The Table

BEING

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

EDITED BY
J. M. DAVIES AND G. CUBIE

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USUAL PARLIAMENTARY SESSION MONTHS

Parliament	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
United Kingdom		⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙	⊙
Northern Ireland												
Jersey	⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙	⊙	⊙
Isle of Man	⊙	⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙	⊙
Canada — Federal Parliament	⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙	⊙	⊙
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						*No settled practice*						
Papua New Guinea		⊙	⊙		⊙	⊙		⊙	⊙		⊙	
New Zealand					⊙	⊙	⊙	⊙	⊙	⊙	⊙	
Western Samoa						⊙	⊙	⊙		⊙	⊙	⊙
Sri Lanka	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
India — Central Legislature		⊙	⊙	⊙	⊙						⊙	⊙
India — Andhra Pradesh		⊙	⊙			⊙	⊙				⊙	⊙
India — Bihar		⊙	⊙								⊙	⊙
India — Gujarat		⊙	⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙
India — Haryana		⊙	⊙	⊙				⊙	⊙		⊙	⊙
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					⊙	⊙	⊙	⊙				
Sabah						*No settled practice*						
Singapore			⊙			⊙			⊙			⊙
Sierra Leone						*No settled practice*						
Tanzania				⊙	⊙		⊙				⊙	
Jamaica		⊙			⊙		⊙	⊙		⊙		
Trinidad and Tobago			⊙	⊙	⊙	⊙					⊙	
Barbados	⊙	⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙	⊙
Kenya		⊙			⊙	⊙	⊙			⊙	⊙	⊙
Malawi					⊙	⊙			⊙	⊙	⊙	
Zambia						*No settled practice*						
Bermuda	⊙	⊙	⊙	⊙			⊙	⊙			⊙	⊙
Guyana						*No settled practice*						
British Solomon Islands	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Gibraltar			⊙				⊙				⊙	
Malta, G.C.	⊙	⊙	⊙	⊙	⊙	⊙	⊙			⊙	⊙	⊙
Mauritius						*No settled practice*						
St. Vincent			⊙	⊙	⊙	⊙			⊙	⊙	⊙	⊙
Belize	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Cayman Islands		⊙	⊙		⊙	⊙	⊙		⊙	⊙	⊙	⊙
Lesotho			⊙			⊙			⊙		⊙	
Cook Islands						*No settled practice*						
Seychelles						*No settled practice*						
Grenada						*No settled practice*						
St. Lucia						*No settled practice*						
Bahamas	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Fiji						*No settled practice*						
Hong Kong	⊙	⊙	⊙	⊙	⊙	⊙	⊙		⊙	⊙	⊙	⊙

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

I. EDITORIAL

The last session at Westminster has seen Parliament discussing three most important constitutional measures. Two involve the devolution of certain areas of government to elected Assemblies in Scotland and Wales. This change in the United Kingdom's constitution will be covered in a future volume of THE TABLE. The third measure provides for directly elected members of the European Parliament to represent eighty-one constituencies throughout the United Kingdom. It is therefore timely that this year's TABLE carries an article describing the workings of the European Parliament and comparing them to those of a Commonwealth legislature. The Parliament at its inception naturally drew nothing from the traditions of Westminster-type legislatures. It is interesting to note, however, the important developments at the European Parliament since the Westminster influence was felt five years ago. The weaknesses and strengths of both types of legislature can be seen in perspective after reading David Millar's article.

An article from New Zealand continues the debate in previous volumes of THE TABLE on the effects of prorogation and dissolution on the business of Parliament. In New Zealand, an Act of Parliament has now been passed to change the generally accepted constitutional practice of business lapsing with prorogation or dissolution.

We also include articles from Saskatchewan, Papua New Guinea, India, Tasmania and Zambia, as well as Westminster. In addition there are interesting accounts of the visits of United Kingdom delegations to two Commonwealth legislatures. This volume is therefore well representative of the Commonwealth, although there still remain several legislatures which have not been covered for many years.

The Editors are, as usual, grateful to all those who have contributed articles for the journal. Some have responded to our pleas for material, while others have volunteered it. To them all we express our thanks. We would only add that if THE TABLE is to continue to be appreciated by members of the Society (and those outside) a high standard of inter-

esting – but understandably sometimes rather technical – articles will be required each year. We cannot always learn of matters of direct concern and interest to our colleagues elsewhere in the Commonwealth, unless they are drawn to our attention via material submitted for the Journal. We therefore depend to a very large extent on the help and co-operation of clerks and secretaries of legislatures.

