secured to a joist where, it is expected, they will remain until the flooring is again removed. These envelopes contain some of the many items in common use today—ball point pens, erasers, typewriter ribbons, current stamps and coins, as well as ephemera such as office forms, the Dining Room menu, etc. It was thought that in the same way as quill pens, sperm candles and sealing wax used by Clerks of yesteryear have long disappeared, the items so readily available today will surely be collectors' items when the flooring is next removed. For the interest and benefit of those who follow, there also rests under the floor a tape recording which tells the story of these fascinating discoveries in the sesqui-centenary year of the Legislative Council. What could not be committed to that record were details of the rich red carpet since laid down and a description of the beautifully executed red leather benches, in which have been used parts of the cedar benches installed in 1856.

Upon the occasion of the Official Opening of Parliament on 7th August, 1974, the Chamber presented a much-improved appearance to that seen at the conclusion of the previous session. The pleasure of Members was evident and the earliest opportunity was taken at Question Time on that day to request the President to convey to all concerned the appreciation of Members for the work that had been carried out in the recess.

Sketch showing Legislative Council Chamber in relation to Surgeons' Quarters.



XV. DISSOLUTION AND PROROGATION

The Questionnaire for Volume XLIII asked the following questions:—

Following the two Australian articles on this subject in Volume XLII, the Editors think it desirable to find out more about practice throughout the Commonwealth and have consequently framed the following questions:—

(i) What effect (legal or otherwise) does (a) Prorogation; and (b) Dissolution have on your Parliament? For instance, do all proceedings pending before parliament come to an end? Do all Orders lapse? Does parliamentary privilege cease to apply? Or can committees continue to sit? Are bills automatically carried over? Can one House continue to sit if the other is prorogued or dissolved? etc., etc.

(ii) If practice is substantially different from the "traditional Westminster" one please indicate:—(a) when practice changed; and (b) why.

The above questions are not exhaustive—if there are any other aspects of the question which need setting out, please do so.

The replies to these questions, while not exposing problems as constitutionally interesting as those discussed by Mr. Odgers and Mr. Doyle in Volume XLII of THE TABLE, do show, as one would expect, certain areas of difference among the Commonwealth legislatures. For instance, the Indian Constitution provides that Bills introduced into Parliament do not lapse at prorogation and may be taken up in a new session at the stage they had reached in the previous session. Furthermore, Committee work is not affected by prorogation.

The Australian legislatures also have made provision for certain Committees to continue to act during a period of prorogation. Moreover, since all the Upper Houses of the State Parliaments are subject to a periodic change of membership rather than wholesale dissolution and since under the Constitution it is usual for the Lower House only and not Parliament to be dissolved, it is possible for an Upper House to sit during the dissolution of the Lower. It appears, however, that such theoretical, constitutional possibilities have not been tested in practice, save in Tasmania (see Vol. XLII).

Finally, it should be mentioned that practice is changing at Westminster. The House of Commons now appoints many Committees for the duration of a Parliament and the appointment by both Houses of members of the European Parliament has been deemed to be for an unlimited period, notwithstanding the dissolution of Parliament.

The individual replies to the Questionnaire are set out in full below.

Westminster

A session of the United Kingdom Parliament is usually brought to a close by prorogation, which is followed by dissolution when a General Election is to take place. Occasionally, prorogation is dispensed with and the session is terminated by dissolution. In either case the rule is that any

proceedings outstanding come to an end at the conclusion of the session. Since it is Parliament, which includes both the House of Lords and the House of Commons, which is prorogued or dissolved there can be no question of one House sitting while the other is prorogued or dissolved.

Public Bills are never carried over from one session to another. In certain cases steps are taken to enable the proceedings on hybrid or private bills to be resumed in one session at the point which they have reached in the previous session. In the autumn of 1974 this was done by the new Parliament agreeing to "revive proceedings" on certain private Bills and one hybrid Bill which had lapsed at the dissolution of Parliament in September. Statutory Orders and Special Procedure Orders laid in one session are not required to be re-laid in the succeeding session.

Standing Orders of both Houses remain in force until they are repealed. Some other orders of the House of Lords are of more than sessional duration. These include orders relating to judicial proceedings (see below) and the orders appointing members of the European Parliament.

Previously membership of committees lapsed at prorogation. Within the last year, however, the House of Commons has adopted the practice of appointing the members of many of its committees for the whole of a Parliament rather than for a session. No corresponding action has yet been taken by the House of Lords. Committees cannot sit during a period when Parliament is prorogued or dissolved.

Exceptions to the rule that business is terminated by the close of session are as follows:

(1) Judicial proceedings in the House of Lords.

(2) Impeachments by the House of Commons.

(3) Statutory periods in connection with Statutory Instruments and Special Procedure Orders.

(4) Returns presented in a session subsequent to that in which the Orders requiring them to be laid were made.

Given the modern convention relating to the arrangement of sessions, Parliamentary privilege, which traditionally extends from 40 days before until 40 days after the session, is in effect perpetual so far as members of the House of Lords are concerned.

Jersey

There is no prorogation of the States of Jersey.

Because of the Committee System of Government, the Committees continue in being right up to the day before a general election. Immediately the new Members of the States are sworn in, which is usually within 48 hours of the election results, there is a hiatus in Government because the States will not meet to elect Committees for another 48 hours afterwards. In fact, this has not proved a problem.

Again because of the Committee System, all proceedings pending lapse

and any Bills are not automatically carried over. If the new Committee wishes, it can resurrect them at the start of a new Sitting.

Parliamentary privilege does not cease to apply.

Isle of Man

All Bills before the House of Keys lapse on the dissolution of the House every five years (or earlier if the Lieutenant Governor so determines). Bills before the Legislative Council are not affected, this Branch, by its constitution, having continuity of office. Parliamentary privilege ceases to apply to Members of the House of Keys on a dissolution. Tynwald (i.e. both Branches sitting together for the conduct of administrative and financial business) does not meet, nor are committees of the House (and effectually Committees of Tynwald) convened.

As the origins of the Isle of Man Parliament are older than, and distinctive from, those of Westminster, it follows that there are substantial differences in the practice obtaining in Tynwald—for example the adjournment of the House from week to week until the end of the annual session whereupon a special resolution is required to be passed to carry over legislation, the passage of which has not been completed.

Canada

"Parliament may be prorogued at any time during a session, the effect of which is, of course, to suspend all business until Parliament shall be again summoned . . . A prorogation necessarily puts an end, for the time being, to the functions of the legislative body . . . The legal effect of a prorogation is to conclude a session; by which all bills and other proceedings of a legislative character depending in either branch, in whatever state they are at the time, are entirely terminated, and must be commenced anew, in the next session, precisely as if they had never begun. In like manner a prorogation has the effect of dissolving all committees, whether standing or special." (*Bourinot's Parliamentary Procedure*, 4th Edition, pages 102–103).

Proclamation of Dissolution has the effect of (a) dissolving the House of Commons, and (b) dissolving Parliament itself, since one of its constituent elements, viz., the House of Commons, will have disappeared.

All committees of the Senate come to an end at the termination of a Parliament and all matters pending before the Senate at the time of dissolution are likewise at an end. The Senate continues to exist after dissolution as its members are appointed to it and may keep their seats until they reach the age of 75. However, it seems evident from the terms of the Proclamation of Dissolution that Senators are "discharged of their duties" as of and from the day of the Proclamation of Dissolution. Despite the foregoing, as part of the law and custom of Parliament, the Senate has inherent power to provide for the administration of its internal economy not only between sessions but between Parliaments. Whereas there is statutory authority for the continuation of the administration of the House of Commons through its Speaker and Deputy Speaker between Parliaments, such statutory authority is lacking with respect to the Senate.

On March 29th, 1972, the Senate adopted the following motion:

"That during any period between sessions of Parliament or between Parliaments, the Leader of the Government in the Senate and a Senator to be named by him from time to time and the Leader of the Opposition in the Senate, or a Senator to be named by him from time to time, be authorized to act for and on behalf of the Senate in all matters relating to the internal economy of the Senate; and

That within 15 days of the commencement of the next ensuing session there shall be laid on the Table, by or on behalf of the Leader of the Government in the Senate, a report covering in reasonable detail all matters relating to the internal economy of the Senate arising during any such period."

This motion is effective insofar as the routine housekeeping chores of the Senate e.g. staff, salaries, etc. are concerned. Such authorization has been given regularly in the past and no question has risen.

Many Members of the Senate are of the opinion that it would be safer to provide specifically in An Act of Parliament for continuing authority in what is called the "Intersessional Committee" to act on behalf of the Senate between sessions and Parliaments in the entire area of internal economy.

On 6th February 1975, the Leader of the Opposition in the Senate introduced Bill S-22, entitled: "An Act to provide for the internal economy and administration of the Senate between sessions of Parliament and between Parliaments".

The purpose of the Bill is to give statutory authority to a Senate "Intersessional Authority" to act on behalf of the Senate between sessions and Parliaments in matters relating to the internal economy and administration of the Senate. It would also provide that Senate Committees may meet for the taking of evidence between sessions and Parliaments. The Bill has been referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Bourinot's Parliamentary Procedure, 4th Edition, may provide a reply to the question of parliamentary privilege:

"The privilege of freedom of arrest in civil process has always been allowed in England for forty days before and after the meeting in parliament. It continues during the session and is enjoyed after a dissolution or prorogation for a reasonable time for returning home.

What this time may be must depend upon the circumstances of each case. The effect of being an elected member upon a person at the time under arrest has also been a subject of consideration.

"In the celebrated Thorpe's case the judges excepted from privilege the case of "a condemnation had before the parliament," but this opinion has not been sustained by the judgment of parliament itself. It was held in a Canadian case that a member of the provincial parliament was privileged from arrest in civil cases and that the period for which the privilege lasted was the same as in England. The judge, in delivering the opinion of the court, said: "I see nothing in the decisions in the cases of Beaumont vs. Barrett or in Kelly vs. Carson, at variance with the assertion and enjoyment of this privilege by our own legislature. I am confirmed in my opinion of its existence by our general adoption of the law of England, by the provision for suits against privileged parties contained in our statutes and in the uniform decisions of our courts". The various provinces of the dominion made statutory provisions on the subject. In Ontario and Quebec the privilege of members from arrest is made statutory for twenty days; in Nova Scotia fifteen days. In New Brunswick the same extent of privilege is extended as held by the members of the House of Commons of Canada; Prince Edward Island twenty

days; Alberta, twenty days. In the province of Manitoba and Saskatchewan, the privilege extends only during the session".

"The privileges of members as to freedom from arrest continues, as we have seen above, after a dissolution for a reasonable time as fixed by custom or for a definite time, where it is settled by statute. It has been decided that the period of privilege of freedom from arrest in civil cases in Canada, except when otherwise provided by statute, is the same as in England. The precise time has not been determined but the general claim of exemption from arrest extends as well to dissolutions as to prorogations."

By the terms of section 18 of the British North America Act 1867, as amended in 1875, it was provided that:—

"18. The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof."

Pursuant to this constitutional provision, section 4 of the Senate and House of Commons Act, chapter S-8 of the Revised Statutes of Canada, 1970, reads as follows—

"4. The Senate and the House of Commons respectively, and the members thereof respectively, hold, enjoy and exercise, (a) such and the like privileges, immunities and powers as, at the time of the passing of the British North America Act, 1867, were held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom, and by the members thereof, so far as the same are consistent with and not repugnant to that Act; and (b) such privileges, immunities and powers as are from time to time defined by Act of the Parliament of Canada, not exceeding those at the time of the passing of such Act held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom and by the members thereof respectively."

The result of these enactments is that offences against the Canadian House are identical with those which were offences against the House of Commons in the United Kingdom in 1867. The same is true of offences against the Canadian Senate.

There has been no Canadian statute altering this basic position, so that, in Canada, offences against Parliament stem from the ancient custom of Parliament, the *lex et consuetudo parliamenti* as that body of doctrine had developed in England in 1867.

Saskatchewan

Rule 37 of the Legislative Assembly of Saskatchewan says that prorogation of the Assembly does not nullify an Order or Address for Returns of Papers which had not been tabled before prorogation. The Returns or Papers are to be tabled at the next Session without renewal of the Order. Dissolution does cancel all Orders for Returns which have not been tabled.

All of the Standing Committees cease to exist upon prorogation as do

all proceedings which were left standing on the Order Paper. The Saskatchewan Legislature has developed a practice where, by a substantive resolution, a special intersessional committee can be established which sits after prorogation but dies on dissolution. The Legislative Assembly Act makes provision for payment of per diem allowances and expenses to Members of intersessional committees. Whether it is proper for the Assembly to extend its powers beyond prorogation by means of intersessional committees is a matter of concern. One solution would be to have the Assembly adjourn rather than prorogue and to have the prorogation ceremony on the day before the Opening of a new Session. This practice has not yet been established in Saskatchewan.

Quebec

There is only one House which is called the National Assembly. In the case of dissolution, all proceedings pending before parliament come to an end and all orders lapse.

In the case of a prorogation, it is different. Select and Standing Committees may sit between sessions, in the same manner and with the same powers as during sessions of the Legislature (section 91A of the Legislature Act and article 5 of the Standing Orders).

Article 6 of Standing Orders reads as follows:

"The closing of a session cancels all orders not fully executed, except orders to produce or to print a document, and such orders as the Assembly indicates, in which case the orders may remain executory until the Legislature is dissolved.

However, unless the closing is brought about by dissolution of the Legislature, a bill standing in the name of the Government that has already passed first reading may, on a motion without notice by the Government House Leader, not later that the second sitting following conclusion of the debate on the inaugural message, be inscribed at the stage it had reached at prorogation. Such motion cannot be debated or amended."

British Columbia

The practice is identical to that in Westminster. Everything does cease. Bills are not carried over. The one exception is that when the House prorogues, those Committees that have been given specific instructions and powers to sit beyond prorogation, may do so.

Northwest Territories

All proceedings pending come to an end at both prorogation and dissolution. In both cases all orders lapse. In the past certain Standing Committees have continued to sit following prorogation of a Session but not after dissolution. Bills have on occasion been automatically carried over following prorogation from one session to the next. Following dissolution a Bill which had lapsed would, if desired, be re-introduced at a subsequent session.

Australia: Commonwealth Parliament

Prorogation of a session of the Australian Parliament has the following

effects in the House of Representatives:

All proceedings pending (except authorised committee proceedings) come to an end—all business on the Notice Paper lapses.

Any sessional orders cease to have effect.

Those committees which are empowered by the standing orders, by statute or by specific resolution of the House, to act during any recess continue to function, but sessional committees cease to function.

Provision exists in the standing orders for the resumption, under certain conditions, of proceedings on Bills which lapse by reason of prorogation.

Parliamentary privilege is governed by Section 49 of the Constitution which provides that, until declared by the Parliament, the powers, privileges and immunities shall be those of the Commons House of the Parliament of the United Kingdom, and of its Members and committees, at the establishment of the Commonwealth (1901). The privilege which attaches to committee proceedings held after prorogation has not been formally determined, but as they are proceedings in Parliament which have been authorised by the House, the view is taken that such proceedings are privileged.

It is the Parliament which is prorogued, consequently neither House may meet.

There is nothing in the Constitution itself or in any law of Australia which in terms precludes the Governor-General from assenting to a Bill after prorogation. In the early days of the Parliament it did happen. Current practice is for Bills passed during a session to be assented before prorogation.

Dissolution has the following effects on the Australian House of Representatives:

All proceedings pending come to an end—all business on the Notice Paper lapses.

Members of the House of Representatives technically cease to be Members although under the provisions of the Parliamentary Allowances Act Members who re-nominate continue to receive their allowances up to and including the day prior to the day fixed for the election. In the case of Members who do not re-nominate, allowances cease on the day of dissolution.

Any sessional orders cease to have effect.

All Committees cease to exist.

No provision exists for the resumption of proceedings in the new Parliament on lapsed Bills.

If the House of Representatives is dissolved, it is usual in the proclamation of the Governor-General dissolving the House to also discharge Senators from attendance until the day appointed for holding the next session of the Parliament.

The House of Commons practice in relation to Parliamentary privilege

would apply.

It is the practice for Bills passed during a session to be assented to before dissolution.

The effects of prorogation and dissolution on the Senate are covered in Mr. Odgers article in Volume XLII of THE TABLE.

New South Wales

The statutory basis for prorogation in the New South Wales Legislative Council and Assembly is provided in section 10 of the Constitution Act, 1902, viz.—

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

However, there is no statutory requirement or standing order which provides that proceedings pending before the Council come to an end on prorogation. Although Standing Order No. 2 states—

"In all cases not specially provided for by these Rules and Orders or other Rules and Orders hereafter adopted resorts may be had to the Rules, Forms, and Usages of the Imperial Parliament, as laid down in the latest Edition of May's Parliamentary Practice, which shall be followed so far as the same can be applied to the proceedings of this House, and in the Committee of the Whole House, or any other Committee."

The *lex et consuetudo parliamenti* has been held not to apply to local legislatures and is therefore not binding on the Council.

It has been the practice, upon issue of a proclamation proroguing the Council, for the House to discontinue sitting and for orders and notices of motions standing on the Business Paper to lapse. However, provision is made in the Council's Standing Orders set out below for renewal of proceedings in a subsequent session on a public bill, consideration of which had been interrupted by the close of a previous session. Such provisions were inserted in the Standing Orders in 1892, following reference of the matter to the Standing Orders Committee.

"200. If any Public Bill which shall have originally been introduced in the Council shall have passed any or all its stages therein, but shall have been interrupted before its completion by the close of the Session in which it was initiated whether such interruption shall have been in the Council or in the Assembly, the same may be reintroduced by a Motion in a subsequent Session, but with such alterations as may have been made in the Council, and if the Bill shall not have been sent to the Assembly, it may be taken up at the stage it had reached in a previous Session, and thereafter dealt with in the usual way; but should the Bill have been transmitted to the Assembly, then the only procedure necessary shall be the usual Message to the Assembly forwarding the Bill again for concurrence;

but should such Motion be negatived, then the Bill may be proceeded with in the ordinary way.

201. On a Message being received from the Assembly by the Council, requesting consideration of any specified Message sent by the Assembly during a previous Session, either transmitting a public or private Bill for concurrence or relating to any such Bill initiated in either House, the proceedings with respect to which had been interrupted by the prorogation of the Legislature, it shall be competent for the Council, on Motion then put and carried, or subsequently by Motion on notice, to determine that the stage such Bill had reached at the close of the Session in which it lapsed be an Order of the Day for a future day, and any such Bill may thereafter be proceeded with as if no prorogation had taken place; but if such Motion be negatived, a Message shall be sent to the Assembly intimating the determination of the Council.

202. Upon receipt of a Message from the Assembly by the Council, with respect to Amendments or any other proceedings whatever relating to any public or private bill initiated in either House, in a previous Session, which had lapsed at any stage because of a prorogation, and had been resumed, it shall be competent for the Council to deal with the subject matter of such Message as if relating to a Bill of the current Session."

Proceedings on private bills also may be renewed in a subsequent session, as the following Standing Orders indicate. Similar Standing Orders were first adopted in 1860.

"277. If the Promoters of any Private Bill introduced into the Council, with respect to which Bill proceedings have been interrupted in either House by the close of the Session before their completion, shall petition the Council during any subsequent Session for leave to proceed with the same Bill, and the Petition be received, then such Bill may be introduced again, but with such alterations as may have been made in the Council, and read a first time without notice or debate; and it may also, on a Motion then put and carried to that effect, be, without further notice or debate, pass through all the subsequent stages through which it had passed in a previous Session; but should such Motion be negatived, then the Bill shall be proceeded with in the ordinary way.

278. If any such Private Bill shall only have been read a first time and referred to a Select Committee, and shall not have been reported by such Committee before the close of the Session, it shall, after the reception of such Petition, and order thereon, upon Motion without notice, be read a first time, and referred to a Select Committee, together with the Minutes of Evidence taken before, and all Papers and Petitions which may have been referred, and all Instructions which may have been given to the previous Committee; and upon the report of the Bill by the Select Committee it shall be proceeded with, in all its subsequent stages, in the ordinary manner of proceeding with Private Bills.

279. In the case of every such Private Bill the Standing Orders shall be held to be satisfied in all respects, so far as they shall have been com-

plied with in a previous Session".

There have been many instances where proceedings on private and public bills have been renewed in the Council in a subsequent session of the same Parliament, following prorogation. In addition, in the Second Session of 1898, which commenced on 16th August, proceedings on two private bills and one public bill were renewed after their interruption in the previous session, which had been the concluding session of the previous Parliament—the Council being prorogued and the Assembly dissolved on 8th July 1898.

Again, in the Session 1901, proceedings on a Council private bill, which had been interrupted in the last preceding Parliament, were renewed.

The Standing Orders are quite explicit and allow the Council to deal with interrupted legislation in a succeeding Parliament. It might be noted, however, that the relevant Assembly Standing Orders restrict the renewal of proceedings to a subsequent session of the same Parliament.

With regard to Sessional and Select Committees, it has been practice to regard their functions as ending at prorogation.

An instance of an endeavour to empower a select committee to sit during prorogation occurred in 1893. By motion upon notice it was sought to appoint a select committee to consider the Coal Mines Regulation Bill and that the committee "have power to sit during any adjournment or recess of the House". A point of order was taken by the Hon. A. H. Jacob who said:

"It is not competent for this House to empower a select committee to sit during a recess. I take it that although the hon. member has not explained the meaning of the word, 'recess' means the recess following upon the prorogation of Parliament, that is, the period of time between the termination of one session and the holding of the next . . . By granting leave to the committee to sit during the prorogation we might be sanctioning a very great illegality. Under the Parliamentary Evidence Act a select committee has power to summon witnesses who, if they do not attend, or refuse to give evidence, are liable to certain consequences—imprisonment or other penalties.

"It we empowered a select committee to sit during recess and they attempted to punish witnesses in this way, they would be committing an illegal act.

"Again, it is generally known that it is illegal for a person not empowered by Statute or otherwise to administer an oath. If a select committee were to sit in pursuance of a motion of this kind, which had been passed without notice being taken that it was out of order, and proceeded to administer the oath, its members would be liable to indictment for administering the oath when not empowered by law so to do".

The President upheld the point of order and ruled that the House had no power to give authority to a select committee to sit during the prorogation of Parliament.

In 1912 a further step was taken to enable sessional committees to sit during prorogation. The Council adopted a new Standing Order empowering the Printing Committee, the Standing Orders Committee, the Library Committee and the Refreshment Room Committee to sit during any adjournment or prorogation of the House. The Assembly was invited to adopt a similar Standing Order and this eventually occurred in 1914. In the years following the House Committee and the Library Committee did, in fact, meet on many occasions during prorogation.

In 1938, however, the Assembly invited the Council to omit from its Standing Order the words "or prorogation". In agreeing to the Assembly's proposal the Minister in the Council had this to say—

"The Standing Order, as at present drafted, permits these Committees to sit during any adjournment or prorogation. The words 'or prorogation' were inserted by inadvertence. The effect of a prorogation is at once to suspend all business until Parliament shall again be summoned . . .

"The authority which Standing Order No. 281 purports to give to committees to sit during a prorogation is opposed to parliamentary practice".

A different situation arose in 1920 when, by the Parliamentary Select Committees Enabling Bill, it was sought to permit two select committees—one from each House—to sit during prorogation. Objection was taken in the Assembly, that the measure was contrary to the Constitution Act. The Speaker ruled that the bill was brought in in the ordinary way and in accordance with the usages of Parliament. He ruled that it was in order. When sent to the Council the bill was actually passed without debate.

Since 1920 there have been no less than nine Acts passed to enable committees of either or both Houses to sit during prorogation.

The question whether it is necessary for the Legislative Assembly to receive a message from the Council concurring in a bill before the bill is forwarded to the Governor for assent, was referred to the State Crown Solicitor in 1953.

For the purpose of this instance he referred to the procedure laid down in Assembly Standing Order No. 306, wherein it is provided that every bill originating in the Assembly, and finally passed by both Houses, is to be presented to the Governor by the Speaker. However, the Standing Order requires that before being so presented two certificates are necessary —one by the Chairman of Committees, that he has examined a fair copy of the Bill and found it to correspond in all respects with the Bill as finally passed by both Houses, and the other by the Clerk of the Assembly that the Bill has finally passed both Houses.

The Crown Solicitor commented that the Standing Orders of both Houses were substantially to the same effect. He advised—

"In reply to the specific question submitted, I am of opinion that, under the existing Standing Order, it would be improper to forward any bill to the Governor for assent until the appropriate message from the

Legislative Council had been reported in the Legislative Assembly. I am further of opinion that it would be highly undesirable and, in fact, dangerous to alter the Standing Order in such a way as to permit of bills being forwarded for assent until the records of the House clearly indicate that all formalities required by the rules and usages of Parliament have been complied with".

Of interest is a course of action adopted in 1935, when an Act was passed to annul certain bills passed by both Houses in the 1930–31–32 Session, the last sitting day of which was 12th May, 1932. The Premier on that day was the Hon. J. T. Lang but he was replaced on the following day when the Governor called upon the Hon. B. S. B. Stevens to form a Ministry. Parliament was prorogued on 16th May and the Assembly dissolved on 18th May. A general election on 11th June confirmed the position of Premier Stevens.

Certain bills which had been presented to the Governor for assent after 12th May were not assented to, and the Governor forwarded messages to Parliament stating that he had accepted the opinion of the Crown Law Officer that the bills had lapsed by reason of the dissolution of the Parliament and consequently he was unable to assent to them. Several years later the Bills Annulment Act, No. 25 of 1935, relating to these measures, was passed. The Attorney-General stated in the Council that:

"It is now sought to annul the passage of these bills because that course will be far more satisfactory than merely to record them as lapsed bills as they otherwise would be".

In contrast to the foregoing, there was an instance in 1897 when bills were assented to three or four weeks after prorogation of the Council and dissolution of the Assembly. Twenty-five bills were involved and no question as to whether assent was validly given appears to have been raised on that occasion.

From the foregoing it will be seen that there is no statutory provision for proceedings to cease on prorogation. No standing order has been adopted to this end; on the contrary, standing orders do provide for renewal of proceedings in a subsequent session.

Since the inauguration of Responsible Government in 1856 the practice has invariably been for proclamations proroguing the Council and Assembly, or proroguing the Council and dissolving the Assembly, to be issued the same day. There is no record of the Council continuing to sit after the Assembly has been prorogued or dissolved.

Queensland

The position in Queensland is that prorogation or dissolution is a terminating factor subject to any specific modifying factor or provision. Some of these provisions are to be found in the Standing Orders which, in turn, have their source in the Constitution Act which points to the intended objects of the Orders. Generally the scheme of the Standing

Orders is based on the establishment of procedures for the working of the House during a Session, including periods of adjournment in the course of the Session. However, although it is accepted that all proceedings concerning legislation and other business are brought to a close by prorogation, our Standing Order No. 276 provides that a Bill which has been interrupted in its passage through Parliament by prorogation may, on motion after notice, be resumed in a subsequent Session of the same Parliament at the point it had reached in the previous Session and may thereafter be proceeded with as if no prorogation had taken place.

Similarly, the Standing Orders which deal with the setting up of various House Committees for each Parliament contain a provision that the Committees shall continue to function until their successors are appointed, irrespective of intervening interruptions.

The appointment of Select Committees in the Queensland Parliament has been a rare occurrence for many years but one such Committee was constituted in 1974. Upon its appointment the Committee was empowered to continue its inquiries notwithstanding the prorogation of Parliament and to submit its report during the following Session. This will no doubt continue to be the practice with any future Committees.

As Queensland has only a single-Chamber Parliament the question of one House continuing to sit when the other is prorogued or dissolved does not arise.

Victoria

Following prorogation or dissolution all proceedings pending before the House come to an end. All Orders lapse and Bills are not automatically carried over. The Legislative Assembly is prorogued or dissolved whereas Members of the Legislative Council are "discharged from attendance". Any doubt as to whether the Upper House should sit during the prorogation or dissolution of the Lower House has not been resolved.

Committees which are appointed by resolution of the House go out of existence on the date of dissolution or prorogation. Other Committees which are established by Statute go out of office either the day before the commencement of a new Session of Parliament, the expiry of the Assembly by effluxion of time or by dissolution of the Assembly, whichever of such events first occurs. Some Statutory Committees continue in office until the appointment of their successors in the following Session.

South Australia

All proceedings pending before Parliament come to an end at prorogation with the following exceptions—

(*a*) Parliamentary Papers ordered during the Session and not returned prior to the Prorogation, and such other official reports and returns as are customarily laid before Parliament and printed, shall be forwarded to the President and the Speaker in print as soon as completed; and, if the same are received within two months after

such Prorogation, the Clerk shall cause such Papers and Documents to be distributed among Members and bound with the Minutes of Proceedings.

(*b*) Standing Committees (Standing Orders Committee, Library Committee and Printing Committee) are empowered by Standing Orders to act during the recess.

(*c*) The Joint House Committee, established under the Joint House Committee Act, 1941, controls the entrances, corridors, lobbies, dining and refreshment rooms, lounges and garages, continues to function during recess. However, proceedings do not necessarily come to an end in the Legislative Council at a time of dissolution. Since 1933, four Joint Committees have been empowered by the two Houses to sit after prorogation and since 1968, five Select Committees of the Council have been given leave to sit during prorogation.

(*d*) Bills passed by both Houses and not assented to before prorogation lapse but may be expedited in the next Session and those which have passed the second reading in either House but not finally disposed of at the close of the session may, in the next session of the same Parliament, be restored to the stage reached in the previous session and then proceeded with as if no prorogation had intervened.

However proceedings do not necessarily come to an end in the Legislative Council at a time of dissolution unless it is a double dissolution or the Parliament has been prorogued by Proclamation. In 1970 the House of Assembly was dissolved by proclamation on 1st May, and the Legislative Council had adjourned until 5th May 1970. The Council would have met on 5th May had the Parliament not been prorogued by Proclamation on 4th May, 1970.

Parliamentary Privilege does not cease during prorogation or dissolution. The Constitution Act section 39(a) provides inter alia that "no writ of *capias ad satisfaciendum* shall be executed or put into effect against any such member during any session or Parliament or within ten days prior to the meeting thereof".

Western Australia

Section 36 of the Constitution Act 1889 provides that the privileges, immunities or powers of either House shall not exceed those for the time being held, enjoyed and exercised by the House of Commons. Bills which have not completed their passage through both Houses and Committees that have not reported come to an end on prorogation or dissolution. Sessional orders and Standing Committees lapse and are renewed at the beginning of each Session.

Section 3 of the Constitution Act, 1889 reads as follows—

"3. It shall be lawful for the Governor to fix the place and time for holding the first and every other session of the Legislative Council and Legislative Assembly, and from time to time to vary the same as he

may judge advisable, giving sufficient notice thereof: and also to prorogue the Legislative Council and Legislative Assembly from time to time, and to dissolve the Legislative Assembly by Proclamation or otherwise whenever he shall think fit".

It is normal practice for His Excellency the Governor to prorogue both Houses in one Proclamation and in a second Proclamation summons Parliament to meet on a certain date and hour: in effect, both Houses cease to exist for a period of time and cannot meet until the declared time for the opening of a new session.

In the case of a Dissolution, it will be noted from the quoted Section 3 of the Constitution Act that only the Legislative Assembly may be dissolved. The question whether the Legislative Council could meet during such dissolution has not been tested. If there were no legal bar to such meeting, action taken by the Legislative Council could only be of a domestic nature or motions to disallow regulations or by-laws could be moved and agreed to. Section 36 of the Interpretation Act 1918 makes provision for the disallowance of regulations and by-laws on the resolution of either House.

Both Houses at the end of each Session pass a resolution "That the House at its rising do adjourn to a date to be fixed by Mr. President, in the case of the Legislative Council, and Mr. Speaker in the case of the Legislative Assembly". The legality of the Legislative Council meeting and doing business during the dissolution of the Legislative Assembly would be a matter for the Courts to resolve. Further, His Excellency the Governor has power to prorogue the Legislative Council, thus ending any chance meeting of its own resolution.

The question of Committees sitting during prorogation was discussed at the Fifth Conference of Presiding Officers and Clerks of the Parliaments of Australia and South West Pacific countries, held in Perth in May 1972. The discussion centred on a paper presented by the Speaker of the Legislative Assembly of Western Australia dealing with the passing of a motion by the Legislative Council appointing a Select Committee of Inquiry, and particularly to the part of the motion stating "that the Committee be authorised to function notwithstanding the prorogation or adjournment of the Parliament". The majority of delegates present indicated that the Council had acted correctly in accepting the motion.

Reference was made during the discussion to Section 36 of the Constitution Act, 1889, and to the preamble of the Parliamentary Privileges Act, 1891, each of which states that "it shall be lawful for the Legislature of the Colony, by any Act to define the privileges, immunities and powers to be held, enjoyed, and exercised by the Legislative Council and the Legislative Assembly thereof respectively. Provided no such privileges, immunities, or powers, shall exceed those for the time being held, enjoyed, and exercised by the Commons House of Parliament, or the members thereof".

It was pointed out that although Australians follow quite regularly

the rulings and practices of the House of Commons where they appear to accord with the needs of their situation each Parliament has its own way to make, and its own problems to resolve. The point was also made that Parliament has inherent powers, which do not have to be spelt out, in circumstances which are necessary for Parliament to discharge its functions properly, and one of these powers is to authorise committees to function during recess. It is also pertinent, as was mentioned during the debate, that before the Committee was appointed, a great deal of research was undertaken into whether the power existed, and nothing was found to prevent the authorisation being given to the Committee to continue to function.

Provision is contained in Standing Orders Nos. 429 to 431 to enable bills which lapse upon prorogation to be proceeded with in the next ensuing session at the stage they reached during the preceding session provided a general election has not occurred between such two sessions. Certain conditions apply in relation to the restoration of lapsed bills.

It is also provided in the Standing Orders that Committees of the House (Standing Orders; Library; House and Printing Committees) elected at the commencement of each Session of the Council shall have power to act during recess.

Tasmania

(a) *Prorogation.* The effect of prorogation on Parliament is that all Orders lapse, Bills are not carried over. All but standing committees cease to exist. It is the whole Parliament which is prorogued, never a single House.

(b) *Dissolution.* Dissolution normally is preceded by a prorogation, but need not be. The effect of dissolution is to prevent either House or any committees from sitting. All orders lapse and bills are not carried over. In 1972, as recorded in Volume XLII of THE TABLE there was a departure from the usual practice, when the Legislative Council continued to sit after the House of Assembly had been dissolved. The Council passed important legislation received from the Assembly, though the Parliament, through the dissolution of one of its constituent parts, was no longer in existence, and there was no Assembly to consider amendments, had they arisen.

India

The effect of prorogation and dissolution on Bills and other proceedings pending before Parliament in India is different from that of the House of Commons in the United Kingdom. The position is as follows:—

1. *Prorogation and its effect:*

(a) *Bills:* Article 107(3) of the Constitution of India provides that a Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.

(b) *Notices of Motions, etc.:* Rule 225 of the Rajya Sabha and Rule 335 of

Lok Sabha provide as follows:—

"On the prorogation of a Session, all pending notices, other than notices of intention to move for leave to introduce a Bill, shall lapse and fresh notices must be given for the next Session:

Provided that fresh notice shall be necessary of intention to move for leave to introduce any Bill in respect of which sanction or recommendation has been granted under the Constitution, if the sanction or recommendation, as the case may be, has ceased to be operative".

(c) *Committees of the House:* Any business pending before a Committee does not lapse by reason only of the prorogation of the House and the Committee continues to function notwithstanding such prorogation (Rule 226 of Rajya Sabha and Rule 284 of Lok Sabha).

(d) *Privilege:* With the enforcement of Constitution on 26th January, 1950, the scope and duration of the privilege of freedom from arrest in India came to be the same as that obtaining in the United Kingdom, i.e., forty days before and after a session of the House. Notices pending in the Office raising questions of privilege, unless otherwise kept alive, lapse on prorogation of the Rajya Sabha. However, a question of privilege which has been referred to the Committee of Privileges does not lapse on prorogation of the House.

2. *Dissolution and its effect:*

Rajya Sabha is not subject to dissolution, but nearly one-third of its members retire every second year. The duration of the Lok Sabha is limited to five years and unless there is an extension of the term in the manner referred to in the proviso to clause (2) of Article 83 of the Constitution, there is an automatic dissolution of the Lok Sabha by the efflux of time at the end of the period of five years from the date appointed for its first meeting even if no formal order of dissolution is issued by the President of India. The President, however, has the power to dissolve it earlier.

Articles 107 and 108 lay down the effect of dissolution upon Bills pending before each House of Parliament in the event of dissolution of the Lok Sabha:—

(a) In the Lok Sabha all Bills pending at the time of dissolution whether originating in the Lok Sabha or sent to it by the Rajya Sabha lapse.

(b) In the Rajya Sabha Bills passed by the Lok Sabha but which have not been disposed of and are pending in the Rajya Sabha on the date of dissolution of the Lok Sabha, lapse.

(c) Bills originating in the Rajya Sabha which have not been passed by the Lok Sabha but are still pending before the Rajya Sabha, do not lapse.

(d) If, however, in respect of a Bill upon which the two Houses of Parliament have disagreed and the President has notified his intention of summoning a joint sitting of the Houses for the consideration of the Bill prior to dissolution, that Bill does not lapse and may be passed

at a joint sitting of both Houses notwithstanding that dissolution has intervened since the President notified his intention to summon the joint sitting of the Houses.

(e) There is no express provision in the Constitution regarding the effect of dissolution on a Bill which has been passed by the two Houses of Parliament and sent to the President for assent. It has, however, been held that such a Bill does not lapse on dissolution of the Lok Sabha.

Other Business, e.g. Motions, Resolutions etc.: All other business pending in Lok Sabha (e.g. motions, resolutions, amendments, supplementary demands for grants etc.) at whatever stage, lapses upon dissolution, as also the petitions presented to the House which stand referred to the Committee on Petitions.

A motion for approval or modification of statutory rules laid on the Table of both Houses under the provisions of an Act, passed by Lok Sabha and transmitted to Rajya Sabha for concurrence and *vice versa* also lapses on dissolution of Lok Sabha.

Business before Committees: All business pending before Parliamentary Committees of Lok Sabha lapses upon dissolution of Lok Sabha. Committees themselves stand dissolved on dissolution of Lok Sabha. However a Committee which is unable to complete its work before the dissolution of the House may report to the House to that effect, in which case any preliminary memorandum or note that the Committee may have prepared or any evidence that it may have taken is made available to the new Committee when appointed. Likewise, where a report completed by a Committee when the House is not in session is presented by its Chairman to the Speaker and before its presentation to the House in the next session, Lok Sabha is dissolved, the report is laid by the Secretary-General on the Table of the new House at the first convenient opportunity. While laying the report, the Secretary-General makes a statement to the effect that the report was presented to the Speaker of the preceding Lok Sabha before its dissolution; where it was ordered by the Speaker that the report be printed or circulated under Rule 280, the Secretary-General also reports that fact to the House.

Assurances by Ministers: The assurances given by Ministers on the floor of the House which are pending implementation by the Government and on which a report has been made by the Committee on Government Assurances are deemed not to lapse on dissolution of Lok Sabha.

The Constitution also does not specifically state whether the Rajya Sabha can sit when the Lok Sabha stands dissolved; but a reading of the proviso below sub-clause (c) of clause (2) of article 352 and of the proviso below clause (3) of article 356 of the Constitution would appear to suggest that the Rajya Sabha can be in session when the Lok Sabha stands dissolved.

Andhra Pradesh

Rule 299 of Rules of Procedure and Conduct of Business in the Andhra Pradesh Legislative Assembly reads as follows:

"(1) A Session of the Assembly is terminated by prorogation.

(2) On the prorogation of a session, all pending notices shall lapse except those in respect of statutory motions, motions for amendment of rules, motions the consideration of which has been adjourned to the next session, questions for which answers have been received and Bills which have been introduced. Such Bill shall be carried over to the list of business for the next session from the stage reached by them in the expiring session.

(3) Prorogation shall not effect the work of any Committee under these Rules.

(4) Notwithstanding anything contained in these rules, if fresh notice is given in respect of a motion or Bill which has lapsed, it shall not be necessary to send a copy of such motion or Bill along with such notice".

Gujarat

On prorogation of the Assembly all notices lapse except those in respect of statutory motions, Bills, unstarred questions and motions, consideration of which has been adjourned to the next session; on dissolution of the Assembly all notices lapse.

Parliamentary privileges do not cease to apply upon prorogation, whereas they cease to apply on dissolution of the Assembly.

By reason of prorogation of the House, no business before any Committee of the House lapses. The Committees continue to function after the prorogation. All business before the Committee lapses on the dissolution of the Assembly. Dissolution marks the end of the life of a Parliament.

Haryana

According to Article 196(3) of the Constitution of India a Bill pending in the Legislature of the State of Haryana does not lapse by reason of the prorogation of the House. Further, according to Article 196(5) a bill pending in the Haryana Legislative Assembly lapses on a dissolution of the Assembly. In view of Rule 7 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on prorogation all pending notices subject to the provisions of the Constitution and the said Rules shall lapse. Dissolution passes a sponge over the legislative slate.

All pending notices including those of Questions and non-official Resolutions lapse on prorogation in pursuance of Rule 7 of Rules of Procedure. The business connected with the Questions and non-official Resolutions pending in the Legislative Assembly at whatever stage it is, lapses on dissolution.

On adjournment or adjournment *sine die*, pending business with regard to privileges does not lapse. Any business pending before a Com-

mittee shall not lapse by reason only of the prorogation of the House and the Committee shall continue to function notwithstanding such prorogation.

Karnataka

On the prorogation of a session, all pending notices shall lapse except those in respect of motions, consideration of which has been adjourned to the next session and Bills which have been introduced. Business pending before a Committee shall not lapse be reason of the prorogation of the House and the Committee can continue to function notwithstanding such prorogation. Bills before Select or Joint Select Committees are also protected. Bills which have been introduced shall be carried over to the pending list of business of the next session; provided that, if the member in charge of a Bill makes no motion in regard to the same during two complete sessions, the Bill shall lapse, unless the Assembly on a motion by that member in the next session, makes a special order for the continuance of the Bill. One House can continue to sit if the other is prorogued. On Dissolution all proceedings pending before the House come to an end. According to article 196(4) of the Constitution of India, a bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on dissolution of the Assembly. Article 179 of the Constitution of India provides that even after dissolution the Speaker will continue to be in office till immediately before the first meeting of the new Assembly.

Kerala

On dissolution of the Assembly all pending notices lapse. On prorogation of the Assembly all pending notices, other than notices of intention to move for leave to introduce a Bill shall lapse and fresh notices shall be given for the next session.

Madhya Pradesh

(*a*) On prorogation of the House, all pending notices other than notices of intention to move for leave to introduce a Bill lapse. However, a motion, resolution or an amendment, which has been moved and is pending in the House, does not lapse by reason of the prorogation of the House. Similarly all Bills introduced in the House and pending at the time of prorogation of the House do not lapse.

(*b*) On dissolution all business including Bills pending before the House or a Committee thereof at the time of dissolution lapse. However, in accordance with a decision of the Supreme Court of India, Bills passed by the House but waiting for assent with the Governor/President do not lapse on the dissolution of the House.

Maharashtra

In Maharashtra, as in the rest of India, distinction has always been

made between prorogation and dissolution. On the prorogation of a session of the Assembly or of the Council pending notices in respect of unstarred questions, statutory motions, amendment of rules, motions, consideration of which has been adjourned to the next session under rule 37, and bills which have been introduced, do not lapse. Such Bills are carried over to the lists of business for the next Session from the stage reached by them in the expiring session (vide Rule 20 of the Maharashtra Legislative Assembly/Council Rules). Furthermore Article 196(3) of the Constitution of India also provides that a Bill pending in the Legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof. Notices, other than those mentioned above, lapse on the prorogation of a Session.

Business pending before a Committee does not lapse by reason only of the prorogation of the House and the Committee continues to function notwithstanding such prorogation (vide Rule 189/182 of the Maharashtra Legislative Assembly/Council Rules).

On the other hand dissolution marks the end of the life of a House and is followed by the constitution of a new House. Under Article 196 of the Constitution a Bill which is pending in the Legislative Assembly or which having been passed by the Legislative Assembly is pending in the Legislative Council lapses on the dissolution of the Assembly. It should be noted that the Upper House, viz. the Legislative Council, is not subject to dissolution. Article 196 also provides that a Bill pending in the Legislative Council which has not been passed by the Legislative Assembly shall not lapse on the dissolution of the Assembly.

All other business pending in the Assembly (e.g. motions, resolutions, amendments etc.) at whatever stage it had reached lapses upon dissolution of the Assembly.

As regards business pending before a Committee, all business lapses upon the dissolution of the Assembly. However, a Committee, which is unable to complete its work before the dissolution of the House, may report that to the House. Any preliminary report, memorandum or note that the Committee may have prepared or any evidence that the Committee may have taken will be made available to the new Committee (Rule 190/183 to the Maharashtra Legislative Assembly/Council Rules).

Likewise where a report is completed by a Committee when the House is not in Session and is to be presented by its Chairman to the Speaker and if, before its presentation to the House in the next Session, the Assembly is dissolved, the report is laid by the Secretary on the Table of the new House at the first convenient opportunity. When laying the report, the Secretary makes a statement to the effect that the report was presented to the Speaker of the preceding Assembly before its dissolution. (Direction No. 11/8 issued by the Speaker/Chairman of the Legislative Assembly/Council).

Tamil Nadu

Under the Constitution of India, the Governor may prorogue the Legislative Assembly or the Legislative Council or both Houses together. (Article 174 Constitution of India). It is also provided in the Constitution that a Bill pending in the legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof. (Article 196(3)). Further, rule 13 of the Tamil Nadu Legislative Council Rules framed under Article 208 of the Constitution provides that on the prorogation of a session all pending notices or business shall lapse except questions, statutory motions, Bills which have been introduced and resolutions which have been moved in the House and that such business shall be carried over to the next session from the stage reached by it in the expiring session provided that except in the case of questions, fresh notice shall be given for motion regarding the same. It has also been provided in this rule that prorogation shall not affect the work of any Committee of the House or Select Committee under the rules.

Therefore, a Bill pending in the Council does not lapse by reason of prorogation. The only requirement is that fresh notices will have to be given in the next session for motion regarding the same. Since all other business except questions, statutory motions, Bills and resolutions moved in the House lapses, privilege issues pending and not taken up in the House lapse on prorogation. Committees, however, continue to sit and function.

The Constitution of India also provides that the Governor may dissolve the Legislative Assembly (Article 174). But the Council is not subject to dissolution and only one-third of the number of Members of the Council retire biennially (Article 172(2)). The Constitution also provides that a Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on dissolution of the Assembly (Article 196(4)). Again, a Bill which is pending in the Legislative Assembly of a State or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly (Article 196(5)).

Therefore, so far as the Bills originating and pending in the Council are concerned, they are not affected by the dissolution of the Assembly. On the other hand, so far as non-Money Bills originating in the Assembly and passed by it are concerned, if they have not already been passed by the Legislative Council, they lapse on the dissolution of the Assembly. Since the Constitution provides that all Bills will have to be passed by both Houses of the Legislature before being presented to the Governor/ President for assent (Article 200) if non-Money Bills passed by the Assembly are not passed by the Council before the Assembly is dissolved, they will lapse.

There is no constitutional bar to the Council meeting even after the Assembly is dissolved. But from the practical point of view it can transact only formal business of a non-legislative character since for being pre-

sented to the proper authority for assent, a Bill has to be passed by both Houses of the Legislature. Further, since a Money Bill cannot be introduced in the Legislative Council (Article 198(1)), the meeting of the Council when the Assembly has been dissolved will not serve much useful purpose. Non-Money Bills also cannot become law even if they are passed by the Council since the other House will not be sitting to pass it. The only way in which legislation is carried on when the Assembly is dissolved even though the Council is not subject to dissolution, is by promulgation of Ordinances by the Governor. These Ordinances will have effect until the expiration of six weeks from the re-assembly of both the Houses. For the purpose of reckoning, the date of re-assembly of either House whichever is later is taken into account (Article 213).

Therefore, the sitting of the Council alone when the Assembly is dissolved would not serve any useful purpose so far as legislation is concerned.

The practice followed is not substantially different from the traditional Westminster practice. Up till 6th April 1972 pending notices of questions lapsed on prorogation. The relevant rules were changed and since 7th April 1972 they do not lapse on prorogation. Similarly, Statutory motions, Bills introduced and Resolutions moved in the Council do not, unlike in the British House of Commons, lapse on prorogation, but fresh notice is necessary for carrying them from the stage reached in the previous session.

Uttar Pradesh

The effect of Prorogation

(1) All pending notices shall lapse and fresh notices shall be given for the next session provided that questions which have been entered in the list of business, but were postponed and remained pending for answer at the close of preceeding session shall not lapse.
(2) A Bill pending in the House at the time of prorogation shall not lapse by reason of the prorogation of the House or Houses thereof.
(3) Any motion, resolution or amendment which has been moved and is pending in the House shall not lapse.
(4) Any business pending before a Committee shall not lapse.

The Effect of Dissolution

(1) All pending notices including questions which have been entered in the list of business, but were postponed and remained pending for answer at the time of dissolution of the preceding Assembly, shall lapse.
(2) A Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse and a Bill which is pending in the Legislative Assembly of a State or which having been passed by the Legislative Assembly is pending in the Legislative Council shall lapse.
(3) With the dissolution of the House all the Committees of the House will also be dissolved but a Committee which is unable to complete

its work before the dissolution of the House may report to the House that the Committee has not been able to complete its work. Any Preliminary report, memorandum or note that the Committee may have prepared or any evidence that the Committee may have taken shall be made available to the new Committee.

(4) When one House is prorogued the other House may sit but when one House is dissolved the other House does not sit.

Parliamentary Privileges

(1) The powers, privileges and immunities of State Legislatures and their members are governed by Article 194 of the Constitution of India, which continues to be in operation even after the dissolution of the State Legislative Assembly. Further, any question of privilege of which the House or its Committee was seized at the time of dissolution, may be raised again in the succeeding Assembly.

(2) The Speaker of the Assembly remains in office until immediately before the first meeting of the Assembly after the dissolution.

According to Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament, the effect of Prorogation of the British Parliament is at once to suspend all business until Parliament is summoned. Not only are the sittings of Parliament at an end, but all proceedings pending at the time are quashed, except impeachments by the Commons, and appeals before the House of Lords. Every Bill is, therefore renewed after prorogation.

But in accordance with the provisions of the Constitution of India the procedure in the State Legislatures in India is somewhat different, an important difference being that in India, a Bill pending in the House at the time of prorogation does not lapse by reason of the Prorogation of the House or Houses. The effect of prorogation of the State Legislative Assembly has been examined in detail above.

According to the traditional Westminster practice, Parliament comprising the House of Commons and the House of Lords is dissolved, whereas in India only the Lower House is dissolved. The effect of dissolution of the British Parliament appears to be the same as prorogation, although May has not clearly mentioned the effect of dissolution in his 'Treatise'. However, when a Legislative Assembly of a State of India is dissolved, a Bill pending in the Legislative Council which has not been passed by the Legislative Assembly does not lapse and a Bill which is pending in the Legislative Assembly of a State or which having been passed by the Legislative Assembly is pending in the Legislative Council, lapses.

The above-mentioned difference in the effect of Prorogation and dissolution is mainly in regard to Bills and is due to the Provisions of the Constitution of India itself. As regards other minor differences of procedural nature, they have developed from time to time with the growth of the Parliamentary system in Uttar Pradesh.