We record with regret the death on 19th August 1977 of **E. A. Roussell,** formerly Clerk of the House of Representatives, New Zealand.

F. H. Walker—Following a heart attack suffered in December 1976 Fred Walker, Clerk of the Northern Territory Legislative Assembly, retired on 16th December 1977 in the fortieth year of his service to the Commonwealth and Northern Territory Public Services. He served in various government departments in Victoria, Papua and New Guinea and the Northern Territory before being appointed Clerk-Assistant of the Legislative Council for the Northern Territory in 1959. A year later Mr. Walker succeeded Mr. D. R. M. Thompson who had been the Clerk since the creation of the Council in 1948. In paying tribute to Mr. Walker's service, Mr. Speaker MacFarlane said in the Assembly on Tuesday 28th February:

"The operation of the Legislative Council, and later the Assembly, through its years of development from a 'colonial' type of legislature with appointed official, appointed non-official and elected membership to a fully elected Assembly depended very much for its success on the dedicated service of the person occupying the position of Clerk."

Mr. Speaker also mentioned the part Mr. Walker had played in gaining control of the precincts for the legislature and developing facilities for the benefit of Members. His work as Honorary Secretary of the Territory Branch of the Commonwealth Parliamentary Association was acknowledged as being largely responsible for the branch's full participation in the activities of the Association.

Mr. Speaker said in conclusion:

"The last three years of Mr. Walker's service were a testing experience following the damage to the Assembly's precincts, and equipment wrought by the 1974 cyclone. The Assembly owes him a debt of gratitude for his part in re-establishing the legislature and its facilities and carrying out the duties of his office in his usual exemplary fashion under very trying working conditions."

C. George, I.S.O.—After serving the Queensland Parliament for more than 47 years Mr. Cyril George retired from his position of The Clerk of the Parliament on 7th January, 1978. He joined the Parliament House staff as a clerk in 1930 and was appointed Second Clerk-Assistant in 1933 and Clerk-Assistant and Sergeant-at-Arms in 1969 and became the seventh Clerk of the House in 1970. As Honorary Secretary of the Queensland Branch of the Commonwealth Parliamentary Association from 1970 to 1976 he attended various Australasian Regional Conferences and was Secretary of the Australian States' Delegation to the Common-

wealth Parliamentary Conference in London in 1973. He also attended five conferences of Presiding Officers and Clerks held in the Australasian Region.

At the close of Session on 6th October, 1977 the Deputy Premier (Hon. W. E. Knox) said, in part:

"I must add that the Clerk of the Parliament is also taking the opportunity to retire. Looking at the history of the Parliament, one sees that those who seem to serve the longest are the Clerks of the Parliament. There have been only five or six in the history of the Queensland Parliament. It must be a reasonably good job. It is certainly safe and secure compared to the jobs of members of Parliament . . . Cyril George has in fact been sitting at the centre table since 1933, which is a remarkably long time. Just imagine all the ear-bashing he has had to endure in that time, without being in a position to reply. I am not too sure whether the Clerk is immune from abuse or criticism, but if ever one was criticised I should imagine that the member concerned would not receive very much help from then on. But we do lean very heavily upon the quality of the staff at the centre table, and no matter how experienced a member of Parliament may be, and how much he claims he knows about everything, it is amazing how frequently we need to consult the Clerk on mattters of procedure, determination of points of order and, in fact, on the rules generally. . . I do not know that Cyril George wishes to be referred to as the father of this House, but he certainly has served longer in this Assembly than any member and we always think of him with great affection. When I first came here, he was Clerk-Assistant and Sergeant-at-Arms. No matter what political party one belonged to, what position one held, what status one had, he was always available and his door was always open to those who wished to consult him . . . In serving as Clerk, he enjoyed the opportunity of serving the Commonwealth Parliamentary Association and he has, of course, visited many countries and been secretary to delegations from this Assembly and from Australia . . . We wish Mr. and Mrs. George all the very best for the future."