West Bengal

The effects of prorogation and dissolution are as follows:—

(1) On the prorogation of the House, all pending notices, other than notices of intention to move for leave to introduce a Bill, shall lapse and fresh notices shall be given for the next session:

Provided that a fresh notice shall be necessary of intention to move for leave to introduce any Bill in respect of which sanction or recommendation of the Governor has been granted under the Constitution if such sanction or recommendation, as the case may be, has ceased to be operative.

(2) A motion, resolution or an amendment, which has been moved and is pending in the House, shall not lapse by reason only of the prorogation of the House.

(3) A Bill pending in the Legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof.

(4) A Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.

(5) A Bill which is pending in the Legislative Assembly of a State, or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly.

Bangladesh

Prorogation: The Bangladesh Parliament is unicameral. On the prorogation of the House all pending notices, other than notices of intention to move for leave to introduce a Bill, lapse and fresh notices are required for the next session: Bills which have been introduced are automatically carried over to the pending list of business of the next session. If the member-in-charge makes no motion in regard to the Bill during two consecutive sessions, the Bill lapses, unless the House, on a motion by the member-in-charge in the next session, grants special leave for the continuance of the Bill.

Any business pending before a Committee does not lapse by reason only of the prorogation of the House and the Committee continues to function notwithstanding such prorogation.

A Committee which is unable to complete its work before the expiration of its term or before the dissolution of the House may report to the House that the Committee has not been able to complete its work. Any preliminary report, memorandum or note that the Committee may have prepared or any evidence that the Committee may have taken is required to be made available to the new Committee.

Parliamentary privileges do not cease to apply on prorogation except that:—

(1) the privilege of exemption from liability to serve as an assessor or juror or to appear as witness, or to give evidence before a court, tribunal or other authority is available only for the period of the

duration of a session of parliament, or a meeting of the Committee of which he is a member and fourteen days before and fourteen days after the session or seven days before and seven days after the meeting of the committee as the case may be and

(2) the privilege of exemption from arrest or detention in prison under civil process is available only during the continuance of a meeting of Parliament or a Committee of which he is a member.

Dissolution: On the dissolution of Parliament, all pending business lapses and all parliamentary privileges cease to apply.

Malta

Parliamentary practice has always been that Dissolution and Prorogation bring to an end all business still pending before the House. All questions, motions, Bills and other proceedings before Parliament lapse. Any Select Committee, in consequence, need not report anything since the order setting it up would have lapsed. Under Standing Order 1—Interpretation—"session" means the sittings of the House commencing when the House first meets after being constituted under the Constitution, or after its prorogation or dissolution at any time, and terminating when the House is prorogued or is dissolved without having been prorogued. This Standing Order specifically ties the life of the House, the only one, to the sittings.

Standing Order 25 states that "no motion shall be proposed which is the same in substance as any motion which during the current session has been resolved in the affirmative or negative" and Standing Order 107 states that "when a Bill is ultimately passed, or has been rejected, no Bill of the same substance shall be introduced again during the current session". Thus Standing Orders 25 and 107 specify that on the commencement of a new session a new lease of life may be given to matters already treated in the past session, implying that the end of the session brings to an end all matters before Parliament.

On dissolution or prorogation of the House, privileges of Members cease. Section 3(1) of the House of Representatives (Privileges and Powers) Ordinance stipulates that "for the duration of the session Members of the House shall enjoy freedom from arrest for civil debt provided this be not fraudulent or otherwise in contravention of the Criminal Code". Any penalty inflicted by the House on persons guilty of breach of privilege is deemed to be terminated by the end of a session. Section 11(3) of the House of Representatives (Privileges and Powers) Ordinance states that "any imprisonment awarded by the House which has not been expiated, in whole or in part, on the last day of the session of the House during which it was awarded, shall be deemed to have been remitted by operation of this subsection, as from the day immediately following the last day of that session".

Zambia

In accordance with the National Assembly's Standing Orders dissolution means the end of a Parliament to be followed by a general election. This therefore means that all proceedings come to an end, all orders and Parliamentary privileges lapse and cease to apply. Committees cannot sit and no bills can be carried over. The practice is very similar to the traditional "Westminster". Prorogation, according to the Standing Orders means the end of a Session of Parliament and the system is the same as at Westminster.

Malawi

Bills do not survive prorogation. If they are not completed in a session, they must be presented again in the new session. Nor do Committees continue to sit. At dissolution all proceedings before the Parliament come to an end.

Sabah

All proceedings before the Assembly are terminated at prorogation or dissolution.

Singapore

By practice, all proceedings pending before Parliament come to an end on prorogation or dissolution. Committees of Parliament do not continue to sit, and Bills are not automatically carried over.

Fiji

On prorogation or dissolution, all business lapses. Bills before either House require to be presented again for first reading, unanswered questions and motions lapse, and committees cease. Committees resume after re-appointment, following proclamation of new session.

Seychelles

Prorogation merely brings a Session of the Legislative Assembly to an end until the Assembly is summoned again, while Dissolution brings the life of the Legislative Assembly to an end and if parliamentary business is to be done there must be a general election. In any event, the life of any Legislative Assembly may last for only five years after which time there must be a dissolution followed by a general election.

The practice in all matters consequent upon a prorogation or dissolution follows that of Westminster and there never has been any change. Rule 4 of the Legislative Assembly Rules of Procedure, 1971 (S.I. No. 25 of 1971) carries over the Westminster practice.

Cayman Islands

Standing Committees alone survive a prorogation but when the Assembly is dissolved all matters come to an end.

St. Lucia

With only one House, all proceedings of bills, sessional committees, etc. come to an end at the dissolution of the House of Assembly. This is in keeping with the St. Lucia Constitution Order 1967, Section 47—Prorogation and dissolution of the Legislature.

Botswana

On Dissolution or Prorogation, all proceedings pending before Parliament come to an end; Parliamentary privileges cease to apply and Committees cannot continue to sit. Bills that were not dealt with before dissolution must be presented afresh in the New Parliament. The practice of the Botswana National Assembly is not substantially different from the Westminster one.

Bermuda

The effect of prorogation is that all proceedings pending before Parliament, including bills, but excluding certain committees, come to an end and all Orders lapse. The effect, however, of the suspension of business on prorogation is minimal as in practice each House adjourns on a convenient date (usually towards the end of July or early August annually) on the completion of the business before it, to a date which is fixed in the knowledge that the Legislature will be prorogued a day or two before that to which it stands adjourned. The proclamations made annually proroguing the Legislature and also convening it for the new session (see sections 48 and 49 of the Constitution) are customarily gazetted on the same date, usually in the latter part of October and provide for an interval of only two or three days between prorogation and the commencement of the new session.

Prorogation is effected as late as possible which has the practical advantage that there is a very short recess and a comparatively long period during which the Legislature stands adjourned and during which Parliamentary committees can continue to sit.

The practice of proroguing the Legislature only a few days before convening it for a new session is a fairly recent innovation, having been in effect for some four years. In the session of 1970/71 the Legislature was prorogued on 23rd July, 1971 and convened for the new session of 1971/72 on 29th October.

On the interesting question whether committees may continue to function when the Legislature has been prorogued, there are numerous examples in Burmuda of various select committees and joint select committees being instructed by resolution of the Legislature to continue their investigations during a parliamentary recess and to report as soon as may be in the next session. Parliamentary privilege therefore does not cease to apply on prorogation in relation to proceedings of committees held on the express instructions of the Legislature.

Under section 45(1) of Bermuda's Constitution and subject to the

provisions of the Constitution, each House is empowered to make rules of procedure for the regulation and orderly conduct of its own proceedings and the despatch of business. The current Rules of both the House of Assembly and the Legislative Council provide for the appointment of a Joint Select Committee on Private Bills which "shall be a Standing Committee appointed for the life of Parliament". (A Parliament subsists for five years from the date of its first sitting after any general election unless sooner dissolved. S.49(2) of the Constitution). Moreover, the Rules of the House were amended in 1973 so as to provide for the Public Accounts Committee, formerly a Sessional Select Committee, to become a Standing Committee appointed for the duration of the life of Parliament. The purpose of this amendment was to enable the Public Accounts Committee to sit throughout the year, as in the case of the Joint Select Committee on Private Bills, whether the Legislature stood adjourned or prorogued.

Mention should also be made of Rule 51 of the Rules of the Legislative Council which reads as follows:—

"51. A Select Committee may continue its investigations and duties although the Legislature may not be in session and shall not be dissolved until the presentation to the Council of its Report, or by order of the Council". There is no corresponding Rule in the Rules of the House of Assembly.

By resolution of either House and by virtue of the provisions of the Rules referred to above various parliamentary committees are empowered to function during a Parliamentary recess and accordingly enjoy parliamentary privilege.

On prorogation bills are not automatically carried over but die and are required to be renewed when Parliament is convened following a prorogation as if introduced for the first time.

The "organic whole" concept that the two Houses live and die together applies in the case of Bermuda. Section 26 of the Constitution states "that there shall be a Legislature for Bermuda which shall consist of Her Majesty, a Legislative Council and a House of Assembly". Sections 48 and 49 of the Constitution, previously referred to, provide for the commencement of each session of the *Legislature* and for the prorogation or dissolution of the *Legislature*. There is no authority for proroguing or dissolving one House separately from the other or for prescribing different commencement dates for sessions of each House.

The effect of dissolution on the Parliament of Bermuda is that all proceedings die, including all bills and committees.

XVI. APPLICATIONS OF PRIVILEGE

At Westminster

House of Commons (Complaint of Reflections by a Member on the Conduct of Other Members).—On 29th April 1974 Sir Harmar Nicholls, the Member for Peterborough, complained that statements made by Mr. Ashton, Member for Bassetlaw in a BBC radio interview amounted to an allegation "that a number of MPs have for money surrendered their freedom of action as parliamentarians to outside bodies". After debate and on a division the matter was referred on 30th April to the Committee of Privileges.

The Committee considered the transcript of the interview and also an article written by Mr. Ashton in the *Labour Weekly* newspaper. Having examined these and other papers submitted by Mr. Ashton the Committee were of the opinion

(i) that, notwithstanding Mr. Ashton's contention that at no time did he wish to infer that Members were selling the freedom of their actions . . . there were passages in the relevant documents which appeared to consist of allegations that certain Members, however few, do hold themselves out as being willing to, and do in fact, sell for pecuniary or other reward the freedom of their Parliamentary activities.

(ii) that Mr. Ashton had not either substantiated or withdrawn such allegations; nor had he explained to the satisfaction of Your Committee his reasons for making them—

(*a*) about unidentified Members, and

(*b*) in newspaper articles and a radio interview that is to say, otherwise than in proceedings in Parliament".

The Committee then gave Mr. Ashton the opportunity of responding to the opinions held by the Committee and subsequently Mr. Ashton wrote a further memorandum to the Committee in which he stated that since he had previously written to the committee the House had agreed, on a free vote, to set up a Select Committee to consider the best method of implementing proposals for a compulsory register of Members' interests. He went on to say that since his sole intention had been to institute a compulsory register he thought that the campaign in which he had taken part had achieved some success. His memorandum continued:—

"It was never my intention to bring the House into disrepute, or to pillory or hound any individual Member, and although I consider that certain Members undertook obligations which should have been publicly known I do not feel that I can in all fairness say that they had formally forfeited their independence. Consequently I do not think it would now be helpful or in the best interests of Parliament, particularly now that a Select Committee on Members' Interests has been set up, to resurrect and submit such details on the topic of Members' interests as I may have recorded over the years.

On reflection, I regret that my remarks were made outside the House, since I now realise that they could be open to an interpretation that I was holding up the House to contempt.

I would therefore like to offer my sincere apologies to the Committee and the House for what transpired, and express regret if the Committee think that what I wrote or said constituted a contempt of Parliament."

The Committee noted that Mr. Ashton had not sought to substantiate his allegations. Their Report proceeded to say that they were of the firm opinion that the sort of conduct which Mr. Ashton had alleged would itself be a grave contempt of the House. While it was one thing for Members to be rewarded for advising outside bodies it was quite another for there to be any condition that in return they would act in such a way as to remove their parliamentary independence. The Committee considered that to allege that Members had acted in such a way was a most "serious allegation, and that a Member ought not to make such an allegation about his fellow Members otherwise than in the course of proceedings in Parliament and for the purpose of drawing the attention of the House to those Members' conduct". The Committee had "accordingly reached the conclusion that Mr. Ashton's conduct in making such allegations in newspaper articles and in a radio interview and in making them about unidentified Members was conduct likely to bring the House and its Members into disrepute and accordingly constituted a serious contempt".

The Committee's report concluded by saying

"It is the custom of the House to be generous when an apology is tendered to it. Your Committee have considered whether, in all the circumstances of this case, they could recommend that Mr. Ashton's apology should be accepted. They have reached the conclusion that the House in this case can accept Mr. Ashton's apology, but they consider the nature of the offence requires that the House should lend its authority to their finding of a serious contempt."

The Committee then recommended that the House should endorse their conclusions by means of a Resolution agreeing with the Committee in their Report.

The Committee's report although presented to the House on 2nd July did not appear (because of an industrial dispute affecting printing) until after Parliament had been dissolved in September. The House has taken no action on the Report. Nevertheless there has been progress in relation to the declaration of Members' interests (see p. 30 of this Journal).

House of Commons (Complaint about a passage in a newspaper).—On 3rd March 1975 Mrs. Gwyneth Dunwoody, the Member for Crewe, complained of a passage in the *Travel Trade Gazette* newspaper which she alleged constituted a *prima facie* breach of privilege.

The matter was referred without debate to the Committee of Privileges on the following day. The Committee reported, on 8th April, that they had found that the passage complained of repeated, and sought to

support, allegations that a Member's conduct was influenced by improper and undisclosed motives. In the Committee's view the publication of such matter constituted a serious contempt of the House, not only by reflecting on the House, but by tending to undermine freedom of speech in Parliament. The Committee informed the editor of the newspaper of their finding and received from him "a letter containing an unqualified expression of regret and an apology and an undertaking to take steps to avoid a repetition of such an offence". In these circumstances the Committee recommended that the House should not take any further action in the matter and no further action has been taken.

Industrial dispute affecting the work of Parliament.—On 12th March 1975 Mr. Speaker ruled on a complaint of breach of privilege raised by Mr. Patrick Cormack, the Member for Staffordshire, South-West—

"namely, the action of certain public servants and those inciting them to frustrate the work of Parliament."

Mr. Cormack had been referring to one of a number of instances in recent years in which industrial disputes have affected the work of Parliament. Electricity power cuts, postal strikes and printing disputes have in various ways interfered with the normal working of both Houses.

The instance of which Mr. Cormack complained was not however a strike by the staff of Parliament, but by maintenance workers employed in the Department of the Environment and placed at the disposal of Parliament by the Government. It was an unofficial strike (not supported by the official trade union) which had arisen over a pay claim. The maintenance workers look after such matters as heating, the maintenance and operation of lifts and the clearance of refuse; but because the strike was unofficial not all such work was interrupted.

More serious was the reluctance of other workers engaged in delivering essential supplies to the House to cross the picket line set up by the strikers at the various entrances to the precincts of Parliament. While the staff of Parliament, without exception, continued to work as usual and the printers of Her Majesty's Stationery Office continued to print all official papers, H.M.S.O.'s delivery men refused to drive their vans across the picket lines. As a result the House did not receive the usual quantity of its working papers but it was nevertheless able to carry on with all the intended business.

It was the threat that mail might not be delivered to the Palace of Westminster which led to the strike being raised as a matter of privilege. The ruling given by the Speaker is worth setting out in full, not only in the context of the strike, but also as illustrating the way in which the present Speaker considers matters of privilege. The ruling is as follows:

"My duty is to decide whether in my judgement the facts alleged fall sufficiently

clearly within an area in which a breach of privilege or a contempt of the House has been found by the House on a previous occasion to have been committed, or whether they fall sufficiently clearly within an area in which a possible breach of privilege or contempt should be considered, so that I should allow a motion relating to the complaint to have precedence.

As the House knows, I dislike the term "prima facie case", because I think that that implies a judgment on the merits of the case.

If I decide in the negative, that is not necessarily the end of the matter. The House could come to a decision on the point on a motion moved subsequently after notice.

In the present instance I know of no precedent for the House having reached a decision upon, or indeed even having formally considered, a similar case.

There has also been of recent years a reluctance to extend the limits of contempt.

Accordingly, although important issues are involved affecting the efficiency and convenience of the House, which need careful consideration at some stage, and perhaps not only by the House, I have come to the conclusion that I should not allow a motion relating to the Hon. Member's complaint to have precedence over the Orders of the Day."

The House did not elect to debate the matter, and the strike itself ended after two weeks. The implications of the strike for the future have not, however, escaped notice.

Northern Ireland

Complaint of letter written by a Minister in the United Kingdom Government.—One of the more remarkable aspects of the first complaint of breach of privilege to be brought up on the floor of the Northern Ireland Assembly, was the way in which an apparent threat to the Privileges conferred on the Assembly by the Northern Ireland Constitution Act 1973 succeeded in uniting Members who otherwise remained sternly opposed to one another. The complaint arose as follows.

On 28th November 1973 Rev. W. Beattie, the Democratic Unionist Member for South Antrim brought to the attention of the Assembly an extract from a letter sent to him by Mr. William van Straubenzee Minister of State in the Northern Ireland Office, which he claimed' constituted a breach of privilege. The relevant passage read—

"I must also make it clear that I am myself only prepared to see you if the Motion on the Assembly Order Paper is first removed".

At that time a Motion stood on the Assembly Order Paper in the name of Mr. Beattie and other Members, deploring "the failure of the Minister of State in charge of Home Affairs at the Northern Ireland Office (Mr. van Straubenzee) to meet urgently Members of the Assembly in order to discuss instances of brutality against the citizens of East Belfast".

Mr. Speaker ruled as follows:

"I thank the Hon. Member for notifying me that he intended to raise this allegation of breach of privilege. I am satisfied that the matter has been raised at the first available opportunity. In my opinion the passage complained of constitutes a prima facie breach of privilege".

Mr. Beattie moved that the matter be referred to the Committee of Privileges and after debate this was agreed to by the Assembly.

The Committee held five meetings and heard oral evidence from the Clerk of the Assembly who also submitted a memorandum on the law of Parliament and such precedents as were available, particular attention being drawn to the following passage in the Report of the Committee of Privileges of Session 1946–47 (HC 118), which was approved by the House of Commons at Westminster on 15th July 1947 (W. J. Brown case).

> "It is a breach of privilege to take or threaten action which is not merely calculated to affect the Members' course of action in Parliament, but is of a kind against which it is absolutely necessary that Members should be protected if they are to discharge their duties as such independently and without fear of punishment or hope of reward."

Section 26(1) of the Northern Ireland Constitution Act 1973 states that "The powers, privileges and immunities of the Assembly and of the members and committees thereof shall be the same as those for the time being held and enjoyed by the House of Commons and its members and committees . . ." If there was a single consistent theme running through the Committee's approach to its first task, it was a desire to ensure that this provision should operate and be seen to operate and in the situation in which it found itself, the Committee could not refrain from asking how Mr. van Straubenzee would have behaved towards the Committee of Privileges at Westminster had he found himself in a similar predicament there. It drew an unfavourable comparison between his conduct as a Minister of State for Northern Ireland charged with ensuring the successful working of the new Constitution and that, for instance, of Mr. James Callaghan when Chancellor of the Exchequer (HC 269 1964–65).

Leaving aside these considerations, however, it was the duty of the Committee to decide whether the sending of the letter to Mr. Beattie was an attempt by Mr. van Straubenzee by improper means to influence Mr. Beattie's conduct in the Assembly. In both his letter to Mr. Speaker and in that submitted to the Committee by his Private Secretary, Mr. van Straubenzee accepted full responsibility for the wording of the letter to Mr. Beattie and asserted that it was not his intention to make any threat and that his object was to propose what he regarded as a normal course of action for meeting Ministers while the Motion remained on the Order Paper. On the other hand it was argued that the wording of the letter might be interpreted as an attempt to force Mr. Beattie to remove his Motion and prevent debate.

Mr. van Straubenzee was given every opportunity to express his regret and to apologise for his conduct. He declined an invitation to give oral evidence stating in the letter signed by his Private Secretary already referred to that he had nothing to add to the letter to Mr. Speaker in which he said that there was and is no intention on his part to infringe the privileges of the Assembly or its Members.

The Committee, on careful consideration of the passage in the letter to

Mr. Beattie and having regard to the authorities drawn to their attention by the Clerk to the Assembly, found that irrespective of intent the words used by Mr. van Straubenzee constituted a contempt of the Assembly and a breach of its privileges. Members of the Committee then proceeded to canvas the possible course of action to recommend. Before doing so, it was decided to hear the Minister and a Summons was issued and duly acknowledged personally in writing.

Mr. van Straubenzee did not appear at the meeting on 2nd January to which he had been summoned but instead, in a letter to the Chairman of the Committee dated 31st December he stated:

"Your letter raises important issues bearing on the relationship between Ministers of the United Kingdom Government and the Assembly on which I feel it right that I should obtain advice.

You will, I am sure, appreciate that it has not been possible for me to do this between the date on which I received your letter and 2nd January".

The Committee upon receipt of this letter resolved as follows:

"That the Committee, noting that the Minister of State for Northern Ireland Mr. William van Straubenzee did not appear today in response to their summons issued on 28th December adjourn their sitting to 10th January without prejudice;

That the Committee direct the Clerk to write to Mr. William van Straubenzee enclosing a copy of their Resolution and informing him that the sitting to which he had been summoned has been adjourned to 11.30 a.m. on Thursday 10th January 1974 on which date the Committee will complete their Report."

However in view of the recall of Parliament for a two day debate on 9th and 10th January, the Clerk to the Committee in consultation with the Chairman telephoned the Private Secretary to the Minister on 7th January to inform him that the Committee would appreciate the paramount right of the House of Commons to the attendance and service of its Members and that consequently no conflict of any kind should arise. The Committee had no reply or acknowledgement to either of these communications.

The Committee reported these matters to the Assembly on 22nd January 1974. It thought it right to say that while in some respects the dignity of the Assembly would be vindicated and safeguarded by taking no further notice of the offence, it felt that it would be failing in due regard for the privileges of the Assembly if it were not to mark with astonishment and dismay the unambiguous terms in which Mr. van Straubenzee addressed Mr. Beattie. It recommended to the Assembly that Mr. van Straubenzee be reprimanded for his contempt and for his subsequent failure to offer an apology of any kind. To underline their displeasure at what they regarded as the high handed and unco-operative attitude adopted by Mr. van Straubenzee, three Members, Dr. Paisley MP, Mr. Baird and the Chairman Mr. Kilfedder MP, shortly afterwards resigned from the Committee of Privileges.

On 14th February 1974 the Assembly accepted the following Motion:

That this Assembly accepts the finding of the Committee of Privileges in their First Report that Mr. William van Straubenzee, in writing to the Rev. William Beattie, a Member of the Assembly, in the terms complained of, was in breach of the privileges of the Assembly; expresses regret that no apology for this breach has been offered; places its displeasure on record; but resolves that the dignity of the Assembly would best be served by taking no further action in the matter.

In the course of his speech moving the Motion, Mr. Napier, an Alliance Member of the Executive, said:

"I cannot feel that it would be in the interests of the Assembly for it to appear to be precipitating an undignified confrontation with a Minister of the United Kingdom Government, particularly when members of that Government are going through a period of considerable stress.

Having thought very carefully about this matter, I am convinced that the proper and dignified course for this Assembly and the one which will reflect most credit upon it is to dispose of the matter in the gracious and magnanimous way proposed in the motion."

The Northern Ireland Assembly was thus left with something of a conundrum. What did Mr. van Straubenzee mean by "important issues bearing on the relationship between Ministers of the United Kingdom Government and the Assembly on which I feel it right that I should obtain advice". For those concerned with Devolution within the United Kingdom it is a riddle that may one day have to be solved.

Australia: House of Representatives

Letter fraudulently written in the name of a Member published in a newspaper.—On 6th December 1973 Mr. Mathews (Member for Casey) raised in the House of Representatives a matter of privilege based upon a letter fraudulently written in his name to the editor of *The Sun News—Pictorial* which was referred to in an article in that newspaper of Thursday, 6th December 1973.

In summary Mr. Mathews justified the raising of the matter in four ways. Firstly he pointed out "the misuse of the stationery of this House", secondly he referred to "the forgery of the signature of a Member of this House to a letter for publication", thirdly he instanced "the misrepresentation of the views of a Member" and fourthly he referred to "the misrepresentation of the legal position in the matter of the prices question", a proposal for a referendum. The House resolved that the matter be referred to the Committee of Privileges, and following prorogation of the Session before the Committee had completed its inquiries, again referred the matter to the Committee on 7th March 1974.

In its report tabled on 4th April 1974 the Committee commended the editorial staff of the newspaper for checking the authenticity of the letter prior to publication which was then made in such a way as to publicise the fact that the letter was a forgery. It added that a similar letter which had been received by another newspaper had been published also in a manner indicating it was a forgery.

The Committee reported that it had arranged for both letters which appeared to have been typed on the same typewriter and signed with Mr. Mathews' name by the same person, to be examined by the Commissioner, Commonwealth Police Force who provided certain information as to the most probable make, model and year of manufacture of the typewriter involved. The Committee stated, however, that it did not feel it was its function to authorise the Commissioner to undertake a full criminal investigation directed towards locating the typewriter involved or identifying the author of the letters.

The Committee stated that a Member in carrying out the functions and duties of his office is entitled to be free from deliberate and fraudulent misrepresentation. Should misrepresentation occur, as in the case of Mr. Mathews, he is entitled to the protection of the House.

On 9th April 1974 the House of Representatives agreed with the Committee in its findings which were as follows:—

(a) that the letter dated 2 December 1973 written to the editor, *The Sun News—Pictorial*, in the name of the Honourable Member for Casey was a forgery and as such would appear to constitute a criminal offence under the provisions of the *Crimes Act* 1914–1973;
(b) that the letter wilfully and fraudulently mis-represented the attitude of Mr. Mathews, which he had demonstrated clearly in the House of Representatives, in relation to the Prices and Incomes referendum proposals;
(c) that the unknown writer of the letter, in having forged Mr. Mathews' signature and having wilfully and fraudulently misrepresented the attitude demonstrated by him in the House of Representatives, was guilty of serious contempt of the House of Representatives.

TASMANIA

Release of Select Committee Papers.—In a report to the House of Assembly, the Select Committee on the Meat Industry said that "Your Committee will refer to the Trade Practices Commission the evidence dealing with the operations of the Richardson's Meat Industries Group".

Subsequently an opposition member moved the following motion:

(1) That the report of the Select Committee on the Tasmanian Meat Industry be referred to the Committee of Privileges for enquiry and report as to whether the stated intention of the Committee on page 109, that it would refer certain evidence to the Trade Practices Commission, and subsequent action taken by the Chairman of the Committee, constitute a breach or breaches of Parliamentary Privilege.
(2) That the release of the draft report to the news media, whether under embargo or not, before its final approval by the Committee and before it was tabled in the House be also submitted to the Committee of Privileges for a report as to whether it constitutes a breach of Standing Orders and Parliamentary Privilege.

In the course of debate it was conceded that the Chairman of the Committee, a Government Member, released on embargo a copy of the draft report to a journalist prior to its final approval by the Committee, and that, acting as a private member, he had forwarded some of the

evidence to the Trade Practices Commission following the presentation of the report and evidence to the House.

The Motion was amended by the Government to read "That the Question of whether the Standing Orders should be amended to provide for the restricted release of Parliamentary Reports under certain circumstances, be referred to the Standing Orders Committee".

This amendment was challenged by the Leader of the Opposition on a point of order on the basis that it was not relevant to the Question, since it proposed enquiry into general procedure rather than the specific matter which formed the subject of the Motion.

The Motion passed in the amended form following a ruling by Mr. Speaker, who relied on pages 379 and 380 of Erskine May's Parliamentary Practice (18th edition), that the point of order should not be upheld.

India: Rajya Sabha

Alleged disparaging remarks about Parliament.—On May 9th, 1974 a Member of the Rajya Sabha gave notice seeking the consent of the Chairman to raise a question involving breach of privilege and contempt of the House against one Shri Jagjit Singh, President, New Friends Co-operative House Building Society Limited, Delhi, for making certain disparaging remarks about Parliament in a letter dated May 7th, 1974, alleged to have been written by him to the Lt. Governor of Delhi. The member also submitted on May 10th, 1974, a photostat copy of the impugned letter and sought leave of the House to raise a question of breach of privilege. The member's contention was that the language used in the letter and more particularly the following two sentences written therein amounted to breach of privilege and contempt of the House:—

"I have assessed the situation and feel it will not be possible for me and Committee to stand the opposition in view of the Court's attitude *and its further exploitation in Parliament* . . .

Since you are busy due to riots in the City, I will give the notice in Newspapers only when I get green signal. *It is good that Parliament closes on or before* 13.5.1974."

On a motion adopted by the House on the 10th May, 1974 the matter was referred to the Committee of Privileges for examination, investigation and report.

Before the Committee Shri Jagjit Singh denied having written any such letter on the subject to the Lt. Governor and stated that the photostat copy of the impugned letter was a fake document. The Lt. Governor of Delhi in a letter also denied that any such letter had been received either by him or by his Secretariat.

The member was told by the Committee that both Shri Jagjit Singh and the Lt. Governor of Delhi had denied having written or received such a letter and was asked what he had to say about the genuineness of the impugned letter.

The member appeared before the Committee and contended that he was satisfied about the genuineness of the impugned letter and the signature of Shri Jagjit Singh thereon. He added that the said letter had been removed from the file in the office of the Lt. Governor. He further stated that he had not seen the original letter and had no knowledge about its whereabouts. The Committee suggested to the Member that he should bring forward the person who gave the photostat copy of the letter to him, but he pleaded his inability to do so.

The Committee after deliberation felt that since the member had neither seen the original letter nor had any knowledge of its present whereabouts, and also because of his inability to produce before the Committee the person who had given him the photostat copy of the impugned letter or to give any help to the Committee, a stage had been reached where it was not possible to lay hands on the original letter even if it existed. The Committee then made the following observation:—

"After giving its careful consideration to the matter the Committee did not feel satisfied about the genuineness of the photostat copy of the alleged letter of Shri Jagjit Singh. In view of this, the Committee did not like to examine on merits the question as to whether or not the contents of the alleged letter constituted a breach of privilege or contempt of the House.

The Committee, however, felt that any member who would desire to raise a question of breach of privilege in the House on the basis of any document, should be circumspect and should satisfy himself about its genuineness beforehand."

In the view taken by the Committee and in the circumstances of the case the Committee recommended that no further action be taken by the House in the matter and it might be dropped.

The report of the Committee was presented to the House on 18th February, 1975.

India: Lok Sabha

Carrying of a dagger by a visitor and assault on an official of the House.—On the 26th July, 1974, the Speaker informed the House that a visitor calling himself Bipalab Basu had attempted to enter the Visitors' Gallery of Lok Sabha after getting his pass checked at the checking post. The Senior Watch and Ward Assistant of the Lok Sabha Secretariat who had been on duty near the Visitors' Gallery gate had found a spring dagger hidden on his person. Bipalab Basu had severely kicked the Senior Watch and Ward Assistant who was rendered almost semi-conscious. The Speaker reported that Bipalab Basu had been taken into custody immediately. He then invited the House to take such action as it thought fit.

The Minister of Parliamentary Affairs (Shri K. Raghuranaiah), thereupon moved the following motion which was adopted by the House:—

"That this House resolves that the person calling himself Bipalab Basu who at 11.05 hours today attempted to enter the Visitors' Gallery of Lok Sabha with a dagger hidden

on his person and who assaulted a Senior Watch and Ward Assistant of Lok Sabha Secretariat, who was on duty near the Visitor's Gallery gate by giving him a severe kick and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that without prejudice to any other action to which he may be liable under the law, Bipalab Basu be sentenced to rigorous imprisonment till 6 p.m. on Monday, the 26th August, 1974, for the aforesaid contempt of the House and sent to Central Jail, Tihar, New Delhi."

In pursuance of this decision of the House, the Speaker issued a warrant of commitment addressed to the Superintendent, Central Jail, Tihar, New Delhi, and Shri Bipalab Basu was accordingly taken by the Watch and Ward Staff to, and lodged in the Central Jail, to serve out his sentence of imprisonment.

On the same day, i.e., the 26th July, 1974, the Watch and Ward Officer of Lok Sabha, with the permission of the Speaker, lodged with the Officer-in-Charge of the Police Station, Parliament, New Delhi, a written report against the said Bipalab Basu for taking necessary action under the law in respect of the criminal offences committed by him.

Alleged intimidation of a member by his Party Leader.—On 8th August, 1974, Shri Jyotirmoy Bosu, a member, sought to raise a question of privilege against the Prime Minister (Shrimati Indira Gandhi) for allegedly reprimanding a member of the House (Shri S. N. Misra) for suggesting that Shri Fakharudin Ali Ahmed, the Congress candidate in the Presidential Election should declare his assets.

The Speaker (Dr. G. S. Dhillon) disallowed the question of privilege and ruled *inter alia* as follows:—

"What is said in the party meeting cannot be brought in here . . . I do not think it is a privilege matter. It is a matter within their party . . . Every party has a right to give directions to its members. This has come up in the House on a number of times. I have taken the same view."

When some members stated that the members should not be subjected to certain regulations by any outside authority, in respect of the performance of their functions in the House, the Speaker observed *inter alia*:—

"If somebody thinks that his Party Leader is obstructing him, he can come to me . . . I have not thought it proper to intervene in a matter between the Party and the Leader. I basically recognise the working of a party system. It is the right of the Leader to keep discipline and to issue directions."

MAHARASHTRA

Editorial criticising the action of Assembly in having passed a resolution committing an editor of a weekly to Prison.—On 16th November 1973, the Maharashtra Legislative Assembly, by a resolution passed by it, committed the Editor of "Prashasti" (a Marathi

weekly), to imprisonment for a period of 30 days as he was held guilty of breach of privilege and contempt of the Assembly. On 18th November 1973, there appeared in "Lokmat" a Marathi daily of Nagpur an editorial captioned "Misconduct of the Maharashtra Legislative Assembly" which contained some comments on the manner in which the decision to imprison the said editor was taken by the Assembly. On 22nd November 1973, a member raised a question of breach of privilege arising out of the publication of the editorial referred to above with the consent of the Speaker. The matter was referred to the Committee on Privileges by the Speaker after the House granted the leave and while doing so, the Speaker informed the House that the Chief Editor of the "Lokmat" was a member of the Maharashtra Legislative Council and that the matter would have to be referred to the Chairman of the Legislative Council so far as that member was concerned, in accordance with the resolution passed by both Houses in laying down the procedure to be followed in such cases.

The said resolution provided *inter alia* that when a member of one House was involved in a case of alleged breach of privilege of the other House the matter would be referred by the Presiding Officer of the complaining House to the Presiding Officer of the other House to which the contemnor member belonged and that Presiding Officer shall deal with the matter in the same way as if it were a case of breach of privilege of that House and communicate to the Presiding Officer who made the reference, a report about the enquiry and the action taken on the reference received.

Pursuant to the above resolution and on receiving a reference from the Assembly the Chairman, Maharashtra Legislative Council referred the matter to the Privileges Committee of his House so far as the said case related to the Chief Editor of Lokmat, who happened to be an M.L.C.

The Presiding Officers of the respective Houses directed that both Privileges Committees might sit together and examine the issues and the witnesses who might appear before them as they would have to traverse the same grounds in regard to the common issues of facts and law involved in the case, except that the Committees might submit separate reports to the respective Houses. Accordingly both the Committees submitted their reports to their Houses on 13th August 1974.

The Assembly Privileges Committee in its report held that a breach of privilege and contempt of the House was committed by the Editor and the Printer and Publisher of the said daily and recommended that he might be called before the Assembly and be admonished. As regards the Printer and Publisher, the Committee recommended that no action be taken against him. On 20th December 1974 the Chief Minister moved a motion for adopting the said report. The motion was passed with an amendment with the result that the House held the Editor guilty of breach of privilege and contempt of the House for the said editorial and disapproved of his conduct and expressed its displeasure

for the said publication and recommended that no action be taken against the printer and publisher.

The Council Privileges Committee in its report held that a breach of privilege and contempt of the House was committed by the Chief Editor and recommended that the displeasure of the Council be conveyed to him and he may be admonished before the House. The report is yet to be considered by the Council.

Editorial attributing motive and partiality to the Presiding Officer and criticising the proceedings of the Assembly and its Members in passing of the Appropriation Bill in alleged disregard to the Opposition.—An editorial under the heading "Speaker's Mace—A Zero" criticising the proceedings of the Assembly as well as the Members and the Presiding Officer of the Assembly appeared in 'Jasood' a Marathi Monthly of Bombay in its special number of May 1974. On being asked to explain, the Editor, Printer and Publisher stated that the editorial purported to emphasise the utter disregard of democratic values by the members of the ruling party in denying full opportunities of expression to the Opposition members as was evident at the time of passing of the Appropriation Bill on 29th March 1974. The editor tried to justify the editorial in question as a fair criticism and comment on the ruling Government's anti-people methods and maintained that it did not constitute any breach of privilege or contempt of the House as alleged. On due consideration of this explanation, the Speaker referred the matter to the Committee of Privileges for investigation and report *suo-motu.*

The Committee presented its report to the House on 25th February 1975. The report is yet to be considered by the House.

Shouting slogans and throwing of leaflets in the House.—On 17th December 1974 two visitors from the Visitors Gallery shouted slogans and threw leaflets in the House and thus committed contempt of the House. They were immediately apprehended by the Marshall and kept in custody.

Later in the day, on a motion by the Minister for Legislative Affairs, the House passed unanimously a resolution committing the said visitors to prison till the prorogation of the then session of the Legislative Assembly which ended on 20th December 1974.

BERMUDA

Reflections on Members and occupants of Chair.—A breach of Parliamentary privilege was committed in May, 1974, when a Member of the House of Assembly gave an interview to a local newspaper during the course of which he reflected on the conduct of Members of the House and of the occupants of the Chair in the House and in the Committee

of the whole House. A report of the interview was published by the newspaper concerned on 18th May, 1974.

On 7th June the House referred the matter to the Rules and Privileges Committee for consideration and report. On 14th June the Committee reported to the House their conclusion that both the Member in making the observations complained of and the Editor of the newspaper concerned in publishing them had committed a technical breach of privilege.

The Committee accepted that no disrespect to the institution of Parliament had been intended and had been assured by the Member and the Editor concerned that if the House concurred in the Committee's findings that a technical breach of privilege had been committed, the Member and the Editor would withdraw the reflections made on Members of the House. The Committee recommended that in this event no further action be taken in the matter.

The course recommended by the Committee was accepted by the House, which adopted the Committee's report on 21st June. On that same date notice of the following motion was given by a Member of the House:—

"That the position of the House with respect to its privileges be referred to the Rules and Privileges Committee under Rule 49(6) (b) for examination, consideration and report in this or the next session".

The said motion was agreed to on 28th June.

XVII. MISCELLANEOUS NOTES

1. Constitutional

Australia (Constitution Alteration Bills).—In the past two years the Australian Parliament has dealt with a number of proposals to alter the Constitution. Their history is of interest.

The Constitution Alteration (Prices) Bill 1973 and the Constitution Alteration (Incomes) Bill 1973 were introduced as companion measures during 1973 with the object of giving the Australian Parliament control over prices and incomes. Each secured the required absolute majority in the House of Representatives and the Senate and was submitted to referendum in all States on 8th December 1973. Neither secured a majority in any State and both were defeated.

The Constitution Alteration (Simultaneous Elections) Bill 1974 proposed an amendment of the Constitution to provide for elections of one-half of the Senate to be held at the same time as each House of Representatives election. Senators ordinarily are elected for a six year term while the life of a House of Representatives may extend for a maximum period of three years. For some years prior to 1974 the elections for each House had not been held simultaneously.

The Bill secured the absolute majority required in the House but was referred by the Senate to its Standing Committee on Constitutional and Legal Affairs.

The Constitution Alteration (Democratic Elections) Bill sought to establish within each State electorates in which the number of people would be, as nearly as practicable, the same. It contained also a provision for State Houses of Parliament to be elected directly by the people to ensure uniformity of practice in each State, a provision for the repeal of Section 25 of the Constitution which provides that if persons are disqualified by State law from voting at elections for the more numerous House of that State they shall not be counted when taking population of that State into consideration for the Constitution of the House of Representatives, and finally a provision for cases to be brought before the High Court in matters arising in electoral provisions of State or Australian law. Having passed the House of Representatives by an absolute majority, the Bill was defeated in the Senate.

The Constitution Alteration (Local Government Bodies) Bill sought by way of amendment to the Constitution to enable the Commonwealth to make funds available directly to local government both by way of grants and by loans at lower interest rates. This Bill was defeated also by the Senate after having passed the House of Representatives with an absolute majority.

The Constitution Alteration (Mode of altering the Constitution) Bill

sought an amendment of Section 128 of the Constitution which stipulates the manner in which the Constitution itself can be altered, and another associated amendment. The Bill passed the House of Representatives by an absolute majority, but was amended by the Senate in a way which was not acceptable to the House of Representatives and the Bill was ordered to be laid aside. After a period exceeding three months all four Bills were again passed by the House of Representatives but the Senate again failed to pass them. At this point, the Prime Minister (The Hon. E. G. Whitlam, Q.C., M.P.) advised the Governor-General that the conditions of Section 128 of the Constitution had been met and recommended that the Governor-General should submit the proposals to the electors. The relevant part of Section 128 provides that if either House passes a proposed law to alter the Constitution by an absolute majority and the other House rejects or fails to pass it (or passes it with amendments to which the first House will not agree) and if after an interval of three months the first House again passes the proposal and the second House again rejects or fails to pass it (or unacceptably amends it), the Governor-General may submit the proposal to referendum. (Section 128 is quoted in full at pages 134–5 of Vol. XLII (1974) of THE TABLE). The Governor-General accepted the Prime Minister's advice and the referenda were submitted on 18th May 1974, simultaneously with elections for the House of Representatives and the Senate necessitated by a double dissolution. All four proposals were approved by a majority of voters in New South Wales, but failed to be so in any other State and were defeated.

(*Contributed by the Clerk of the House of Representatives*).

Northwest Territories (Constitutional changes).—The Northwest Territories Act of Canada which is, in effect the constitution of the Northwest Territories, was amended by Parliament in the spring of 1974. The most important changes included:

(*a*) The elimination of Members appointed by the Governor-in-Council.

(*b*) The increase in the number of elected Members from ten to fifteen.

(*c*) The addition of provision for the election by Council from its own Members of a Speaker to preside over Council Sessions in place of the Commissioner (appointed by the Governor-in-Council) who formerly presided.

India (Procedure for resignation of a Member of Parliament.—Articles 101(3) (b) and 190(3) (b) of the Constitution of India permit a member of either House of Parliament or a member of a House of the Legislature of a State to resign his seat by writing under his hand addressed to the Presiding Officer of the House of which he is a member. These provisions were interpreted to mean that as soon as a member tenders his written resignation to the Presiding Officer he ceases to be a member forthwith. Recently some cases were reported where coercive measures

were resorted to, for compelling members of a Legislative Assembly to resign their membership. To curb this unhealthy development the above two articles were amended by the Constitution (Thirty-third Amendment) Act, 1974 by imposing a requirement as to acceptance of the resignation by the Presiding Officer and also providing that the resignation should not be accepted by the Presiding Officer if he is satisfied after making such inquiry as he thought fit that the resignation was not voluntary or genuine.

(*Contributed by the Secretary-General of the Rajya Sabha*).

India (Association with Sikkim).—In pursuance of the historic agreement of the 8th May, 1973, between the Chogyal of Sikkim, the leaders of the political parties representing the people of Sikkim and the Government of India and of the unanimous desire of the members of the Sikkim Assembly expressed in the meetings of the Assembly held on the 11th May, 1974, for the progressive realisation of a fully responsible Government in Sikkim and for furthering its close relationship with India, the Sikkim Assembly considered and passed the Government of Sikkim Bill, 1974 unanimously. The Chogyal promulgated this Bill on the 4th July, 1974 as the Government of Sikkim Act, 1974, for the speedy development of Sikkim in the social, economic and political fields. Section 30 of the Government of Sikkim Act, 1974 empowers the Government of Sikkim, *inter alia* to seek participation and representation for the people of Sikkim in the political institutions of India. On the 28th June, 1974, after passing the Government of Sikkim Bill, the Sikkim Assembly resolved unanimously that measures should be taken, amongst other things, for seeking representation for the people of Sikkim in India's parliamentary system.

After the promulgation of the Government of Sikkim Act, the Chief Minister of Sikkim made formal requests to the Government of India through the Chief Executive requesting the Government of India to take such steps as may be legally or constitutionally necessary to give effect to the Government of Sikkim Act, 1974 and the resolution passed by the Assembly and particularly for providing for representation for the people of Sikkim in Parliament.

With a view to giving effect to the wishes of the people of Sikkim for strengthening Indo-Sikkim co-operation and inter-relationship, the Constitution (Thirty-fifth Amendment) Act, 1974 was passed which amends the Constitution of India to provide for the terms and conditions of association of Sikkim with the Union. The terms and conditions are set out in the Tenth Schedule added to the Constitution by section 5 of the Act. Apart from referring to the responsibilities of the Government of India and the powers of the President in this regard, the Schedule provides for allotment to Sikkim of one seat in the Rajya Sabha and one seat in the Lok Sabha and for the election of the representatives of Sikkim in the two Houses of Parliament by the members of the Sikkim

Assembly.

Since the provisions of the Act affected *inter alia* representation in Parliament, the Act was ratified, under the proviso to Clause (2) of article 368 of the Constitution by the Legislatures of not less than one-half of the States before it was presented to the President for his assent.

(*Contributed by the Secretary-General of the Rajya Sabha*).

Malawi (Amendments to the Constitution).—The Constitution was amended to provide for such number of Deputy Speakers as may be appointed by the President or as may be elected by the Assembly. The amendment also repealed and replaced the provisions of the Constitution relating to the establishment and composition of the Police Service Commission.

Malta (Constitutional Reform).—By Section 2 of the Constitution of Malta (Amendment) (No. 2) Act, 1974 (Act LVIII/74) Malta became a Republic. As a result of this the Parliament of Malta now consists of the President and a House of Representatives, instead of Her Majesty and a House of Representatives. The House of Representatives had consisted of fifty-five Members elected from ten divisions. Thirty Members were elected in equal proportions from the second, third, seventh, eight and ninth electoral divisions, whilst twenty-five Members were elected in equal proportions from the first, fourth, fifth, sixth and tenth electoral divisions. This was amended in such a way that the House of Representatives should consist of an odd number of Members, which number should be divisible by the number of electoral divisions. These Members were to be elected in equal proportions from a number of electoral divisions, which number had to be odd and not less than nine and not more than fifteen. Each division had to return a number of Members, which number had to be not less than five and not more than seven. (Sections 53(1) and 57(1) of the Constitution and Sections 20 and 22 of Act LVIII/74). The provision, that any person outside the House of Representatives could be elected Speaker and by virtue thereof become an additional Member of the House, was retained. But a proviso has now been added prohibiting such Speaker the right to vote in support of a Bill amending the Constitution. (Section 53(2) of the Constitution and Section 20 of Act).

The principle that the election of Members of the House should be free of corrupt practices was introduced in the Constitution, and provisions were made to uphold it. It became the duty of the Electoral Commission to suspend the election, either wholly or in part, if it had reasonable ground to believe that corrupt practices or other offences connected with the elections prevailed extensively so as to affect the result of the election, and to refer forthwith the matter to the Constitutional Court for its decision. Any person entitled to vote could on these grounds refer the matter to the Constitutional Court up to three days after the publication of the official result of the election. The Con-

stitutional Court was empowered to annul the election, either wholly or in part, and to ensure that free elections be held at the earliest possible opportunity. The election result would be complete only when election is validly held in all electoral divisions. (Section 57(2), (3), (4), (5), (6), (7) and (8) of the Constitution and Section 22 of Act). The qualifying age for registration as voters for election of Members of the House was lowered from twenty-one to eighteen years. Residence in Malta, another qualification for registration as voters, was shortened. Previously, a voter had to be resident at least for one year during the two years preceding his registration. This year's residence was shortened to six months during the eighteen months preceding registration, and this condition was made not applicable to persons who were ordinarily resident in Malta, but were serving abroad in the public service or were abroad as part of the armed forces, police or prison service. (Section 58 of the Constitution and Section 23 of Act).

The system by which any alteration of boundaries of electoral divisions became effective upon the next following dissolution of Parliament after its approval by the House of Representatives was changed. This was amended in such a way that whenever any alteration of boundaries was made by the Electoral Commission, the Prime Minister and the Leader of the Opposition were to be informed as soon as practicable by the Chief Electoral Commissioner. Not later than two months after the receipt of such alteration, the Prime Minister has to place it before the House for its consideration. Not later than five months from the receipt of such alteration by the Prime Minister, the House might either approve it or refer it back to the Commission for reconsideration. Upon the expiration of six months from the date on which the alteration was communicated to the Prime Minister, or on the approval by the House, or upon the expiration of two months from the time when the House referred the alteration back to the Commission, the Chief Electoral Commissioner had to publish in the Gazette the alteration in its original form or as modified by the Commission. Such alteration would come into effect upon the next dissolution of Parliament. An Amendment was made that on the review of electoral boundaries the number of voters in any division should not fluctuate by more than five per cent over or under the average national electoral quota multiplied by the seats in that division. This fluctuating margin was previously fifteen per cent. (Section 62 of the Constitution and Section 25 of Act). Following the setting up of the Republic, the members of the Electoral Commission could be appointed or removed from office by the President, instead of the Governor-General. (Section 61 of the Constitution and Section 24 of Act).

A new concept was introduced to the fundamental human right of freedom of assembly and association providing that any law prohibiting public meetings or demonstrations in towns or villages would not be reasonably justified in a democratic society. (Section 43 of the Constitution and Section 13 of Act).

Provision was made that instead of a Governor-General appointed by Her Majesty the Queen and holding office during Her Majesty's pleasure, the Head of State of Malta, the President, has to be Maltese and has to be appointed by a Resolution of the House of Representatives. His term of office lasts five years but he can be removed by Resolution of the House of Representatives on ground of inability to perform the functions of office or misbehaviour. He has also to take the oath of office before the House. (Sections 49 and 51 of the Constitution and Section 18 of Act).

A session of Parliament was previously held at such a place as the Governor-General might by proclamation appoint. Provision was made that a session should be held at such place or places as the President by proclamation, or as the House of Representatives in any manner might appoint from time to time. (Section 76 of the Constitution and Section 29 of Act).

The executive authority of Malta was vested in the President, instead of in the Queen and he assumed many of the functions previously exercised by the Governor-General (e.g. assent to Bills and recommendation to certain financial measures; appointment of the Prime Minister and other Ministers; assumption of the prerogative of mercy). The number of judges needed to compose the Constitutional Court was reduced from five to three. This court was given additional jurisdiction over cases that dealt with corrupt practices or other offences or any matter connected with the election of Members of the House. It was ensured also that this Court be always constituted, whatever the circumstances, during the election of Members of the House and during the period of thirty days following such election, and at other times, after the expiration of fifteen days. The office of Vice-President of the Court was abolished. (Section 96 of the Constitution and Section 46 of Act).