The Leader of the Opposition (Mr. T. J. Burns) added, in part:

"I listened to the Deputy Premier talk about Cyril George. He has been sitting at the centre table for nearly as long as I have been alive. It is remarkable that a man should serve Parliament so long and so well in such a gentle and kindly way. I have never known him to be angry. I do not know whether anyone who has been here longer than I have has ever known him to be angry or to raise his voice. He has always been kind, gentle and considerate, prepared to assist us at all times."

Mr. Speaker (Hon J. E. H. Houghton), before putting the question for the adjournment, said, in part:

"Cyril George, the Clerk of Parliament, has been with us for 47 years. I have arranged a farewell function for Cyril to be held from 5 to 7 p.m. on 28th November. I extend an invitation to all honourable members here – including those who are retiring and those who will be beaten – and to those who will be here as strangers, to join us on that occasion . . ."

Mr. George was awarded an I.S.O. in Her Majesty the Queen's New Year honours.

Admiral Sir Frank Twiss, K.C.B., K.C.V.O., D.S.C.—Admiral Sir Frank Twiss retired from the office of Gentleman Usher of the Black Rod on 17th January 1978 after seven years service in the House of

Lords. During the course of tributes to Sir Frank, the Leader of the House, Lord Peart, said this:

"Since 1970 the duties of Black Rod have changed out of all recognition. In 1970, the job of a Gentleman Usher was largely ceremonial, with responsibility for our invaluable Doorkeepers and occasional sorties to knock on the doors of another place. These duties have remained, but in 1971 Sir Frank also became Secretary to the Lord Great Chamberlain, Serjeant at Arms to the Lord Chancellor and the Agent of the Administration Committee.

Since taking on these wide responsibilities, Sir Frank has transformed the administrative services of the House and there is now virtually no aspect of its security, maintenance and administration which has not concerned him. To mention only one aspect of his work, he has overseen the extension of the Dining Room; the construction of new Committee and writing rooms on the Committee corridor and the Peers' rooms above them; in addition to these, the new offices on the Clerks' corridor on the first floor and, most recently, the ingeniously designed new offices for the typing agency and *Hansard*.

These extensive operations have been no more than one aspect of the multifarious activities of Black Rod. It would be repeating to your Lordships what your Lordships already know well to draw attention to the consummate kindness and tact with which we have become so familiar in all our dealings with Sir Frank. We must have tried his patience many times, though he has never shown it. He has never tried ours."

D. G. Gupte—Shri D. G. Gupte, Deputy Secretary of the Maharashtra Legislature, retired on 31st December 1977 after seventeen years service.

A. W. B. Sascon—Mr. A. W. B. Sascon, Clerk of the Parliaments and Clerk of the Legislative Council of New South Wales since 1971, retired on 21st June 1977.

Clerks become Members, and vice-versa—In last year's volume of THE TABLE we carried a list of Clerks and Serjeants at Arms who had either been, or subsequently became, Members of a legislative assembly. Six further examples have since been drawn to the Editors' attention and we record them here:

Colman, Edward, Member of the House of Commons, 1768–1771; Serjeant at Arms, House of Commons, 1775–1812;

Fitz, H. B., Member of the Queensland Legislative Council, 1860–1876; Clerk of the Legislative Council, 1876–1880;

Flint, T. B., Member of the Canadian House of Commons, 1891–1902; Clerk of the House of Commons, 1902–1918.

Northrup, W., Member of the Canadian House of Commons, 1892–1896 and 1900–1911; Clerk of the House of Commons, 1918–1925.

Sargeant, D. L., Member of the House of Assembly of Barbados, 1930–1936; Clerk of the House of Assembly, 1937–1955.

Tyrwhitt, T., Member of the House of Commons, 1796–1812; Black Rod, 1812–1832.

II. WESTMINSTER AND LUXEMBOURG: PRACTICE AND PROCEDURE COMPARED

BY DAVID MILLAR

formerly a Clerk in the House of Commons at Westminster and now a Head of Division at the European Parliament

Descent on Luxembourg

'Fasten your seat-belts – we are due to land in Luxembourg in a few minutes time'. This cryptic request, signalling the approaching release of about 200 people from the penury of confinement in a trans-Atlantic jet airliner, is for thousands of citizens of the New World their first introduction to the Grand Duchy of Luxembourg, the headquarters of the European Parliament.