An amendment was made to the section of the Constitution which stipulated that the Constitution was the supreme law, providing also, that where an Act of Parliament provided that a law should have effect notwithstanding any provision of the Constitution, such law should prevail notwithstanding any provision of the Constitution. (Section 6 of the Constitution and Section 2 of Act). All these amendments to the Constitution were subjected to the condition that Parliament could within three months from the publication of the results of the next general election, provide that the Constitution should again have effect in its entirety as in force prior to these changes. (Section 1 of Act).

2. Procedure

House of Commons (Divisions incorrectly reported).—During the period of the minority Labour Government in 1974 there were many occasions when divisions in the House of Commons were very close

indeed. In July 1974 an incident took place which had a variety of interesting procedural implications.

On two occasions on important Opposition amendments at Report stage of the Government's controversial Trade Union and Labour Relations Bill divisions resulted in equal numbers of votes being reported as having been cast for each side. The Speaker then gave his casting vote: in each case he voted against the Opposition Amendment, for the traditional reason that he was preserving the Bill in the form in which it had been reported from the Committee. Later that night the Bill was read the third time and sent to the House of Lords.

In the days following, however, stories began to spread to the effect that an equality of votes ought not in fact to have been recorded in either case. There is a fairly long-standing practice, operated by the party Whips by mutual agreement, that a Member who, through some form of infirmity, has difficulty in walking through a Division Lobby, may have his vote given to the Division Clerks by a Whip, *provided that the Member concerned is within the precincts of the House at the time.* This practice (which is known as "nodding through") had been used in each of the two divisions in question by a Government Whip on behalf of Mr. Harold Lever, a Cabinet Minister, It was said, however, that Mr. Lever had not in fact been within the precincts on either occasion. The significance of this allegation was that, if Mr. Lever's vote had not been recorded, instead of each division being tied (resulting, through the Speaker's casting vote, in the defeat of the Amendment), the Ayes would have had it, and the amendment would have been carried.

On 15th July the matter was raised as a point of order, but the Speaker was unable to give any ruling, because no clear report of the incident had been made to him (and, indeed, it was by no means clear at that point what really had happened). Normally, if a mistake is discovered to have taken place in a division, it is reported to the Chair by the Tellers from the Lobby in which the mistake took place. In this case, however, the Tellers were not in a position to make such a report, since they were not able themselves to say whether Mr. Lever had been at Westminster or not.

The matter was again raised on a point of order after questions on Tuesday 16th July, and, after some inconclusive wrangling, Mr. Lever himself rose and said that he had been outside the precincts at the time of the two divisions, though he had not realised at the time that this was against the "nodding-through" rule. This revelation led to further points of order, and after a few more interchanges the Speaker suspended the sitting for 20 minutes, saying that the House ought to consider the matter seriously. When the House resumed Mr. Speaker said that on the basis of Mr. Lever's statement it was clear that there had been an irregularity in the vote, and that the Journal of the House must be altered. After some more exchanges, the Leader of the House moved without notice a motion in the following terms:—

"That the Proceedings of 11th July in relation to the Third Reading of the Trade Union and Labour Relations Bill be null and void; that a Message be sent to the Lords to request that they will be pleased to return to this House the said Bill because Clause No. 27 and Schedule 1 are incorrect; and that when the Bill has been returned by the Lords and corrected it shall be read the third time".

He was able to do so immediately since the privileges of the House were involved.

The Lords duly returned the Bill and the two amendments were immediately inserted by the Public Bill Office. Later on the 16th July proceedings in the Commons on the report stage of the Finance Bill were interrupted (again because of the element of privilege) to allow the corrected Trade Union and Labour Relations Bill to be read the third time (no debate on that occasion being in order). On the next day the Bill was returned in its correct form to the Lords.

House of Commons (Notice of subject of debates on the Adjournment).—On 29th March 1974 a Member wished to raise on the Adjournment a subject of which he had been able to give only an hour's notice to the relevant Government department. No Minister in the department was available to attend the debate and the Member therefore merely raised the matter in the House without pursuing it beyond saying that he expected the Minister concerned would look carefully at the matter he had raised.

After the Member had concluded his brief remarks the Deputy Speaker said

"Rulings have been given that it is deprecated when subjects are introduced on the Adjournment unless due notice has been given to the Minister concerned. It is often rather difficult late in the afternoon for a Minister to be present. The reason for the ruling is that, apart from the House of Commons point of view, an *ex-parte* statement without reply is not necessarily a valuable parliamentary proceeding. But in view of the circumstances explained by the hon. Member for Harrow, Central (Mr. Grant), I think that the House will be satisfied with the short explanation he has made, and no doubt the Minister will take cognisance of it."

(H. C. Deb., Vol. 871, cc. 844–6).

Australia: House of Representatives (Discussion of matters of Public Importance).—Standing Order 107 of the House of Representatives provides (in part) that "A Member may propose to the Speaker that a definite matter of public importance be submitted to the House for discussion". A time limit of 2 hours is provided for the whole debate, 15 minutes to the proposer and Member next speaking, and 10 minutes for any other Member. In practice, and by arrangements, the discussion is normally limited to either 2 or 3 Members speaking from each side although provision exists for a motion to be moved (and put forthwith without amendment or debate) at any time during the discussion "That

the business of the day be called on" which, if carried, concludes the discussion.

Increasing numbers of matters of public importance have been submitted for discussion during recent years and in 1974 the highest number (37) was proposed. This meant that matters were submitted on 60 per cent of the days the House met. Of the 37 matters submitted, 33 were proposed by members of the "shadow ministry" and 2 each by Government and Opposition backbenchers. The motion to call on the business of the day was used by the Government 4 times as soon as the discussion was proposed, effectively preventing any debate on the matters.

(*Contributed by the Clerk of the House of Representatives*).

3. Electoral

Jersey (Increase in Members).—In June 1974 the States passed an amendment to the Law dealing with Deputies' constituencies. The effect will be that St. Helier loses 2 Deputies, St. Saviour gains 2 and St. Brelade 1. The overall effect is thus to increase the number of Deputies in the House from 28 to 29 and the number of members from 52 to 53. The change will come into effect at the ordinary election in November, 1975.

Australia (Increase in the Members of House of Representatives).—The means whereby the number of Members of the House of Representatives is increased has previously been described in The Table (Vol. XVII, pp. 246–9). In brief, the number of Members of the House to be chosen by each State is determined by the Chief Australian Electoral Officer following a census of the people of Australia. A quota is obtained by dividing the total number of people of Australia by 120 (i.e. twice the number of Senators). This quota is then divided into the total number of people of a State and the resultant figure is the number of Members of the House of Representatives to be returned by that State. Distribution Commissioners are appointed to distribute the State into electoral divisions by applying a quota (total number of people of State divided by number of Members to be returned by each State, with a fixed allowable variation). The Commissioners' proposals are publicised and objections may be made before the Commissioners make their report to the Minister, who presents the report to Parliament for approval or otherwise.

Previous articles have also outlined the growth of the number of Members of the House from 75 at the time of Federation (1901) to 123 following the general elections of 1949 and to 124 following the general elections of 1955 (vol. XVII pp. 246–9 and vol. XXIV pp. 178–9). The number of Members was increased to 125 following a redistribution on lines stated above before the 1969 general elections (New South Wales

returned one less Member than previously, Victoria and South Australia each one more than previously).

Before the general elections of 1974, the number of Members of the House of Representatives was increased by 2, Western Australia gaining one of these additional seats. The increase for Western Australia was provided for in the report of the Distribution Commissioners in 1972 but there was insufficient time for the necessary procedures to be carried out before the general elections of 1972. In May 1973 Distribution Commissioners were again appointed and their report, again providing for an additional seat, was placed before Parliament in March 1974. The proposed distribution was agreed to by both Houses.

The Australian Capital Territory, previously represented by one Member, gained the second additional seat. The 28th Parliament had passed legislation providing for a second Member from the commencement of the 29th Parliament and for a distribution committee to be set up to proceed along lines similar to those adopted by the distribution commissioners in the States. However with the impending dissolution of the 28th Parliament, Parliament passed the Australian Capital Territory Representation (House of Representatives) Act 1974 which provided for the second Member for the Australian Capital Territory, should the general elections be held before the Distribution Committee could complete its work.

The number of Members from each State and Territory elected in 1974 to the Twenty-ninth Parliament was—

New South Wales	45
Victoria	34
Queensland	18
South Australia	12
Western Australia	10
Tasmania	5
Australian Capital Territory	2
Northern Territory	1
	127

(*Contributed by the Clerk of the House of Representatives*).

Victoria (Increase in electoral areas).—The Electoral Provinces and Districts Act 1974, (No. 8628) provided for an increase in the number of electoral provinces of the Legislative Council and the electoral districts of the Legislative Assembly so that the membership of the Legislative Council was increased from 36 to 44 and that of the Legislative Assembly from 73 to 81.

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

India (Electoral expenditure).—Section 77 of the Representation of

the People Act 1951, provides that the total of the expenditure in connection with an election incurred or authorized by the candidate or his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof shall not exceed such amount as may be prescribed. Rule 90 of the Conduct of Elections Rules, 1961 lays down the maximum election expenses for a parliamentary constituency and an Assembly constituency in respect of various States and the Union territories.

Clause (6) of section 123 of the Representation of the People Act has specifically included the incurring or authorizing of expenditure in contravention of section 77 as a corrupt practice, which, if established, would not only vitiate the election, but also result in disqualifying the candidate for a period of six years under section 8A of the said Act.

The provisions contained in section 77 of the Representation of the People Act have been interpreted by courts of law as imposing a curb on a candidate incurring or authorizing expenditure in connection with his election in excess of the prescribed limit. The expression "incurred or authorized" had not been construed by the courts so as to bring within its purview the expenditure incurred by a political party in its campaign or by any person other than the candidate unless incurred by such third person as the candidate's agent.

However, in the case of *Kanwar Lal Gupta vs A. N. Chawla and others* (Civil Appeal No. 1549 of 1972 decided on 3rd October, 1974), the Supreme Court of India has interpreted the aforementioned expression "incurred or authorized" as including within its scope expenses incurred by a political party or other person referred to above. In view of the effect which such interpretion might have particularly with reference to the candidates against whom election petitions were pending, it became necessary to clarify the intention underlying the provisions contained in section 77 of the Representation of the People Act, namely, that in computing the maximum amount under that section any expenditure incurred or authorized by any other person or body of persons or political parties should not be taken into account. The said section was amended accordingly by the Representation of the People (Amendment) Act, 1974.

(*Contributed by the Secretary-General of the Rajya Sabha*).

India (Presidential and Vice-Presidential Elections (Amendment) Act).—The main provisions of this Act are:

(i) A prospective Presidential candidate should get the support of at least twenty electors for filing nomination papers. A prospective Vice-Presidential candidate should get the support of at least ten electors for filing nomination papers.

(ii) A prospective candidate should deposit a sum of two thousand five hundred rupees, which amount shall be liable to be forfeited in case the candidate fails to secure one-sixth of the number of votes necessary to secure the return of a candidate.

(iii) There should be twenty or more electors joined together as petitioners for challenging an election to the office of President. There should be ten or more electors joined together as petitioners for challenging an election to the office of the Vice-President.

(*Contributed by the Secretary-General of the Lok Sabha*).

Malta (Electoral (Polling) (Amendment) Act).—The Electoral (Polling) (Amendment) Act 1974 provided that spiritual inducement in the exercise of the franchise was to be considered henceforth as a corrupt practice—as follows:

(i) Section 54 of the Electoral (Polling) Ordinance, which provided amongst other things that every person who inflicted any material or moral injury upon any person to induce such person to vote or refrain from voting should be guilty of undue influence, was amended to refer to every person who inflicted any temporal or spiritual injury.

(ii) Section 56 of the Electoral (Polling) Ordinance, which provided that any person who committed amongst other things the offence of undue influence should be guilty of a corrupt practice, was widened in scope to refer to any person influencing the voting or the refraining from voting in a particular way.

(iii) New Section 65, which prohibited activities capable of influencing voters immediately before election, was added to the Electoral (Polling) Ordinance. It stipulated amongst other things that during the days of election of members to the House of Representatives and on the day immediately preceding such polling days, no person should address any public meeting or any gathering in a building accessible to the public; or broadcast or publish any printed matter, or issue any statement, likely to influence voters in the exercise of the franchise. Heavy penalties were to be inflicted on offenders.

The period of two days immediately preceding the days of polling, during which public meetings and demonstrations were prohibited, was shortened to one day by Sections 2 and 9.

Malta (Penalties for Electoral offences).—The punishments for offences against the Electoral (Polling) Ordinance were increased considerably, as follows:

(i) The fine for corrupt practice was increased from a multa not exceeding fifty pounds to a multa not exceeding five hundred pounds.

(ii) The fine for illegal practice was increased from a multa not exceeding twenty pounds to a multa not exceeding two hundred pounds.

(iii) The fine for misconduct in polling places was increased from a multa not exceeding five pounds to a multa not exceeding fifty

pounds, and the latter fine was made for the first time applicable to attendance at public meetings or demonstrations in contravention of this Ordinance.

(iv) The penalty for tampering with nomination or ballot papers was increased from a multa not exceeding twenty pounds or imprisonment for a term not exceeding three months to a multa not exceeding five hundred pounds or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(v) The punishment for infringement of secrecy as to the manner of voting was increased from a fine not exceeding twenty pounds or to imprisonment for a term not exceeding one month to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding one month, or to both such fine and imprisonment.

Bermuda (Electoral register).—Under the Parliamentary Election Act 1963 Amendment Act 1974 certain minor changes of an administrative nature were made to the Parliamentary Election Act 1963. The principal Act required the Registrar to publish the preliminary voters list not later than ten days after the registration period. Section 1 extends the time available to twenty-one days after the end of the registration period.

Section 2 amends section 16 of the principal Act which relates to objections by any person to the registration of another person. Under the principal Act an objection must be made either during a registration period or within fourteen days thereafter. In some circumstances an objection may not be made until the next registration period. The amendment provides an opportunity for objection to the inclusion of a name on the preliminary voters list if made within fourteen days after the publication of the list.

Section 3 amends section 17 of the principal Act which relates to claims that a person has been irregularly omitted from the register or the preliminary voters list. The principal Act required an objection to be made within twenty-eight days of the end of the registration period. The effect of the amendment is to enable an objection to be made within fourteen days of the publication of the preliminary voters list.

(*Minutes of House of Assembly, Nos.* 22 *and* 23).

St. Lucia (Increase in electoral districts).—Following the House of Assembly (Elections) Ordinance (Amendment) Act No. 2 of 1973, provision was made for increase in the electoral districts. The House of Assembly now has 22 members: Mr. Speaker, 17 Elected Members, 3 Nominated, and the Attorney General ex officio.

4. Standing Orders

House of Lords (Selection of Deputy Chairmen).—The only amendment to Standing Orders made in 1974 was agreed on 17th January

1974 and provides that the panel of Lords to act as Deputy Chairmen of Committees should be selected by the Committee of Selection.

Jersey (Reply on a motion of no confidence).—In March 1974 the States adopted an amendment to Standing Orders whereby when a motion of no confidence was moved by a Member against a Committee, the President of the Committee under attack, or a nominee of his, can speak a second time immediately before the final speech of the proposer of the motion.

Australia: House of Representatives (Days and Hours of Sitting).—During 1974 the House of Representatives twice varied its normal times of meeting and adjournment. In each case the resolutions adopted were similar to those reported in THE TABLE, Vol. XLII, pp. 146–8.

For the 2nd Session of the 28th Parliament (February–April 1974) the House met at 11.00 a.m. on Tuesdays, 2.15 p.m. on Wednesdays and 10.00 a.m. on Thursdays with the question "That the House do now adjourn" being proposed by the Chair at 10.30 p.m. unless earlier moved.

For the first few months of the 1st Session of the 29th Parliament (July–December 1974) the meeting times were 10.30 a.m. on Tuesdays, 12.00 noon on Wednesdays and 10.00 a.m. on Thursdays. The time for proposing the adjournment remained unchanged.

(*Contributed by the Clerk of the House of Representatives*).

British Columbia (Time-limit on Speeches and duration of debate).—On 6th May, 1974, the following motion was passed by the Legislative Assembly:

"That the Select Standing Committee on Standing Orders and Private Bills examine the following matters:

(1) Recommendations No. 1 and No. 2 of Mr. Speaker's Second Report of September 28, 1973, dealing with the duration of debates such as the Throne and Budget Debates and second reading of Bills:
(2) Length of speeches generally:
(3) Some appropriate rule or order for completing estimates in Committee of Supply within a fair and reasonable time:
(4) What, if any, authorization should be obtained from the House for the amplification and control of the Chamber sound system, bearing in mind the practice, in this regard, used in Ottawa, Westminster, and elsewhere with regard to control by the Speaker and Chairman of the equipment used for recording as well as the amplifying of speeches:
(5) An appropriate method of providing assistance to private members to ascertain whether or not Public Bills and Motions which they desire to introduce comply with Parliamentary rules and to determine compliance with such rules prior to such Bills being placed on the Order Paper for second reading.

The Committee shall report its recommendations on the said subjects to the House before the conclusion of this Session."

The Committee reported on 30th May and their recommendations

were adopted. The following new Standing Order No. 45A was agreed to:—

"45A. The maximum period for which a member may speak on any subject indicated in this Standing Order shall not exceed the period specified opposite to that subject in the following schedule:—

IN THE HOUSE

Address in Reply

Mover and seconder	60 minutes
Leader of Government or designated member ...	No limit
Leaders of recognised opposition parties or designated member	No limit
Any other member	40 minutes

(1) Provided that the proceedings on the Orders of the Day for presenting and debating the motion for an Address in Reply to the Speech from the Throne, and on any amendments and subamendments proposed thereto, shall not exceed six sitting days, comprising not less than eight sitting.

(2) On the fourth of the said days, if an amendment or a subamendment be under consideration at 30 minutes before the ordinary time of daily adjournment, Mr. Speaker shall interrupt the proceedings and forthwith put the question on any amendment and (or) subamendment then before the House.

(3) On the sixth of the said days, at 15 minutes before the ordinary time of daily adjournment, unless the said debate be previously concluded, Mr. Speaker shall interrupt the proceedings and forthwith put every question necessary to dispose of the main motion.

Budget Debate

Minister of Finance	No limit
Leaders of recognised opposition parties or designated member	No limit
Any other member	40 minutes

(1) Provided that the proceedings on the Orders of the Day for debating the motion "That Mr. Speaker do now leave the Chair" for the House to go into Committee of Supply and on any amendments and subamendments proposed thereto, shall not exceed 10 sitting days, comprising not less than fourteen sittings.

(2) On the eighth of the said days, if an amendment or a subamendment be under consideration at 30 minutes before the ordinary time of daily adjournment, Mr. Speaker shall interrupt the proceedings and forthwith put the question on any amendment and (or) subamendment before the House.

(3) On the tenth of the said days, at 15 minutes before the ordinary time of daily adjournment, unless the said debate be previously concluded, Mr. Speaker shall interrupt the proceedings and forthwith put every question necessary to dispose of the main motion.

Public Bills

Public Bills in the Hands of Private Members

Private Bills

(Second Reading)

(i) Mover (except as otherwise provided in (ii)) ...	60 minutes
(ii) Leaders of recognised parties or designated member	No limit
(iii) Any other member and a leader who shall have designated under (ii)	40 minutes

All Other Proceedings in the House not Otherwise Specifically Provided for:—

(i) Mover (except as otherwise provided in (ii)) ...	60 minutes
(ii) Leaders of recognised parties or designated member	No limit
(iii) Any other member and a leader who shall have designated under (ii)	40 minutes

COMMITTEES

Supply

Each member	30 minutes

(1) The proceedings in Committee of Supply shall be limited to not more than 45 sittings, to be extended in accordance with the following provisions of this Standing Order.

(2) Provided that if, at the conclusion of the 45th sitting, 135 hours have not been utilized for debate in Committee of Supply, the Committee shall sit again for such additional time as may be required to bring the total of time for Supply to 135 hours.

(3) At the conclusion of the 45 sittings or the conclusion of the 135 hours contemplated under the Standing Order, whichever shall last occur, the Chairman of the Committee of Supply shall forthwith put all questions necessary to carry every vote and item of each Estimate, such questions not being subject to amendment or debate.

Public Bills
Public Bills in the Hands of Private Members
Private Bills
(Committee)
Each member ... ... 30 minutes"

Northwest Territories (Provision for a Speaker).—The Rules of the Council of the Northwest Territories were amended so that following the General Election in 1975 it would be possible for Council to function with a Speaker replacing the Commissioner. Almost all changes were a result of this substitution.

Rajasthan (Committees on Scheduled Castes and Tribes).—The Rules were amended to provide for separate Committees on the Scheduled Castes and the Scheduled Tribes in place of one Committee.

Papua New Guinea (Private Business Motions).—On 25th October 1974 the House of Assembly adopted amendments to the following Standing Orders—28, 157, 158, 159 and 229. Until that date a large number of parochial motions had been moved by Members (other than Ministers) and much time of the House was absorbed by such motions. In view of this, a resolution of the House of 26 September 1974 directed the Standing Orders Committee to recommend amendments to the relevant standing orders so as to empower the Standing Committee on Private Business to examine all notices of motion proposed by Members and to allow only those motions of a non-parochial nature to be introduced in the House.

Accordingly the Committee recommended amendments to the above-mentioned standing orders which were then adopted.

The amendments were as follows:

1. *S.O.* 28: Omit paragraph (3), insert the following paragraphs:
"(3) The functions of the Committee shall be:
(i) To meet each Tuesday during meetings of the House to examine all notices of motion submitted to the committee under standing order 158 and determine whether the terms of the motion are of a parochial nature or of a matter of national importance.
(ii) Upon determining a notice is of national importance—to deliver forthwith a copy of the notice to the Clerk for reporting to the House.

(iii) Upon determining a notice is of a parochial nature—to return the notice to the Member proposing the motion with a recommendation:
a. That the Member consult with the Minister or authority concerned; and
b. That the Member places a question relating to the subject matter on the Question Paper; or
c. In which other ways the Member will achieve more quickly and effectively the action sought by him.

(iv) To determine the order in which notices and orders of the day on the Notice Paper shall be considered on sitting days when private business has precedence.

(4) Should a quorum of Members of the Committee not be available before 7.45 p.m., the functions and duties of the Committee under paragraph (3) (i) and 3(ii) and 3(iii) shall be carried out by the Speaker".

2. Omit Standing orders 157, 158 and 159, insert:

157. Government notice of motion shall be given by a Minister by either stating its terms to the House and delivering a copy to the Clerk, or delivering a copy of its terms to the Clerk.

158. A private notice of motion shall be submitted to the Chairman of the Private Business Committee. The notice must be signed by the Member and Seconder. The Private Business Committee, after determining a notice of motion is in order under standing order 28, shall deliver a copy of its terms to the Clerk.

159. The Clerk, upon receipt of a notice of motion pursuant to standing order 157 or 158 shall, at the first convenient opportunity, report the terms of the notice of motion to the House.

Zambia (Standing Order amended).—Due to the introduction of a new constitution, the Constitution of Zambia Act, it became necessary to amend many Standing Orders in order to conform with the provisions of the new constitution.

The major amendments relate to the sitting hours which were amended in order to be in line with the new system of a 24-hour clock. Due to the introduction of new Sessional and Select Committees, this section was also amended. The title of "Vice-President" was changed and was substituted by that of "Prime Minister".

The fees payable on presentation of a Private bill were changed from "sterling" to "kwacha" in order to be in line with the local currency. The same applies on petitions. Other minor amendments were merely for the sake of clarification.

Singapore (Public Accounts Committee).—Paragraph (2) of Standing Order No. 95 (Sessional Select Committees) read, prior to amendment, as follows:—

"95.—(2) There shall be a Committee to be known as the Public Accounts Committee to consist of a Chairman to be appointed by the Speaker and not more than seven Members to be nominated by the Committee of Selection, as soon as may be after its appointment, in such manner as shall ensure that, so far as is possible, the balance between the Government benches and the Opposition benches in Parliament is reflected in the Committee. It shall be the duty of the Committee to examine the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure and such other accounts laid before Parliament as Parliament may refer to the Committee together with the Auditor's reports thereon.".

By a resolution of Parliament passed on 23rd October 1974, the Standing Order was amended by the deletion of the expression "Parliament may refer to the Committee' appearing in the eighth line thereof and the substitution of the expression "the Committee may think fit" therefor. Under the amended Standing Order, the Public Accounts Committee shall also examine the accounts of statutory institutions, which are laid before Parliament, as the Committee may think fit.

Fiji (Privileges Committee).—Standing Orders were amended on 30th April 1974 to provide for a Select Committee on Privileges as follows:

"(1) There shall be a Select Committee called the Committee of Privileges, which shall, after consultation with the Prime Minister and the Leader of the Opposition be appointed by the Speaker;
(2) The Committee shall consist of five members;
(3) Three members of the Committee shall form a quorum;
(4) It shall be the duty of the Committee to do the following:
(*a*) To bring to the attention of the House any breach of the privilege of the House committed by any person or persons and recommend to the House what action should be taken;
(*b*) To consider and report upon such questions of privilege as may be referred to it by the House;
(*c*) To conduct enquiry into any complaint that may be referred to it by the House concerning any breach of privilege on the part of any person or persons from time to time; and for such purposes to have and exercise the powers available to the House in respect of any matter falling for consideration by the House or any committee thereof".

5. Emoluments

Westminster (Peers' and Members' allowances).—On 29th July, 1974, the Leader of the House of Commons, Mr. Short, announced increases in Members' allowances. These were in line with recommendations made by the Top Salaries Review Body under the chairmanship of Lord Boyle of Handsworth, namely that: The allowance payable for journeys by car in the performance of Members' parliamentary duties should be increased from 5p to 7.7p a mile; London supplement paid to Ministers and office holders and to Members who represent London constituencies should go up from £175 to £228 a year; the limit within which a Member might claim the additional cost of living away from home when engaged on parliamentary duties should be raised from £750 to £1,050 a year.