As the aircraft descends through the thick layer of rain-cloud (for the weather in Luxembourg is not one of its foremost attractions), let us imagine ourselves in the place of one of its passengers, the Clerk of the House of Representatives of an English-speaking West Indian island. His or her knowledge of Westminster practice and procedure is of course comprehensive, as the procedure and practice of his or her House is based on that of Westminster.

But what of the European Parliament? What is it, what are its functions, how does it seek to execute them, why does it use the procedures it does? This article is designed as an informal introduction to the Parliament, illustrated by comparison with Westminster and written for one such as our imaginary West Indian visitor.

The European Parliament buildings look anything but Parliamentary to a Westminster-orientated visitor. One building is of 22 storeys and is undisguisedly an office block, while the proportions of the other are not quite right, as the top storey had to be added to accommodate the accession to the European Community of Denmark, Ireland and the United Kingdom in 1973.

In the six-storey building however, our puzzled visitor would feel somewhat reassured on entering the Chamber of the European Parliament. This is laid out in a semi-circular style, contains 200 seats, is equipped with simultaneous interpretation into and out of six languages, and is distinctly modern in style. Its public gallery holds about 40 people (there are 260 million citizens of the European Community) and only about 30 passes are issued at any one time for any of the 1,500 staff to attend the proceedings. On the other hand, television cameramen may film there under supervision during sittings, and do so.

Let us anticipate the information which our West Indian visitor is about to receive from his guide, and sketch for him the composition of the Parliament. Is it indeed a Parliament, or is it more accurately

described by its official name of 'European Assembly', to which anti-Common-Market Members of the British House of Commons (and of the French National Assembly) still faithfully cling? In Westminster terms, it is perhaps scarcely a Parliament, but more than just an Assembly such as that of the Council of Europe at Strasbourg. It resolved in 1962 to call itself the 'European Parliament' and for almost everybody it is now accepted under this name.

Divided loyalties

The Parliament has 198 Members, 36 from each of the four large Community Member States, France, Germany, Italy and the United Kingdom, the remainder from the other five Member States, Belgium, Denmark, Ireland, Luxembourg and the Netherlands. They are all appointed from among the Members of both Houses (where two exist) of these countries, so are firstly national, and only secondly European, M.P.'s. This 'dual mandate' is a source of great weakness to the European Parliament, as it can only claim a minor portion of its Members' loyalties, time and energy.

On any day during any part-session most of the delegation from one or more national Parliaments may be called home for an important vote, thus upsetting Parliament's agenda, votes and timetable. Legion are the tales of the Commons Members of the United Kingdom delegation shuttling to and fro between Westminster and Strasbourg three or four times in one week – victims of a 'hung Parliament' at home and the dual mandate. Happily, direct elections to the European Parliament in June 1979 will put paid to this thorn in the flesh for most of its Members.

But what is a part-session, our visitor asks, and what are Parliament's Members doing at Strasbourg, known as the seat of the Council of Europe? We must explain that a Parliamentary 'session' lasts from March until the succeeding March, and is divided into 12 part-sessions, most of one week's duration. For historical reasons half of the part-sessions are held in Luxembourg, where the Secretariat of Parliament is based, and half in Strasbourg, in the Chamber of the Parliamentary Assembly of the Council of Europe.

In order thoroughly to confuse the issue, our guide will go on to explain that most of the meetings of the Committees of Parliament are held in Brussels, in a Parliamentary building there. Thus Parliament has three places of work, and Members and staff are condemned to shuttle in a 'travelling circus' constantly between them, as well as (in Members' case) to each of the nine Member States in turn for meetings of political groups.

Matters politic

Political groups are unknown at Westminster as such. What then are they, and how do they work? The groups comprise the political structure of the Parliament, and correspond to the Westminster Parliamentary

parties, their sub-committees and secretariats; they also exercise some of the functions of the Whips, such as trying to ensure attendance at divisions (or votes, as Parliament calls them). One group has claimed particular success recently in improving its voting figures, by the simple method of sending a stunningly beautiful French girl into the Members' Bar to round up her flock when a division is called . . . Westminster Whips please note!