He also announced that the Review Body recommended that the annual limit within which Members might claim the cost of secretarial assistance should be increased from £1,000 to £1,750. The new rate

allowed for increases in secretaries' pay and also took into account that Members needed more secretarial assistance than previously. Payment for research assistance would also be met within the limit of this allowance, up to a new maximum of £550.

Those Members who represent constituencies in the Greater London area but who, under the old rules, did not qualify for London supplement because their constituencies were outside the inner London area would in future be allowed London supplement as an alternative to the additional costs allowance.

Finally Mr. Short told the House that the Government intended to introduce a minor change in the rules governing the issue of railway warrants to benefit Members who represent distant constituencies and use the motor-rail service. It would allow those Members to reclaim the actual cost of such a journey within the limits of the motor mileage allowance that would have been payable if the journey had been made by car.

On the same day the Leader of the House of Lords, Lord Shepherd, told the House that the daily expenses allowance for peers would be increased from £8.50 to £11.50. The car mileage allowance would also be increased to the same level as for Members of the House of Commons. He announced, however, that the whole basis of the daily allowance would, at a suitable moment, be referred to the Top Salaries Review Body for consideration especially on the question of whether a differential allowance for provincial peers might be introduced.

It was subsequently announced on 19th December that the question of peers' and Members' allowances had been referred to the Top Salaries Review Body.

House of Commons (Assistance to Political Parties and to Private Members).—On 19th December 1974 the Leader of the House of Commons, Mr. Short, announced that a new review was about to be undertaken by the Top Salaries Review Body of Members' salaries and allowances. On the same day he announced the setting up of a Select Committee to examine the present support facilities available to back benchers. The motion to set up the committee was agreed to that day and the Committee's terms of reference were as follows:—

"To examine the present support facilities available to private Members in carrying out their duties in this House, in particular research assistance on matters before Parliament, and to make recommendations for such improvements as they consider necessary".

At the same time as he announced these proposals to help individual Members, Mr. Short announced that provision would be made for assistance for political parties in their work both inside and outside Parliament. In the first place an independent committee would be set up to examine the question of whether or not public funds should be made available to political parties for their work *outside* Parliament. On

8th May 1975 the composition of the Committee was announced. The terms of reference of the Committee are—

"To consider whether, in the interests of parliamentary democracy, provision should be made from public funds to assist political parties in carrying out their functions outside Parliament; to examine the practice of other parliamentary democracies in this field, and to make recommendations as to the scope of political activities to which any such provision should relate and the method of its allocation."

Secondly proposals were made for providing financial assistance to Opposition parties within the House. On 20th March 1975 the House agreed to the proposals which were as follows:—

1. That in the opinion of this House it is expedient that as from 1st January 1975 provision shall be made for financial assistance to any Opposition party in this House to assist that party in carrying out its Parliamentary business:
2. That for the purpose of determining the annual maxima of such assistance the following formula shall apply:—
   £500 for each seat won by the party concerned plus £1 for every 200 votes cast for it at the preceding General Election, provided that the maximum payable to any party shall not exceed £150,000:
3. That is shall be a condition of qualification for such assistance that a party must either have at least two Members elected to the House as members of that party at the preceding General Election, or that it has one such Member and received at least 150,000 votes at that Election:
4. That any party wishing to claim such assistance shall make to the Accounting Officer of the House a statement of the facts on which this claim is based:
5. That the cost of this provision shall be borne on the House of Commons Vote:
6. That parties making claims under this provision shall be required to certify to the Accounting Officer of the House that the expenses in respect of which assistance is claimed have been incurred exclusively in relation to that party's Parliamentary business:
7. That claims under these arrangements shall be made quarterly, and that the annual maxima shall be applicable to claims made in respect of expenses incurred during any one calendar year.

It remains to be seen what the combined effect of all these measures will be. Only when all the committees have reported, the House has decided what action should be taken, and there has been some experience of the operation of any proposals which may have been implemented will a full assessment be possible.

British Colombia (Members' allowances).—Amendments to the Constitution Act in 1974 provide that " . . . in each year, or part thereof, that a person is a member of the Legislative Assembly there is payable to that member an allowance calculated at the rate of sixteen thousand dollars per annum and an expense allowance calculated at the rate of eight thousand dollars per annum for expenses incidental to the discharge of his duties as a member". Payments are made to members quarterly, not at the end of a session as heretofore.

The special allowance to the Speaker and the Leader of the Official Opposition has been increased from $11,000 to $19,000 per annum.

The special allowance to the Deputy Speaker has been increased from $4,500 to $8,500. Also, the leader of a recognised political party now receives $8,500 per annum. These allowances are paid in addition to their allowances of $16,000 and $8,000 expense allowance, and are paid quarterly.

Section 67 provides that a member, who is a member for part only of a year, provided he is a member for upwards of 30 days, is entitled to such proportion of all allowances as the number of days in which that person is a member bears to the number of days in that year.

New South Wales: Legislative Council (Members' Salaries and Allowances).—Under the Parliamentary Allowances and Salaries (Amendment) Act (No. 7 of 1974), the salary and allowance of Members of the Legislative Council were increased from 1st January, 1974 as under–

		Rates ($ per annum)		
Position	*Salary*	*Expense Allowance*	*Special Allowance*	*Total*
Leader of Government	27,000	3,240	2,100	32,340
Deputy Leader of Government	27,000	3,240	600	30,840
President	15,000	3,000	2,400	20,400
Chairman of Committees	9,200	2,950	620	12,770
Leader of Opposition	10,700	2,950	1,235	14,885
Deputy Leader of Opposition	6,100	2,950	620	9,670
Whips	6,100	2,950	620	9,670
Private Members	5,200	2,400	—	7,600

Living away from home allowance of $32 per day is payable to private Members of the Council resident in electoral districts specified in Part III, IV, V or VI of the Fifth Schedule to the Constitution Act.

Further increases were granted from 1 January, 1975, by the Parliamentary Allowances and Salaries (Amendment) Act (No. 2 of 1975) as under–

		Rates ($ per annum)		
Position	*Salary*	*Expense Allowance*	*Special Allowance*	*Total*
Leader of Government	32,400	3,888	2,520	38,808
Deputy Leader of Government	32,400	3,888	720	37,008
President	18,000	3,600	2,880	24,480
Chairman of Committees	11,040	3,540	744	15,324
Leader of Opposition	12,840	3,540	1,482	17,862
Deputy Leader of Opposition	7,320	3,540	744	11,604
Whips	7,320	3,540	744	11,604
Private Members	6,240	2,880	—	9,120

Living away from home allowance of $39 per day is payable to private Members of the Council resident in electoral districts specified in Part III, IV, V or VI of Fifth Schedule to Constitution Act.

Ministers resident in those districts receive, from 1 July, 1975, a special expenses allowance of $3,000 per annum.

By the Parliamentary Remuneration Tribunal Act (No. 25 of 1975) statutory provision was made for the constitution of a tribunal (a Judge or retired Judge) to make annual determinations of remuneration to be paid Ministers, office holders and Members.

South Australia (Guidelines for Parliamentary Salaries Tribunal).—The Parliamentary Salaries and Allowances Act Amendment Bill (Act No. 131 of 1974) provided new guide lines for the Parliamentary Salaries Tribunal in its reconsideration of Parliamentary salaries and allowances. In particular, reference was made to special remuneration for the Deputy Premier, Ministers' additional allowances when the electorate is outside the metropolitan area and the criteria for electorate allowances to provide a more flexible and realistic basis.

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

South Australia (Members' pension rights).—The Parliamentary Superannuation Act Amendment Bill (Act No. 79 of 1974) legislated to provide—

(1) the right for members ceasing to hold office for which additional salary was paid to preserve—to a considerable extent—the right to additional pension by continuing voluntary contributions.
(2) for members retiring involuntarily and those over 60 years of age retiring voluntarily, to be entitled to pensions after six years of service:
(3) for the adjustment of any anomalies which may occur if a wage freeze were imposed:
(4) for lifting the amount of pension to be received from 70 per cent to 75 per cent of the members' salaries:
(5) for commuting up to 40 per cent of the pension where members are over 60 years of age and entitled to the maximum pension. (Previously the limit was 30 per cent):
(6) for the spouses of deceased members to be entitled to pensions for life—whereas previously the pension was not paid on remarriage.

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

Western Australia: Legislative Assembly (Members' rights to expenses).—Legislation was passed in 1974 to give protection, in retrospect and in the future, to members of the Legislative Assembly being delegates to a "Convention" known as the Australian Constitutional Convention. Under the Constitution Acts Amendment Act, 1899 a member of Parliament incurs a risk of disqualification if paid an expense allowance other than provided under the Parliamentary Salaries and Allowances Act, 1967. To overcome this risk of disqualification the Constitution Convention Act was passed, the last clause reading—

"Notwithstanding the provisions of the Constitution Acts Amendment Act, 1899, or of any other Act, a member of the Legislative Assembly of

the Twenty-eighth or any subsequent Parliament shall not vacate his seat or incur disqualification under the Constitution Acts Amendment Act, 1899 by reason of accepting payment of an allowance under and in accordance with this Act".

India (Salaries and Allowances of Members of Parliament (Amendment) Act, 1974).—The object of the Act is to amend the Salaries and Allowances of Members of Parliament Act 1954 so as to enable a member of Parliament to draw a road mileage allowance at the rate of one rupee per kilometre, instead of the existing rate of thirty-two paise per kilometre, in view of the steep increase in the price of petrol, oil and lubricants.

The above amendment was made to give effect to the recommendation made by the Joint Committee on Salaries and Allowances of Members of Parliament.

(*Contributed by the Secretary-General of the Rajya Sabha*).

Maharashtra (Members' Allowances).—Section 5 of the Bombay Legislative Members' Salaries and Allowances Act, 1956, entitled a member of the Maharashtra Legislature who undertakes a journey by steamer to attend Sessions of the Legislature or a Meeting of a Committee, in accordance with the facility provided to him for free travel by steamer, to a travel allowance equal to one first class fare for the distance travelled as if such journey had been performed by railway.

Section 5AC of the Act has been amended to provide a members with facility to travel by steamer in any part of Maharashtra, or by rail in any part of India singly or jointly with his spouse subject to the condition that the distance so travelled by the member by rail outside the State or by his spouse from the place of residence in the State does not exceed 10,000 Kms.

A new section 5C has been inserted in the Act to provide a member with a telephone at Government cost, with Rs.200 for payment towards the cost of local and trunk calls.

A new section 6A has been inserted to entitle a member to claim during every session two first class fares for his spouse, who may travel with him to the place of session and for the return journey.

Bangladesh (Members' salaries and allowances).—Under the Members of Parliament (Salaries and Allowances) Order, 1973 (President's Order No. 28 of 1973), Members' salaries were taxable and Members were entitled to receive travel vouchers not exceeding 3000 takas in value during a year to travel within Bangladesh at any time without any fare by air, rail, steamer or launch. The Members of Parliament (Salaries and Allowances (Amendment) Act, 1974, (Act XXII of 1974) was passed in February 1974 to amend the former law to make,

(*a*) Members' salaries income-tax free, and

(*b*) their travel vouchers available for "any means of communication".

Bangladesh (Speaker's and Deputy Speaker's salary).—Under the Speaker and Deputy Speaker (Remuneration and Privileges) Order, 1972 (President's Order No. 42 of 1972), the Speaker and Deputy Speaker were allowed salaries of 1500 takas and 1250 takas per month respectively, along with certain other privileges which were not on a par with those of Ministers of State. The Speaker and Deputy Speaker (Remuneration and Privileges) Act 1974 (Act 48 of 1974) was passed in July, 1974 to raise the salaries of Speaker and Deputy Speaker to 2000 takas and 1500 takas respectively per month and to allow them the same allowances and other privileges as are admissible respectively to Ministers, Ministers of State and Deputy Ministers.

Zambia (Constituency allowances).—The Ministerial and Parliamentary Offices (Emoluments) (Amendment) Act was passed as a result of the increased number of constituencies from 105 to 125 and regularised the constituency allowance payable to Members.

6. General

Westminster (Printing of Acts of Parliament).—Parliamentary printing including the printing of Acts of Parliament was dislocated during the summer of 1974, due to industrial action at presses operated by Her Majesty's Stationery Office. Parliament managed, with some considerable difficulty, to get by with photographic copies of all necessary working documents, including order papers, bills and amendments. However, there was considerable delay between the date of Royal Assent to Acts of Parliament and the date when the Queen's Printer's copies were published. Between 27th June and 31st July 1974, 35 Public General Acts of Parliament received Royal Assent but were not printed for periods ranging from 56 to 91 days. This delay in publication naturally gave rise to concern, since members of the public often remained unaware of legislation which might affect them.

During the period of the dispute, the Stationery Office reproduced photographic copies of all the 35 Acts but in many cases there was still a considerable delay. For instance, an Act on Housing received Royal Assent on 31st July 1974 but was not photocopied until 6th September. The normal delay between Royal Assent and publication, depending on a number of factors, including for instance the length of each particular Act, the number of Acts receiving Royal Assent at any one time, the number of amendments made to Bills at a late stage and the amount of time between the Bill reaching its final form and receiving Royal Assent is usually only a few days. The Public Bills Office of the House of Lords

is responsible for ensuring that Acts of Parliament are issued in an accurate form and except towards the end of a Session they are normally in a position to send to the Queen's Printer for publication as an Act of Parliament, a proof copy of the Act as soon as Royal Assent has been signified. At the end of July the checking of Acts inevitably takes longer but even then the maximum delay between a Royal Assent before the summer recess and publication is about two weeks. An order of priority for publication of Acts is agreed between the Public Bills Office and Parliamentary Counsel, with the advice of departments.

The Acts of Parliament (Commencement) Act 1793 provides that every Act of Parliament, unless it states otherwise, comes into operation on the date when it receives the Royal Assent. The Clerk of the Parliaments is required to endorse in English on every Act of Parliament immediately after the title, the day, month and year when it received the Royal Assent and this endorsement is taken to be part of the Act. An Act which received Royal Assent at 3 p.m. on 31st July is, therefore, deemed to have come into operation fifteen hours earlier. To this extent practice in the United Kingdom varies from that in some Commonwealth countries where Acts of Parliament only come into operation when published.

House of Lords (Information Services).—The House of Lords, in common with all legislative assemblies, is receiving an ever-increasing daily flood of enquiries by letter, telephone and personal visit concerning the business, procedure and history of the House. In addition, as part of its sessional routine, the House needs various works of reference to be prepared, ranging from duplicated weekly sheets of statistics of sittings and attendance to the sessional printed *Journal* of proceedings.

Several separate offices have dealt with these matters, and on occasion duplication or overlapping of effort has resulted. It was therefore decided that as from 1st August 1974 a 'Principal Clerk, Information Services' should be appointed in order to effect the 'co-ordination of the work of those departments of the Parliament Office which are responsible for the information services of the House'. (*3rd Report from the Select Committee on the House of Lords' Offices*. H.L. 1974 (120), p.3).

The departments in question were the Journal Office, the Registry, the Printed Paper Office (which supplies papers to Peers), the Office of the *Official Report* (i.e. the Lords' Hansard), and the Record Office. In addition, an 'Information Office' was established at the same time, under the immediate control of the Principal Clerk, and to this Office are now directed all enquiries which are not the natural province of Black Rod, concerning administration, or of the Record Office, concerning the archives and history of Parliament. Some of the enquiries received by the new Information Office are statistical, e.g. how many Life Peers there are; many deal with the stages reached in current business; but some relate to more substantial projects such as the compilation of a Guide for Visitors to the Galleries of the House (which has just been

published). The Office also receives draft sections of a wide range of Government and other reference books in order to assist in the compilation of entries concerning the House of Lords.

The advantage of the new grouping is not merely that responsibility for answering specific points can be clearly defined, but also that the staff of a number of what are inevitably small departments within the Parliament Office can be shared when necessary and a greater degree of administrative flexibility introduced.

The principal Clerk appointed in August 1974 was the existing Clerk of the Records. He has since continued to supervise the work of the Record Office but now has a Deputy Clerk of the Records responsible for most of the daily running of that Office.

(*Contributed by the Principal Clerk, Information Services*).

Australia (Report of the Joint Committee on the Broadcasting of Parliamentary Proceedings on the Televising of Proceedings).—The matter of the desirability of the televising of portion of Parliamentary debates and the extent and manner of the telecasts, if desirable, was first referred to the Joint Committee on the Broadcasting of Parliamentary Proceedings in May 1973. This reference to the Committee lapsed when the Parliament was prorogued in February 1974 but the matter was again referred to the Committee in March 1974.

The Committee's terms of reference were firstly to advise the Parliament as to the desirability of televising portions of the Parliament's debates and proceedings. Thus it was necessary for the Committee to consider (1) the desirability of televising from the point of view of the institution of Parliament and (2) the attitude of the public, the potential audience, to this televising. It was also necessary for the Committee to consider the manner and extent of televising, which should be implemented, if televising was seen to be desirable at all.

It is to be remembered that live sound broadcasting of the proceedings of both Houses of the Australian Parliament was introduced on 10th July 1946 and is effected by medium wave stations located in all States and by one short wave station. In a normal 3 day sitting week the proceedings of the House of Representatives are broadcast on 2 days and of the Senate on one day.

Debate of the televising of Parliamentary proceedings in the Parliament had raised such problems as the high cost of televising; the televising of complex Parliamentary proceedings being unintelligible to most viewers; a lowering of the standard of behaviour in the House, leading to a loss of respect by the viewing public, and the need to provide fair and reasonable distribution of televising time between Government and Opposition and front and back bench.

Members generally held the view that television should be used as a means to show how Parliament works, rather than that Parliament should be changed to meet the requirements of the television medium.

The arguments put to the Committee for and against the televising of Parliament corresponded very closely to those put to the British and Canadian Committees which inquired into televising in 1966 and 1972, respectively.

Arguments advanced in favour of televising Parliament (in order of frequency raised) included:

(*a*) The public has the right to be informed as to the workings of their Parliament.

(*b*) Through televising there would be established a closer contact between Parliament and the people, encouraging the public to involve themselves more in the political process.

(*c*) The quality of debate should be improved because of televising.

(*d*) The televising of day-to-day proceedings should eliminate bias and selectivity in the media and *should* effect interpretative TV journalists.

(*e*) Students could find the televising of Parliament to be of educational value.

The arguments put to the Committee opposing the televising of Parliament included:

(*a*) The dignity of Parliament could be eroded.

(*b*) Politicians would possibly "play to the camera". The politician's image on television is not necessarily related to his ability to do his work.

(*c*) Televising of Parliament would either replace existing programs or be broadcast in a time slot when no one would watch.

(*d*) Parochial and sectional issues take up a large part of Question Time; these matters would not be of much overall interest if televised nationally.

(*e*) Televising committee hearings could intimidate witnesses and pre-empt justice.

(*f*) There would be unreasonable costs and technical difficulties.

In its report (No. 61, 1974) presented on 10 April 1974 the Committee found that it was desirable to televise the Parliament and recommended that a trial period of closed-circuit televising should be implemented before a final decision was made by the Parliament. The Committee also recommended:

(1) That a Parliamentary Television Unit be set up, working under specified guidelines for dealing with Parliamentary material.

(2) That on each sitting day Question Time from one House be transmitted on a national basis by delayed telecast, at night for 30–45 minutes, by the Australian Broadcasting Commission.

(3) That the Australian Broadcasting Commission telecast a 60 minute weekly summary program.

(4) That all television networks have access to videotapes for news, current affairs and documentary programs.

(5) That the Presiding Officers be empowered to refuse any network

access to video-tapes.

(6) That Committee proceedings may be televised.

(7) That the guidelines set down by the Committee for televising of Parliamentary Proceedings be re-assessed after one year.

(8) That the Australian Broadcasting Commission be granted complete legal protection when telecasting the delayed report of Question Time ((2) above) or the weekly summary ((3) above).

(9) That anyone telecasting a whole day's proceedings or an entire debate be given complete legal protection.

(10) That telecasts of Committee proceedings not be privileged (except in the case of the official weekly summary program).

(11) That any witness before or member of a Committee may demand that the hearing not be televised.

(12) That, where feasible, a complete audio-visual record of the Parliament be kept.

(13) That only radio broadcasts as presently permitted be granted absolute privilege under the Parliamentary Proceedings Broadcasting Act.

(14) That the Joint Committee on the Broadcasting of Parliamentary Proceedings oversee the implementation and operation of Parliamentary televising.

No action has yet been taken by the Parliament in respect of the Committee's recommendations.

During the Joint Sitting of the Australian Parliament in August 1974, which is the subject of a separate article in this volume, proceedings were televised. The Joint Sitting took place over two consecutive days, and the entire proceedings, totalling nineteen hours, were televised in colour on a closed circuit within Parliament House. Proceedings between the hours of 10.30 a.m. and 1.00 p.m., 4.00 p.m. and 6.00 p.m., 8.00 p.m. and 8.40 p.m. were televised "live" through the national broadcasting system to all States of Australia. Highlights were shown each evening and a composite program was shown on the evening of the Sunday following the Joint Sitting.

(*Contributed by the Clerk of the House of Representatives*).

Australia (Joint Committee on pecuniary interests of Members of the Parliament).—On 1st August 1974, The Special Minister of State (the Hon. L. F. Bowen, M.P.) moved the following motions:

(1) That this house is of opinion:

(a) That, in any debate of proceeding of the House or its committees or transactions or communications which a Member may have with other Members or with Ministers or servants of the Crown, he should disclose any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, that he may have had, may have or may be expecting to have;

(b) That every Member of the House of Representatives should furnish to the Clerk of the House of Representatives such particulars of his pecuniary interests, supported by statutory declaration, as shall be required, and shall notify to the

Clerk any alterations which may occur therein, and the Clerk shall cause these particulars to be entered in a Register of Members' Interests which shall be available for inspection by the public, and

(c) That a Joint Committee be appointed to inquire into and report on what arrangements need to be made to give effect to the above principles. (V. & P., No. 12, pp. 112–113).

(2) That a Joint Committee be appointed to inquire into and report on the arrangements to be made relative to the declaration of the interests of the Members of the Parliament and the registration thereof, and, in particular:

(a) what classes of pecuniary interest or other benefit are to be disclosed;

(b) how the register should be compiled and maintained and what arrangements should be made for public access thereto, and

(c) what classes of person (if any) other than Members of the Parliament ought to be required to register;

and to make recommendations upon these and any other matters which are relevant to the implementation of the said resolution. (V. & P., No. 12, pp. 112–113).

On 18th September 1974 the second motion was agreed to by the House of Representatives with an Opposition sponsored amendment to omit the words "on the arrangements to be made" and substitute "whether arrangements should be made". The amended resolution was agreed to by the Senate on 1st October 1974 and the Committee of 9 began its inquiry.

Debate on the first motion, which was adjourned on 1st August 1974, is not expected to resume until the Joint Committee established by the second motion has reported. A variation of the resolution of appointment of the Joint Committee which was agreed to by the House on 27th November 1974 and the Senate on 28th November 1974 provided for it to report not later than 29th May 1975.

(*Contributed by the Clerk of the House of Representatives*).

Australia (Joint Committee on the Parliamentary Committee system).—In Vol. XLII of THE TABLE (1974, pp. 157–158) it was reported that the House of Representatives had moved to appoint a Joint Committee on the Parliamentary Committee System, to inquire into, report on and make recommendation for:

(*a*) a balanced system of committees for the Parliament;

(*b*) the integration of the committee system into the procedures of the Parliament, and

(*c*) arrangements for committee meetings which will best suit the convenience of Senators and Members.

Consideration of the message to the Senate requesting concurrence was made an order of the day on receipt by the Senate, but no further action had occurred when Parliament was prorogued on 14th February 1974. The matter had not been revived when the Twenty-eighth Parliament was dissolved in April 1974.

It was, however, revived in the next Parliament. On 17th July 1974, the Leader of the House (The Hon. F. M. Daly, M.P.) again moved

for the appointment of a Joint Committee with similar terms of reference to those of the previous proposal and the motion was agreed to by the House. On 17th September 1974, the Senate agreed to the proposal, but with modifications which increased by one Senator the number of Members of the Committee and provided that the Deputy Chairman be elected from those members nominated by the Leader of the Opposition, and be a member from a different House than the Chairman. The House accepted these modifications on 18th September 1974.

The Committee began its inquiry soon afterwards and is continuing its deliberations.

(*Contributed by the Clerk of the House of Representatives*).

7. Order

British Columbia (Member suspended after tedious repetition).—On 4th June, 1974, in Committee of Supply, the Chairman reported that he had ordered a member to discontinue his speech for having persisted in tedious repetition of his own arguments and the arguments used by other members in debate, and the member had refused so to do.

Mr. Speaker named the member for refusing to obey the order of the Chairman.

It was moved that the House dispense with the services of the member for the remainder of the day.

Australia: House of Representatives (Motion of no confidence in the Speaker).—Following Question Time on 8th April 1974, the Leader of the Opposition (the Rt. Hon. B. M. Snedden) gave notice of his intention at the next sitting to move—That the House has no confidence in Mr. Speaker (the Hon. J. F. Cope). The notice of motion resulted from an exchange that day between Mr. Speaker and an Opposition Member which culminated in the Member being named and suspended from the service of the House.

The Leader of the House (the Hon. F. M. Daly), intimated that the Government was prepared to debate the motion immediately, and leave was granted for the suspension of standing orders to enable the Leader of the Opposition to move his motion forthwith.

In speaking to his motion Mr. Snedden outlined the major grievances which the Opposition had against the manner in which Mr. Speaker was performing his duties, claiming that he gave preference to Government Members and displayed a lack of control and a lack of understanding of the House. The Leader of the Australian Country Party (the Rt. Hon. D. J. Anthony) in supporting the motion expressed his agreement with Mr. Snedden's sentiments and also asserted that the suspended Member's behaviour did not warrant the action taken by Mr. Speaker.

The Leader of the House strongly criticised the Opposition for having moved the motion of no confidence claiming that they paid no respect to the dignity of the Parliament. Of the Speaker, Mr. Daly said that "you have added dignity, understanding, tolerance and fairness to this Parliament. Your Judgment has been as wise as that of Solomon. In the face of great misuse of the Standing Orders by those who sit opposite your patience has astounded me and members on this side of the Parliament". Mr. Daly reminded Members that Mr. Cope had been the unanimous choice of the Parliament and of the words of congratulation and support offered by the Opposition upon his election to the office of Speaker.

The debate was gagged after an hour and the motion defeated by 61 votes to 49, the vote being on party lines.

Over the 74-year history of the Australian Parliament there have been seven previous motions of want of confidence in Mr. Speaker, 6 of which occurred between 1944 and 1955 and the seventh occurred in 1971 (see THE TABLE vol. XL (1971) pp. 162–3).

8. ACCOMMODATION AND FACILITIES

House of Commons (Facilities for Members).—It was only as comparatively recently as 1965 that Members of the House of Commons took control of their domestic parliamentary affairs whereas in most legislatures of the Commonwealth a House Committee has usually been commonplace at least from the earliest days of independence. There were historical reasons for this, the main one being the location of the Legislature within a royal Palace where adminstrative control lay understandably in the hands of royal officials, a system supported subsequently by legislation dating back to the early years of the nineteenth century (an exception is catering which for many years now has been the direct responsibility of the Members themselves). In 1965, the situation changed fundamentally when the Queen agreed that the control, use and occupation of the Palace of Westminster and its precincts should be permanently enjoyed by the Houses of Parliament. The House then appointed, on 7th December, 1965, a Committee, the Select Committee on House of Commons (Services),

> "to advise Mr. Speaker on the control of the accommodation and services in that part of the Palace of Westminster occupied by or on behalf of the House of Commons and to report thereon to this House . . ."

The Committee, usually known colloquially as the Services Committee, has been appointed sessionally in each of the ten sessions since 1965. Its most recent appointment, on 15th November 1974, was not however limited to the period of the current session but was for the duration of

the present Parliament (this is a new and unusual practice which is now being applied in the case of several select committees at Westminster). The Committee's usual membership is sixteen including the Leader of the House, the Government and Opposition Deputy Chief Whips, the Liberal Chief Whip and a back-bench membership divided evenly between Government and Opposition. It has been customary for the Committee to elect the Leader of the House as its Chairman. By the nature of its responsibilities, however, the Committee is not influenced by Party thinking, and politics in the usual sense of the word do not intrude into its proceedings.

So much for the bare background to the Committee's composition and duties. This note, however, is not the occasion for a review of the past ten years or for an assessment of the Committee's success or failure over this period although such a review might be appropriate next year after the House has decided what to do about the "Review of the Administrative Services of the House of Commons" recently undertaken at the Speaker's request by Sir Edmund Compton. The "Compton Report" as it has become known is itself the subject of consideration by a private committee of eight Members appointed by the Speaker, and both reports are to be debated by the House with whom rest the final decisions. The present functions of the Services Committee, seem certain to be directly affected by these important decisions, Meanwhile the Committee's work continues and it dealt with several matters in 1974.

Accommodation problems are always prominent on the Committee's agenda for the very good reason that there is a desperate shortage of space at Westminster. Over one third of all the Committee's reports have been concerned with accommodation and how to find more space for various parliamentary purposes which are now thought essential for the last quarter of the twentieth century but were not taken into account when the present Houses of Parliament were built in the mid-nineteenth century. For some time now, use has been made for Members and their secretaries and the staff of the House of accommodation in various outbuildings close to the main building but in 1974 the House acquired the first substantial outbuilding of this sort for its permanent use. This is a building known as Norman Shaw (North) so called after the architect who designed it together with another somewhat similar building known as Norman Shaw (South). It is a pleasant, sound building overlooking the river on its eastern side and it has been skilfully adapted for parliamentary use by the Department of the Environment to provide accommodation for Members (128), their Secretaries (122), some research assistants, an annexe for the Library, broadcasting studios (1,000 sq. ft. each for the B.B.C. and I.B.A.), storage space for the Vote Office which issues parliamentary papers etc., and some sleeping accommodation of a dormitory kind for certain of the House staff who will be moved out of existing accommodation within the main building.

The addition of Norman Shaw (North) is a major gain for the House

but it will not solve all accommodation problems. This can only be done by the provision of a new building. At present the House is committed to the erection of a completely new annexe on the site immediately opposite Big Ben; this building to which the House agreed in 1973 would house 450 Members, 450 Members' Secretaries and about 300 staff. There are, however, doubts now as to whether in view of its cost, which has increased greatly over two years, it will ever be built. If a decision were made to cancel it one possible alternative would be to adapt the Norman Shaw (South) building for parliamentary use and either to demolish the remaining buildings on the site and erect an additional purpose-designed parliamentary annexe much smaller than the projected one or else to adapt the existing buildings as well as Norman Shaw (South) for parliamentary use.*

Another improvement in 1974 was the opening of the newly built underground car park below New Palace Yard. It is on five floors and has a total capacity of just over 500 car parking places. Potential users are vastly in excess of this number approximating about 1,600—Members alone number 635—and, inevitably, a system of priorities has had to be established. As a result the first four floors have been reserved for Members (400 cars) and the bottom floor for permanent staff of the House and certain staff in the Whips' Offices (105 cars). In addition there is overground parking space elsewhere in the precincts for about 80 more cars belonging to Members and in a car park near to Westminster Abbey there is space for about 200 more cars belonging to the permanent staff, Members' Secretaries, the Press, research assistants, etc. The principle of "first come—first served" underlines all car parking allocation whether for Members or others. The first year is bound to be experimental and the Services Committee propose to review the arrangements towards the end of 1975 by which time there will have been a full year's experience.

New Palace Yard has throughout history been literally a yard but now that vehicles are to be removed from the surface and kept underground the House has decided that the surface should be landscaped. This decison resulted from a report of the Services Committee which recommended a raised level with a double row of pleached lime trees surrounding a lawn with an hexagonal pool inset to mark the site of the historic Tudor fountain. This is now in course of completion and the trees have already been planted.

Like all House Committees the Services Committee has to deal with a multitude of administrative matters which vary according to local conditions. Principal amongst these was security which, following the bombing of Westminster Hall in June 1974 and much damage to the northern part of the annexe though not fortunately to the mediaeval roof and stonework, occupied much of the Committee's time in that summer. One result is that all Members as well as staff are now required

* A decision to cancel this building was announced by the Government in July 1975

to carry photo-identity passes and so are regular official visitors. There is increased scrutiny and search of all casual visitors to Parliament and more far-reaching measures can be expected following a report on security arrangements throughout the Palace of Westminster which is being carried out by the Deputy Commissioner of the Metropolitan Police.

Once again the telephone system is under pressure. The installation a few years ago of a fully automatic exchange has saved both time and money but demand continues for additional extensions. A new survey of parliamentary telephone needs is therefore underway and advantage will be taken of applying new techniques wherever possible.

A new secretarial agency, Max Mullers, began to operate in January as a support service for Members of both Houses and they provide on a commercial basis typing and shorthand, including audio, facilities to meet any additional needs of this sort which Members may require either on an *ad hoc* basis or more or less permanently.

(*Contributed by the Clerk Administrator*).

Australia (New and permanent Parliament House).—Since the last report on the New and Permanent Parliament House, which appeared in THE TABLE, vol. XLII, pps. 155–7, the Parliament has passed a Bill which determines Capital Hill as the site for the New and Permanent House.

On 26th September 1974 (V. & P. No. 20, p. 198) a private Member, Mr. L. K. Johnson, introduced a Bill "To determine the site of the New and Permanent Parliament House, and for other purposes". In his second reading speech Mr. Johnson said that the need for a new building was presupposed and only the questions of when and where were unresolved. He further stated "This Bill, when it is passed, will have settled one of those questions by determining the site".

The second reading of the Bill was agreed to by 72 votes to 33 (V. & P. No. 20, p. 199) on a non-party vote and in the committee stage the Minister for Urban and Regional Development (the Hon. T. Uren) moved three amendments to the Bill. The first two amendments were of a general nature in that they made provision for works and ancillary buildings to be constructed on the site. The third amendment provided for the insertion of a schedule which showed a plan of the Parliamentary zone. The Minister's amendments were agreed to and the Bill was read a third time. (V. & P. No. 26, pp. 246–8).

On 24th October 1974 the Senate debated the Bill and a further three amendments were moved. The first amendment enlarged the area to be known as the Parliamentary zone. The second amendment, which became necessary on the adoption of the first, identified the site of Parliament House within the Parliamentary zone and made provision for Parliamentary approval before the buildings or works could be constructed within the Parliamentary zone. The third amendment inserted a new schedule showing the enlarged Parliamentary zone in map form.

The Senate amendments were debated in the House of Representatives on 5th December 1974 (V. & P. No. 46, pp. 426–8). Senate amendment No. 1 was agreed to with an amendment which amended the description of the Parliamentary zone so as to be consistent with the area described in the Schedule of the Bill. Senate amendment No. 2 was also agreed to with an amendment more explicitly stating the Parliament's control of the erection of buildings or other works within the Parliamentary zone and Senate amendment No. 3 was agreed to.

On 10th December 1974 the Senate agreed to the amendments made by the House of Representatives to Senate amendments Nos. 1 and 2.

The Bill was assented to by the Governor-General on 17th December 1974 (V. & P. No. 47, p. 436) and became law on the same day. It is hoped that resolution of the site issue may lead shortly to the commencement of planning for the badly needed new building.

(*Contributed by the Clerk of the House of Representatives*).

XVIII. ATTACHMENTS OF OVERSEAS CLERKS TO THE PARLIAMENT AT WESTMINSTER, 1944–1975

The list of Overseas Clerks that follows has been compiled from the records of the Overseas Office in the House of Commons and aims to be a complete list of Clerks who have come to Westminster on a formal attachment. In principle the qualification for inclusion in the list is an attachment of not less than one month.

The list was sent in draft to all members of the Society of Clerks-at-the-Table for checking and the following accordingly represents the cumulative memory of many Clerks and is as accurate as can reasonably be hoped.

There are 195 names of Clerks, chiefly but not only from Commonwealth Parliaments, on the list (up to the end of July 1975). It is a record of some 30 years of fruitful professional exchanges between Clerks of Parliament and, hopefully, a useful contribution to inter-Parliamentary co-operation.

September–November 1944	C. Hart Jamaica
August 1946–April 1947	L. E. Walcott New South Wales, Australia
January–February 1947	R. Deraniyagala Ceylon
October–December 1948	N. M. Kaul India
October–December 1949	L. J. Howe-Ely S. Rhodesia
November–December 1950	J. R. Franks S. Rhodesia
November 1950–February 1951	L. W. Donough Singapore
November–December 1951	Col. G. E. Wells S. Rhodesia
November–December 1951	S. L. Shakdher India
November 1951–June 1952	A. A. Tregear Australia
June–July 1952	S. Ade Ojo Nigeria
June–November 1952 and November–December 1969	R. W. Primrose Hong Kong
October 1952–February 1953	T. E. Farrell Trinidad
January–April 1953	D. F. Mayers St. Lucia
February–June 1953	R. Moutou Mauritius
May–July 1953	S. V. Wright Sierra Leone
October 1953–April 1954	G. E. L. Laforest Trinidad
March 1954	A. W. Purvis Kenya
May–July 1954	Alhaji Umaru Gwandu, Nigeria
April–July 1954	A. Sequeira Aden
November–December 1954	H. H. Williams St. Vincent
January–April 1955	H. A. Shaikh Pakistan
January–April 1955	K. S. Madon Zanzibar
January–April 1955	E. Grant-Dalton Rhodesia and Nyasaland
June–July 1955	M. A. Beshir Sudan
October–December 1955	B. A. Manuwa Nigeria
October–December 1955	I. Wali Nigeria
April–July 1956	D. C. Igwe Nigeria
April–July 1956	A. Zeiden Sudan
May–June 1956	A. Pickering New South Wales, Australia

October–December 1956	K. B. Ayensu Gold Coast
January–April 1957 and October–December 1961	C. A. Fredericks Malaya
January–April 1957	J. Mavoa Fiji
November–December 1956	E. V. Viapree British Guiana
June–July 1957	Sir El Khatin el Sanousi, Sudan
October–December 1957	A. Lopez Singapore
October–December 1957	E. E. Nsefik Nigeria
October–December 1957	K. B. Ayensu Ghana
January–April 1958	Loke Weng Chee Singapore
January–April 1958	S. Bemba Uganda
May–July 1958	S. V. Wright Sierra Leone
October–December 1958	O. M. El Hassan Sudan
Janaury–March 1959	E. A. Heathcote N. Rhodesia
March–April 1959	M. Tlebere Basutoland
May–July 1959	J. R. Nimmo Kenya
June–July 1959	J. M. Akinola Nigeria
June–July 1959	J. O. Adeigbo Nigeria
October–December 1959	S. E. Hulse British Honduras
January–April 1960	A. M. Adam Somaliland
January–April 1960	P. Pullicino Uganda
May–July 1960	Akin Williams W. Nigeria
May–July 1960	Yao Ping Hua Sarawak
October–December 1960	Alhaji M. Ladan N. Nigeria
October–December 1960	A. Usman N. Nigeria
November 1960	G. W. Y. Hucks Tanganyika
January–March 1961	G. Noble Rhodesia and Nyasaland
January–March 1961	I. P. K. Vidler New South Wales, Australia
May–June 1961	A. A. Ahmed Aden
May–July 1961	P. C. Tan Singapore
October–December 1961	E. L. Deans Jamaica
January–March 1962	P. Musekwa Tanganyika
January–April 1962	B. N. I. Barungi Uganda
May–July 1962 and May–June 1969	C. V. Strachan Grenada
May–July 1962	M. Mukhtar Nigeria
May 1962	J. T. Kolane Basutoland
July 1962	Miss G. Davis Dominica
October–December 1962	Dr. K. C. Bedi Punjab
October–December	A. S. N. Davies Gambia
October–December 1962	G. R. Latour Trinidad
January–April 1963	A. M. Mwangi Kenya
January–April 1963	S. N. Seneviratne Ceylon
February–May 1963	G. D. Combe South Australia
April–July 1963	O. A. Coker Nigeria
April–July 1963	L. J. Mwenda Nyasaland
May—July 1963	L. J. Ngugi Kenya
October–December 1963	M. O. Onajide Nigeria
October–December 1963	P. Chong Sarawak
January–April 1964	C. R. Coelho Kenya
January–April 1964	M. A. van Ryneveld S. Rhodesia
April–July 1964	O. S. Barrow St. Vincent
April–July 1964	J. G. Kimani Kenya
April–July 1964	R. I. Amaefule Nigeria
June–July 1964	J. E. Carter Trinidad

October–December 1964	G. C. Opundo Kenya
October–December 1964	Y. Osman Tanganyika
November–December 1964	A. A. Musaid Aden
November–December 1964	J. A. D. Kennedy Northern Ireland
January–March 1965	G. T. d'Espaignet Mauritius
March 1965 and November–December 1974	M. Malik Nigeria
May–July 1965	O. V. Anya Nigeria
May–July 1965	I. Okonjo Nigeria
May–July 1965	Penigran Haji Abdul Rahman Brunei
June–July 1965	G. Johnson Bahamas
January 1966	G. A. Okoye Nigeria
January–April 1966	O. B. Okuboyejo Nigeria
January–April 1966	P. Weerasinghe Ceylon
February–March 1966	D. C. Gautam Nepal
April–July 1966	Ahmad bin Abdulla Malaysia
April–July 1966	Mrs. S. McLaughlin Cayman Islands
April–July 1966	J. C. Kimoro Kenya
October–December 1966	Judin bin Asar Brunei
April–June 1967	Neo Seng Kee Singapore
May–July 1967	C. B. Koester Saskatchewan, Canada
June 1967	C. H. Harries New South Wales, Australia
December 1967	Z. Gruszynski Poland
December 1967	M. Zandecki Poland
January–April 1968	C. K. M. Mfune Malawi
February–May 1968	G. Damenu Ethiopia
March 1968	J. Mwateka *Serjeant at Arms*, Malawi
April–August 1968	L. Stevens Antigua
April–July 1968	Mazlan bin Haji Hamdan, Sarawak
April–July 1968	F. C. Neubronner Sabah
May 1968	J. B. Chand Nepal
May 1968	J. Bahadir Nepal
May 1968	A. Small Canada
October 1968	I. Okubo Japan
October–December 1968	M. Henry Guyana
October–December 1968	K. A. Haque Bangladesh
December 1968	R. Salaman Indonesia
January–March 1969	N. M. Chibesakunda Zambia
January–April 1969	B. A. Tlelase Indonesia
March 1969	S. Sutrisman Indonesia
March–May 1969	D. C. Gautam Nepal
April–July 1969	F. Narain Guyana
April–July 1969	Mrs. U. Raveneau St. Lucia
April–July 1969	R. Griffith Trinidad
October–December 1969	R. J. Frampton Hong Kong
October–November 1969	B. Tittawella Sri Lanka
November 1969	Basher Thieb Ayam Jordan
November 1969	Khalil M. Asfour Jordan
December 1969–March 1970	B. R. Shakya Nepal
January–February 1970	J. Steel Northern Ireland
January–March 1970	G. T. Matenge Botswana
February–April 1970	H. N. S. Bhatnagar Uttar Pradesh
March 1970	C. W. Pannila Sri Lanka
January–March 1970	A. C. Yumba Zambia
April–July 1970	J. B. Roberts Western Australia

May 1970	J. J. H. Victor South Africa
June–July 1970	W. Blischke Federal Republic of Germany
July 1970	Jae Kyu Kwak Korea
July 1970	Byung Kyu Choi Korea
October–December 1970	P. O. Saunders Bahamas
February–April 1971	K. E. K. Tache Ghana
March–May 1971	R. E. Ward New South Wales, Australia
April 1971	Kyo Sup Kwon Korea
April 1971	Chong Hyo Cho Korea
April–July 1971	Mrs. M. Davis Pierre Dominica
April–July 1971	Miss D. Thomas St. Lucia
April–July 1971	M. Bru Mauritius
July 1971	J. P. J. Maingot Canada
October–December 1971	C. R. Boyce Barbados
October–December 1971	L. M. Khofi Malawi
December 1971	Hon. S. Tadesse Ethiopia
December 1971	Hon. A. Selassie Ethiopia
December 1971–March 1972	B. Barjracharya Nepal
December 1971–March 1972	M. Joshi Nepal
January–March 1972	W. J. Mabviko Malawi
January–March 1972	C. F. Mulenga Zambia
February–March 1972	M. Ameller France
March 1972	Mlle. C. Gibel France
April–July 1972	H. N. B. Gicheru Kenya
April–July 1972	Mrs. L. Poznanski Solomon Islands
May–July 1972	D. M. Blake Australia
June 1972	E. J. M. Potter Jersey
January–April 1973	A. F. M. Monsanto Belize
January–April 1973	A. Luchmun *Serjeant at Arms*, Mauritius
January–April 1973	B. C. Baruah Assam, India
April 1973	S. S. Wijesinha Sri Lanka
April–July 1973	B. R. Goel India
April–July 1973	Lim Joo Keng Malaysia
April–July 1973	F. T. N. Yap Sabah
May 1973	K. H. Wheeler Hong Kong
May–July 1973	J. H. Campbell Victoria, Australia
October–December 1973	I. P. Gontse Botswana
October–December 1973	Captain K. T. N. de Silva, Sri Lanka
December 1973	K. Shamsuzzaman Bangladesh
January–March 1974	A. Dumbuya Sierra Leone
March 1974	S. Jacobson Israel
February and June 1974	P. Garbarino Gibraltar
May–June 1974	R. Caley Isle of Man
May–June 1974	O. Cuffy St. Vincent
July 1974	M. Hunter Northern Ireland
July 1974	G. B. Edwards Tasmania, Australia
October–December 1974	R. C. Lowe Bermuda
October–December 1974	J. Masya Kenya
November–December 1974	Miss S. H. Kidson Zambia
January–April 1975	S. A. R. N'Jai The Gambia
January–April 1975	Haji Ahmad Hasmuni bin Haji Hussein, Malaysia
January–April 1975	L. G. Silva Sri Lanka
February 1975	Mme. D. Rivaille France
February 1975	J–P Mevellec France

May–July 1975	S. Agarwal India	May 1975	A. W. B. Saxon New South Wales, Australia
May–July 1975	D. L. Wheeler New South Wales, Australia	June–July 1975	Mrs L. Ah Koy Fiji

XIX. EXPRESSIONS IN PARLIAMENT, 1974

The following is a list of examples occurring in 1974 of expressions which have been allowed and disallowed in debate. Expressions in languages other than English are translated where this may succinctly be done; in other instances the vernacular expression is used, with a translation appended. The Editors have excluded a number of instances submitted to them where an expression has been used of which the offensive implications appear to depend entirely on the context. Unless any other explanation is offered the expressions used normally refer to Members or their speeches.

Allowed

"back of your head, you are talking through the" (*W. A.L/A Hans.* p. 2337)
"donkey" (*Malta Procs.* p. 959)
"for God's sake shut up" (*W. A. L/A Hans.* p. 2337)
"guilty man" (*N.S.W.L.A. Parl. Deb.* 1973/74, p. 653)
"guts to divide, they didn't even have the" (*W. A. L/A Hans.* p. 62)
"In his efforts at self justification there is no lie too perfidious to tell, there is no depth too low to which he is not prepared to sink, there is no mire too odious into which he is not prepared to crawl . . .", (*N.S.W.L.A. Parl. Deb.* 1973/74, p. 859)
"main accusers" (*N.S.W.L.A. Parl. Deb.* 1973/74, p. 28)
"most stagnant thing in this House, you big bully" (*W. A. L/A Hans.* p. 990)
"ranting and raving in this place and outside of it" (*St. L. Hans.* 30.8.74)
"ratbag" (*W. A. L/A Hans.* p. 1886)
"sewer, you think that everybody's thoughts are in the, like yours" (*W. A. L/A Hans.* p. 79)
"stupid fellow, an onion" (*Malta Procs.* p. 281)
"There are three forms of liars—there are liars, bloody liars, and statistics" (*W. A. L/C Hans.* p. 263)
"two-faced as his new leader . . .". (*N.S.W. L.A. Parl. Deb.* 1973/74, p. 115)

Disallowed

"Arrogant hypocrite" (*Br. Col. Hans.* p. 2358)
"Arrogant man, a most conceited man" (of the Prime Minister) (*Aust. Sen. Hans.*, 13.3.74, p. 264)
"ashamed" (of the Government) (*Maharashtra L.A. Procs.* Vol. 40, 2455)
"because he is not beyond encouraging people to break the law in this matter" (*S.A. Hans.*, 1974–75, p. 16)
"biggest blackmarketeer East of Suez" (*L.S. Deb.* 9.5.74, Col. 540)
"blackmail" (*Br. Col. Hans.*, p. 2391)
"Bottoms glued on the table" (*Zambia P.D.*, Vol. 35 p. 612)

"Browbeaten by a Minister" (*Aust. Sen. Hans.*, 14.11.74, p. 2435)
"Bubble" (*Zambia P.D.*, Vol. 35 p. 1387)
"chaps" (*Zambia P.D.*, Vol. 35 p. 1055)
"character assassination by innuendo" (*N.S.W.L.C. Parl. Deb.*, Vol 109, p. 1610)
"Complete liar" (*W.A. L/A Hans.* p. 787)
"comrade" (*Zambia P.D.*, Vol. 35, p. 2235)
"confused mind" (*Haryana Debs.* 16.1.74)
"contemptible" (*Aust. Sen. Hans.*, 24.10.74, p. 2011)
"cowardice" (*Aust. Sen. Hans.*, 4.12.74, p. 3141)
"crass hypocrisy" (*Br. Col. Hans.*, p. 398)
"criminal friends . . .", (*N.S.W.L.A. Parl. Deb.* 1973/74 p. 302)
"criminal's mouthpiece", (*N.S.W.L.A. Parl. Deb.* 1973/74), p. 899)
"damn lies" (*India R.S. Procs.*, 13.3.74)
"despicable" (*Br. Col. Hans.*, p. 3856)
"despicable" (*Aust. Sen. Hans.*, 11.12.74, p. 3453)
"disgrace to the Senate and . . . a disgrace to the Party of which he is "Deputy-Leader", (*Aust. Sen. Hans.*, 13.11.74, p. 2237)
"dishonest" (*India R.S. Procs.*, 1.3.74)
"do not think that we in the opposition would get much of a hearing . . ." (*St. L. Hans.*, 30.8.74)
"deliberately false . . ." (*N.S.W.L.A. Parl. Deb.* 1973/74 p. 30)
"egomaniac" (*Br. Col. Hans.*, p. 68)
"Every Jim and Jack is happy with the Ministry of Rural Development" (*Zambia P.D.*, Vol. 35, p. 2594)
"false" (*Bangladesh Deb.*, 3.7.74)
"foot, my" (of the Election Commission) (*L.S. Deb.* 5.4.74, Col. 235)
"filthy innuendos from a dirty little mind" (*N.S.W.L.A. Parl. Deb.*, 1973/74 p. 2300)
"financial reward" (*N.S.W.L.A. Parl. Deb.* 1973/74, p. 2038)
"fraud" (of the State Electricity Board) (*Haryana Debs.*, 7.1.74)
"high-handedness' (of the Chair) (*L.S. Deb.* 19.4.74, Col. 256)
"hit-and-run father" (*Zambia P.D.* Vol. 35, p. 2090)
"humbug" (*L.S. Deb.* 5.4.74, Col. 335)
"hush funds" (*Br. Col. Hans.*, p. 1309)
"humbug" (of a member but not of his speech) (*Com. Hans.* Vol. 868, c. 1172)
"hypocrisy" (*Br. Col. Hans.* p. 1314)
"hypocritical" (*U.P. Procs.*, Vol. 309/5, p. 478)
"impertinence" (*M.P.V.S. Procs.*, 16.4.74)
"Intelligence, you could never have got preselection on your" (*Aust. Hans. Sen.*, 28.11.74, p. 2992)
"Kutte hain" (are dogs) (*India R.S. Procs.*, 3.9.1974)
"Kutton ki Tareh se" (like dogs) (*India R.S. Procs.*, 3.9.1974)
"Kutton ko" (dogs) (*India R.S. Procs.*, 3.9.1974)
"Liar" (*Aust. Sen. Hans.*, 25.6.74, p. 460)

"Liar, then he is a, and so are you for repeating it" (*W.A. L/A Hans.* p. 787)
"Lie" (*L.S. Deb.*, 25.11.74, Col. 210)
"Lie" (*Aust. Sen. Hans.*, 24.10.74, p. 2010, 29.10.74, p. 2097)
"Lie, that is a complete" (*W.A. L/A Hans.*, p. 787)
"maliciousness, I have doubts about their" (*Malta Procs.*, p. 964)
"mewling and puking" (*Br. Col. Hans.*, p. 414)
"money-collector" (of a Minister) (*L.S. Deb.*, 21.3.74, Col. 263)
"to seek a muzzling of the press, the line adopted by the Opposition" (*N.S.W.L.C. Parl. Deb.* Vol. 109, p. 1638)
"nonsense" (*Zambia P.D.*, Vol. 35, p. 2263)
"nonsense" (*L.S. Deb.*, 7.8.74, Col. 191)
"notorious" (*Bangladesh Deb.*, 2.7.74)
"our beautiful women" (*Zambia P.D.*, Vol. 35, p. 1632)
"parliamentary position, using his to speculate in just about everything" (*Aust. Sen. Hans.*, 13.11.74, p. 2351)
"phony" (*Br. Col. Hans.*, p. 67)
"phoney" (*Aust. Sen. Hans.*, 12.11.74, p. 2243)
"political fraudulence" (*Aust. Sen. Hans.*, 11.6.74)
"political trickery" (*Br. Col. Hans.*, p. 487)
"Pro-American Speech" (*L.S. Deb.*, 13.3.74, Col. 216)
"propaganda has been appearing in the communist press" (*N.S.W.L.A. Parl Deb.*, 1973/74, p. 923)
"proper people have been elected" (*Zambia P.D.* Vol. 35, p. 2751)
"rights, I have been denied my" (reflection on the Chair) (*S. Aust. Hans.*, 1974/75, p. 75)
"roaming as a free bull" (*M.P.V.S. Procs.*, 27.3.74)
"slavish mentality" (*Haryana Debs.*, 16.1.74)
"spit on, will" (*M.P.V.S. Procs.*, 17.4.74)
"theatrical stunts" (*St. L. Hans.*, 21.1.74)
"traitor" (*India R.S. Procs.*, 9.5.74)
"tummy" (*Zambia P.D.*, Vol. 36, p. 118)
"two-bit Minister" (*Br. Col. Hans.*, p. 1343)

Borderline

"ridicule" (of a Minister) (*T.N.L.A. Procs.*, Vol. LX, No. 2)
"under-the-table deals" (*Br. Col. Hans.*, p. 352)
"worst example of a filthy lie I have ever heard" (*W.A. L/A Hans.*, p. 525)

XX. REVIEWS

Parliamentary Scrutiny of Government Bills. By Professor J. A. G. Griffith. (George Allen and Unwin Ltd., 1974. £6.75).

In this book Professor Griffith takes three Parliamentary sessions, 1967–68, 1968–69 and 1970–71, and considers in detail the bills passed during these sessions by the two Houses of Parliament, with particular reference to the attempts (successful or unsuccessful) to amend them in committee or on the report stage.

He clearly thinks that the present system of Parliamentary scrutiny of bills could be improved, but his suggestions for doing so do not always appear to accord with his general views on the subject. For example, on page 23 of the Introduction, he states: "In the legislature of the United Kingdom, the Government is, in comparison with other Parliamentary legislatures, in a strong position to have its own way. Any proposal which strengthens that position should be looked at most closely". Yet, on page 27, we find him recommending that all except "the dozen or so major Government bills in each session" should be sent to a standing committee for second reading. Bearing in mind that a Government may expect to pass between fifty and eighty bills each session this would inevitably mean that many bills on which there was a real difference of opinion between parties would receive the treatment that is at present meted out only to uncontentious bills. He further proposes that when a bill has its committee stage in standing committee no question that a clause stand part of the bill should be allowed, save at the Chairman's discretion (page 130). Finally, he claims that debates on third reading "are almost of no value whatsoever" or, at best, "serve a limited purpose" (pages 193–4).

The net effect of these proposals would be that at no stage, either in the House or in standing committee, would it be certain that the principle of a bill would be debated. Professor Griffith may well be right in saying that Erskine May's view that the second reading is the most important stage of a bill is "highly formalistic" (page 30), but nevertheless its importance should not be underestimated, and the number of divisions that take place at this stage are no real guide to this. It is not only the stage at which the Opposition make known to the world at large their attitude to a measure—as the author points out elsewhere, it is virtually the only business transacted on the floor of the House that attracts any publicity—but it is the stage at which the Government obtain an impression of the parts of the bill to which the Opposition attach importance and are thereby enabled to make their preparations for debate in committee. Thus the stage is set for the detailed debates that are to follow, and each side knows where the other stands, as do outside bodies who may be affected by the bill.

With regard to the selection of amendments by the chairman of a

committee, Professor Griffith suggests that this should take place and be publicized at least 24 hours before the debate takes place. So far as the making of the selection goes, the clerk will by then have already agreed with the draftsman on the advice which he proposes to give the chairman, and this is rarely rejected. It is therefore possible for him to pass on this information to any Member who contacts him, and thus the advance notice—which I agree to be desirable—is obtainable, and, in practice, obtained, particularly by the Opposition frontbench. The smooth working of this practice would, however, be upset by increasing the present amount of advance publicity, since it is implicit in the enquiries about selection that it should be possible to make informal representations about possible changes, and these are inevitably harder for a chairman to accept once the list has been published.

Professor Griffith is on a sound point when he complains of the lack of information available to Members prior to the consideration of a bill. Opposition Members, particularly those who have been Ministers, are very conscious of the disadvantage they are at, compared with the Government, who have the whole weight of the Civil Service at their backs. Since his book went to press, however, a first step has been taken towards redressing the balance. On 20th March the House passed a resolution, providing financial assistance to any Opposition party to assist it in carrying out its Parliamentary business. This assistance, which was to be on the basis of the number of seats won and the number of votes polled, with a maximum of £150,000, should enable Opposition parties to carry out some of the research required to interpret the meaning and implications of the clauses of a bill before the committee stage, and thus to meet the Government on more level terms.

Professor Griffith suggests (page 250) that the consideration of bills in committee would be improved if the committee stage were divided into two halves, in the first of which it would operate like a select committee, without the aid of Ministers, by taking evidence from witnesses, and in the second of which it would perform the functions of a standing committee, assisted by Ministers. The suggestion is an attractive one, but unlikely, I fear, to be adopted for reasons of time. Although Professor Griffith envisages that his two stages would take no longer than the present standing committee stage I am less sanguine. Members of the public are always keen to give evidence before Parliamentary committees, and Members are loth to refuse their requests, partly in case they thereby miss something of value and partly because they do not wish to court unpopularity. Thus proceedings in select committees on bills tend to be drawn-out affairs—for example, the committee on the Abortion Act (Amendment) Bill has so far sat this session from February to June—and no Government can afford to put their major legislation at risk.

Professor Griffith rightly emphasizes the importance of the report stage and of keeping it on the floor of the House. (He notes in passing that the Standing Order enabling the report stage of certain bills to be

taken in standing committee has only been used once). This stage enables Members who were not on the Standing Committee to speak and move amendments, and in a useful table (page 253) he shows how in 1967–68 such Members were responsible for 37.8 per cent of speeches and 22.2 per cent of amendments. He points out that it is on report that the Opposition wins most concessions from the Government. Ministers are reluctant to accept Opposition amendments in Committee on the grounds that they have not had enough time to consider their substance or drafting or both, but will often give undertakings to reconsider them before the Report stage. Such reconsideration will often result in their tabling amendments of their own to give effect to the relevant points. What therefore appear as Government amendments on report are frequently Opposition amendments in disguise—sometimes on a considerable scale, e.g. the six new Government clauses in the 1969 Finance Bill, which were basically the work of Mr. Iain Macleod (page 174).

A book of this kind does not make for easy reading, and in this case reading is not made easier by the smallness of the type, the occasional turgidity of the language, e.g. "disregarding the anthropomorphic sentimentality" (page 252), and the inadequacy of the index.

These, however, are small defects to set against the meticulously accurate and detailed research which has produced a work of originality, which will appeal to all those interested in our Parliamentary legislative system and which is likely to remain a standard text-book on the subject for many years.

(*Contributed by A. A. Birley, Clerk of Public Bills, House of Commons*).

The Parliamentary Ombudsman—A Study in the Control of Administrative Action. By Roy Gregory and Peter Hutcheson. (George Allen and Unwin. 1975. £12.00).

Of the authors of this admirable work Dr. Roy Gregory is Reader in Politics at the University of Reading, and Mr. Peter Hutcheson is a lawyer from New Zealand who has been a Research Officer with the Royal Institute of Public Adminstration. The Preface pays tribute to the many authoritative personalities they have consulted, including the sucesssive Chairmen of the Select Committee on the Parliamentary Commissioner for Administration, and the first two Parliamentary Commissioners and members of their staff.

The book starts with a chapter describing the various types of administrative faults that can occur within the machinery of government, and the reasons why they happen. The various provisions for protecting the subject which already existed before the first Parliamentary Commissioner was appointed, are explained, and lead to a description of the then existing methods of parliamentary control over ministers, and the importance of the part played by private members of Parliament in putting right administrative abuses. The various stages by which the example of the Scandinavian Ombudsman was used to develop the concept of an

expressly Parliamentary officer to strengthen the influence which private members were already exerting, are lucidly set out, from the repercussions of the Crichel Down affair in 1954, through the work of the Franks Committee from 1955 to 1957 to the Whyatt Report in *Justice* of November 1961. This led directly, as the authors show, in October 1965 to the publication of a White Paper which outlined the scheme which, with modifications, became law in 1967. The various developments and changes which took place during the progress of the Parliamentary Commissioner Act through Parliament are described and it is valuable that the text of the Act is printed as an Appendix. The wholly parliamentary nature of the Commissioner's office is clearly brought out; complaints may only be brought to the Commissioner's notice by an M.P.

The work then deals clearly and comprehensively in a series of chapters with the Commissioner's procedures and powers, and with his jurisdiction, describing the categories of cases excluded from the ambit of his responsibilities. The various tests by which he assesses whether he can investigate a case are described under the two headings mandatory and discretionary, and are illuminated by cases taken from the Commissioner's reports.

After dealing with examples of injustices and remedies, the writers assess the debit and credit effect on the civil service of the Commissioner's inquiries. On the whole the reader is left with the conclusion that whereas the debit effects—such as "buck-passing"—have to some extent worn off, on the credit side the benefits in better administration and more considerate attitudes to the citizen have been more lasting.

There is a valuable chapter on the complaints of certain former inmates of Sachsenhausen concentration camp at their exclusion from compensation for suffering from "measures of Nazi persecution". Another chapter shows how this inquiry affected the development of the work of the Select Committee on the Parliamentary Commissioner. This Committee was at the start envisaged as a complementary element in the scheme for the appointment of a Commissioner. The Committee's examination of the Commissioner's Reports, and their own Reports to the House of Commons are described, and their influence in the subsequent appointment of a Health Service Commissioner and of Local Government Commissioners is explained. This work may be confidently recommended as a masterly survey of this new element in the British Constitution by which Parliament supervises the actions of the executive.

(*Contributed by D. Scott, Clerk to the Select Committee on the Parliamentary Commissioner for Administration*).

The House of Lords and the Labour Government 1964–1970. By Janet P. Morgan. (O.U.P., Clarendon Press. 1975. £8).

Dr. Morgan is clearly a House of Lords' fan. More surprisingly, she seems to be a fan too of the ill-fated attempt to reform the House in 1969. Like many institutions the House of Lords is less than critical of itself (this is especially true also of those who work for it) so it is a pity that

Dr. Morgan accepts so much of the self-satisfaction which the House engenders. Nevertheless, her book which deals with a period of nearly six years from 1964 to 1970, during which the Labour party were in Government, is an interesting and exhaustively researched account of the life and work of the House of Lords. Possibly the narcissistic element found among both peers and officials, mentioned in the foreword to the book, has helped to make Dr. Morgan's account so accurate and sensitive. Certainly both peers and officials will enjoy reading it, if only because it is about them.

In 1964 a Labour Government was returned to office after thirteen years in opposition and was, as it always has been, in a minority situation in the House of Lords. Dr. Morgan sets herself the task of tracing in detail how both government and opposition, peers and others adapted themselves to this situation and the ways in which they tried to cope with the obvious inherent difficulties.

The book is in two parts; the first deals with the House as it exists, describing its composition, various types of peer, parliamentary business, the day-to-day work of the House and the party organisations. Those who know the House well through daily contact will find little to fault in the general picture which Dr. Morgan paints, with its astute commentary and occasional personal glimpses. There are, not unexpectedly perhaps, a few errors of detail which the working peer or clerk would spot, but these are rare blemishes in an absorbing description of the House.

Part II deals with the political behaviour of the House on two notable occasions when it opposed the wishes of the Labour Government, namely the rejection of the Southern Rhodesia (United Nations) Sanctions Order 1968 and the "wrecking" amendments passed to the Redistribution of Seats Bill in 1969. It deals also with the long-drawn-out attempt to reform the House between 1967 and 1969. Dr. Morgan throws much new light on these events using as her material official papers held in the Lord's Journal Office, but more importantly the Crossman Diaries. However, the author's uncritical acceptance of the proposals to reform the House and her failure to understand why they failed are surprising. Reform failed not because of poor tactics or unforeseen events but because of a fundamental failure to decide what it should achieve, apart from intricate changes in composition and powers. The Commons were unwilling to grant the Lords radically new functions at their expense so the elaborate scheme for reform inevitably fell between two stools.

In many ways, the most penetrating comments in the book are contained in its concluding chapter, which deals briefly with the three and a half years of Conservative Government. These were significant years for the House with many changes in procedure and practice. A new professionalism among peers became evident. With greater numbers than when last in opposition, it was soon clear that on certain legislation the Labour party could delay and disrupt the Government's programme. It is worth noting here that reform of the House of Lords was not men-

tioned in either of the last two Labour Party Election manifestoes. The extent, however, to which the House is continuing to adapt itself, without political reform, is illustrated by the fact that in a number of areas (e.g. Leave of Absence, Sessional Committees and Europe) Dr. Morgan's well documented narrative is already out of date. But, as she would be the first to acknowledge, the Lords is like that!

Impeachment and Parliamentary Judicature in Early Stuart England. By C. C. G. Tite. (Athlone Press. 1974. £6.50).

Impeachments, like Pretenders, came in waves in British history. The last edition of THE TABLE carried a characteristically succinct account of these: Dr. Tite's book conducts a more thorough examination of one of them.

Under James I, the two Houses joined to exercise a power of criminal jurisdiction not used since 1459. It enabled them to criticise and to judge ministers—temporal and spiritual—of a "King who could do no wrong". In 1621, Mompesson was the first, Bacon the chief, of those whose career was destroyed thereby; the process was then turned against Middlesex (1624) and the royal favourite, Buckingham (1626). Dr. Tite's account does not include Strafford's trial, but stops short at the sentence on Manwaring, Charles I's chaplain, in 1628. This type of jurisdiction, in which the Commons act corporately as accuser and the Lords as jury and judge, is known as impeachment.

As Dr. Tite makes clear, however, when Coke and others disinterred this jurisdiction, they did not confine their search for guidance to those precedents which the mediaeval records described as "impeachments". He examines the other forms of parliamentary procedure to which antiquaries like Noy and Selden turned, when the Lords set up a committee (March 1621) to look for precedents for accusations and judgements in Parliament. In his chapter "The Mediaeval Heritage", Tite gives a concise account of three differing (and highly technical) views on the early origins of impeachment; and it was just this impossibility of arriving at a precise definition of mediaeval impeachment which gave such scope to the anti-Stuart opposition. Dr. Tite's book illustrates the variety of procedure and the use of precedent, and the nub of his discoveries is to be found at pp. 141–148. When dealing with the legal and procedural aspects, Dr. Tite is succinct and comprehensible; and in so far as such elucidation is avowedly the author's "main aim" he is to be congratulated on having achieved it.

The objective, however, is one of limited value. It may be questioned whether Dr. Tite's procedural narrative is not too cut and dried, whether the Commons were ever very sure of the technical status of what they were doing. Even the trials of the 1620's are rarely described as "impeachments" in contemporary records. An overzealous use of the procedural microscope may have blinded Dr. Tite to the fact that the mode

of impeachment was rediscovered in response to a political need, and developed in a political context.

Dr. Tite has sensibly and unfashionably reduced his protagonists from twentieth-century philosophers to seventeenth-century antiquaries. It is a pity that he is not prepared to show that the lawyers and historians were also politicians. To take one example, Coke came to Parliament in 1621 intent on making trouble. He rallied the Commons to a more constructive opposition to the Crown than the Addled Parliament had permitted. Parliamentary sessions were, as ever, dependent on the royal will, and the appointment and dismissal of ministers in the Crown's hands; but with growing public requirements for state intervention in economic and social and religious life, control of the government's *de facto* power became the key political issue.

How could such control be exercised? Impeachment was one of the suggested solutions. That it was feasible was largely due to the fact that resentment of Buckingham had produced for the first time since 1485 a strong and articulate opposition group in the Lords. Although each Tudor Parliament had contained some critics of government policy, only in 1555 had they outstripped government spokesmen in influence and organisation. In place of Elizabeth's phalanx of able councillors in both Houses, James' servants were few and mediocre. An ordinary member could therefore more easily be swayed by an eloquent and well-informed speech from the opponents of government. Further, the obvious exploitation of favours by an impecunious monarch and an upstart favourite offended a sense of propriety deeply held.

Already procedural devices like the Committee of the Whole House had began to deprive the Crown of its powers of parliamentary management. Now, in 1621, the co-operation of the Lords—despite the high proportion of bishops, on whose vote the King could rely—converted the obsolete judicial process of impeachment into a political weapon over which the Crown could have no control short of dissolving Parliament. Charles, of course, did just that in 1626, but the secret of impeachment's effectiveness was the ability of the Commons to withhold co-operation in the matter of supply until their charges were heard.

That impeachment equally required the co-operation of the Lords, and that that approval was not lightly given, is evident from the years 1625–29. When the matters in front of their Lordships were sober questions, such as Charles' denial to the Earl of Bristol of a writ of summons, or the King's powers of arbitrary imprisonment, the peers certainly gave active support to the initiative of men like Wentworth, Coke and Pym. The passing of the Petition of Right was the victory of one such initiative. But when Eliot pushed through his more extreme resolutions on religion they refused to countenance his actions, or even notice them. The session ended in the hysterical scenes of 2nd March, 1629, and Charles dispensed with the Houses of Parliament for eleven years.

To sum up, it is hard to talk about early Stuart legal and procedural

development outside the political context: so far as it is possible, Dr. Tite does it, and does it well. Impeachment, it emerges, was the solution which judicial procedure could offer to the old problem of "evil counsel". It was the instrument of a conflict between royal and parliamentary power, and to a large extent the product of that conflict. Fundamentally, however, the limitation of the Prerogative was a political rather than a legal problem.

(*Contributed by J. F. Maule, a Clerk in the House of Lords*).

European Parliament Digest: Volume One 1973. General Editor: Mary Edmond. (New Educational Press Limited. 1974. Price £6.50).

This volume presents summaries of the debates of the European Parliament during 1973. It provides rather more detail than the booklet *Parliament in Session* published after each plenary session of the Parliament and supplied free by the Parliament's Directorate General for Information and Public Relations. Unfortunately, summaries of speeches do not always make interesting reading. A summary cannot reveal the quality of mind of a speaker nor can a closely reasoned case, a well-chosen phrase, or a nuance of meaning and irony always be reproduced in summary form. Rather what we have is a skeleton without flesh and therefore largely without human interest. This book suffers from the short-comings of summaries.

It is to be welcomed, however, for one important reason. It contains two valuable and comprehensive indices: an index of names and an index of subjects. The Annex to the *Official Journal—Information* which reproduces in full and in translation speeches made before the European Parliament regrettably contains no index at all. The indexes in this book will therefore be much used. Those who need to discover in detail the views of the European Parliament on a subject will first consult the indices in this volume; but must then turn to the Annex to the *Official Journal* for the full account of what was said.

(*Contributed by B. P. Keith, a Clerk in the House of Lords*).

XXI. RULES AND LIST OF MEMBERS

The Society of Clerks-at-the-Table in Commonwealth Parliaments

Name

1. The name of the Society is "The Society of Clerks-at-the-Table in Commonwealth Parliaments".

Membership

2. Any Parliamentary Official having such duties in any legislature of the Commonwealth as those of Clerk, Clerk-Assistant, Secretary, Assistant Secretary, Serjeant-at-Arms, Assistant Serjeant, Gentleman Usher of the Black Rod or Yeoman Usher, or any such Official retired, is eligible for Membership of the Society.

Objects

3. (*a*) The objects of the Society are:

(i) To provide a means by which the Parliamentary practice of the various Legislative Chambers of the Commonwealth may be made more accessible to Clerks-at-the-Table, or those having similar duties, in any such Legislature in the exercise of their professional duties;

(ii) to foster among Officers of Parliament a mutual interest in their duties, rights and privileges;

(iii) to publish annually a JOURNAL containing articles (supplied by or through the Clerk or Secretary of any such Legislature to the Officials) upon Parliamentary procedure, privilege and constitutional law in its relation to Parliament;

(iv) to hold such meetings as may prove possible from time to time.

(*b*) It shall not, however, be an object of the Society, either through its JOURNAL or otherwise, to lay down any particular principle of parliamentary procedure or constitutional law for general application; but rather to give, in the JOURNAL, information upon these subjects which any Member may make use of, or not, as he may think fit.

Subscription

4. (*a*) There shall be one subscription payable to the Society in respect of each House of each Legislature which has one or more Members of the Society.

(*b*) The minimum subscription of each House shall be £10, payable not later than 1st January each year.

(*c*) Failure to make such payment shall make all Members in that House liable to forfeit membership.

(*d*) The annual subscription of a Member who has retired from parliamentary service shall be £1.25 payable not later than 1st January each year.

List of Members

5. A list of Members (with official designation and address) shall be published in each issue of the JOURNAL.

Records of Service

6. In order better to acquaint the Members with one another and in view of the difficulty in calling a full meeting of the Society on account of the great distances which separate Members, there shall be published in the JOURNAL from time to time, as space permits, a short biographical record of every Member. Details of changes or additions should be sent as soon as possible to the Officials.

Journal

7. One copy of every publication of the JOURNAL shall be issued free to each Member. The cost of any additional copies supplied to him or any other person shall be £2.50 a copy, post free.

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8. (*a*) The Society shall have its office at the Palace of Westminster and its management shall be the responsibility of the Clerk of the Overseas Office, House of Commons, under the directions of the Clerks of the two Houses.

(*b*) There shall be two Officials of the Society, one appointed by the Clerk of the Parliaments, House of Lords, and one by the Clerk of the House of Commons, London; each Official shall be paid an annual salary, the amount of which shall be determined by the two Clerks. One of these Officials shall be primarily responsible for the editing of the JOURNAL.

Account

9. Authority is hereby given to the Clerk of the Overseas Office and the Officials of the Society to open a banking account in the name of the Society and to operate upon it, under their signature; and a statement of account, duly audited, and countersigned by the Clerks of the two Houses of Parliament at Westminster shall be circulated annually to the Members.

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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.

Bradshaw, Kenneth A.,—Clerk of the Overseas Office, House of Commons; *b.* 1st September 1922; *ed.* Ampleforth College and St. Catherine's College, Cambridge; Royal Ulster Rifles 1942–45; Clerk in the House of Commons since January 1947; Seconded as Acting Clerk of the Provincial Legislature of Saskatchewan for its session, December 1965 to April 1966; Joint Secretary of Association of Secretaries General of Parliaments, 1955–71; Clerk of the Overseas Office since December 1972.

Grey, John Egerton.—Clerk Assistant of the Parliaments; *b.* 8.2.1929; *m.* 1961; 2*s*; *ed.* Blundells School and Oxford; Barrister-at-Law 1954; appointed Clerk in Parliament Office 1959; Senior Clerk 1961; Chief Clerk 1964; Reading Clerk June 1974; Clerk Assistant July 1974.

Ronyk, Gwenneth Joyce.—First Assistant Clerk of the Legislative Assembly of Saskatchewan; *b.* 3rd April, 1950; *m.* 1972; *ed.* University of Saskatchewan, Regina Campus; appointed First Assistant Clerk, August 1974.

Sainty, John Christopher.—Reading Clerk, House of Lords; *b.* 31st December 1934; *m.* 1965; 2*s.*, *ed.* Winchester College and New College, Oxford; Appointed Clerk in Parliament Office 1959; Private Secretary to Leader of the House and Government Chief Whip, House of Lords 1963–65; Clerk of the Journals 1965–70; Research Assistant and Editor, Institute of Historical Research, University of London 1970–74; Reading Clerk since July 1974.

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ABBREVIATIONS

(Art) = Article in which information relating to several territories is collated. (Com.) = House of Commons