There are six political groups – Socialists (65 Members), Christian Democrat (European People's Party) (53), Liberal and Democratic (23), European Progressive Democrat (19), European Conservative (18), and Communist (17). In addition there are 3 independents. Although the Socialists and Communists are self-explanatory, we should explain to our perplexed visitor from the New World that the Christian Democrats (CD) are a centre party, with strong connections with the Roman Catholic Church in several countries; the Liberal and Democratic Group is to the right of the Christian Democrats; the Conservatives comprise at present 16 British Conservatives, including 4 peers, and two Danish Conservatives; and the Progressive Democrats bring together the French Gaullist Party, the Irish Fianna Fail Party (that of Mr. de Valera), and two Danish Members.

Each group has a secretariat paid for by the European Parliament, offices in the Parliamentary buildings, and close connections both with the new European Party federations (Socialist, Christian Democrat and Liberal) and, in some cases, with national parties. But the essential point to make is that the European Parliament is divided by party and not by nation. National delegations have little place in the structure and working of Parliament.

It is by now time to set out briefly to what end 198 Members come together in part-sessions and committees, organised in political groups, in a multitude of meeting places over Western Europe. The functions of the European Parliament are, according to Article 137 of the Treaty of Rome, 'advisory and supervisory'. However, Parliament has made a good deal of progress since its birth in 1958, and now has the last word in voting the Community Budget; gives its Opinions on legislative proposals made by the Commission; guides the Commission in its functions of putting forward legislation and of acting as the motive power towards Community integration; censures the Commission for failures to execute these functions; and seeks to influence the Council.

Neither Government nor Opposition

Before explaining these concepts more fully, it is worth recalling for our visitor that the Commission is charged with the task of making legislative proposals and of safeguarding the progress towards integration accomplished to date by the Community. The Council of Ministers, composed of national Ministers from the Member States, takes the final decision – or in the majority of cases *fails* to take one – on proposals from the Commission, having first received the Opinion of Parliament.

Thus the Executive is not drawn from the Parliament, and is only represented there on 12 days in the year. There is therefore no Government *versus* Opposition clash in Parliament, which at present operates normally on a basis of consensus. Left may however confront Right on occasions and, as recently as April 1978, Members representing farming interests clashed with those speaking for consumers on the agricultural price review, the latter on this occasion winning a clear victory.

Because the agenda is determined by the Parliament itself and not by an Executive and because it still lacks full power, the European Parliament is one of the few "back-benchers' Parliaments" left in Western Europe. British Members appreciate greatly the near certainty of having a motion debated on the Floor on the basis of a report from a Committee, and sufficient latitude to pursue herrings (marine and, sometimes, red ones too!) in and out of the House.

The Budget is the basis

The Community Budget is the reverse of the Westminster Budget, in that it is almost all to do with expenditure and little to do with revenue. It comprises the budgets of the Council of Ministers, the Commission, the Parliament, and the European Court of Justice. Council and Parliament make up their own budgets and, by a thieves' agreement, neither examines the budget of the other! The Commission budget carries the expenditure on the Common Agricultural Policy (which comprises 80% of the total Community Budget), as well as the administrative costs of the Commission. The total Budget represents 2% of the Budgets (i.e. expenditure) of the nine Member States, so is not yet of great moment to the larger among them.

Briefly, Parliament can reject the whole Budget, but not individual sub-heads; it can amend the 20% of the Budget arising from 'non-compulsory' expenditure not specified in the Community Treaties; but it cannot insist on amendments to the remaining 80% of the Budget; and, within narrow limits, it can amend the Budget to *increase* expenditure. Westminster-trained eyebrows shoot up in surprise at this power which, though marginal, acts as a useful needle to the Council, and which may well be expanded in the future.

Finally, to underline the differences with Westminster, a delegation of Parliament can ask to meet a delegation of the Council whenever the latter departs from the former's Opinion on the Budget, in order to try to resolve differences. This 'conciliation' procedure, a fruit of the Parliamentary skill and drive of the late Sir Peter Kirk, who led the European Conservative Group from 1973–77, is one of vital significance to the European Parliament. In the 20 years since Parliament assumed its present form, a dialogue has been opened with the Executive on budgetary matters which may soon be extended to cover disagreements on legislation.

By now the West Indian visitor to Luxembourg might wish to know

how, with only 198 part-time Members, with scanty powers, no traditions, and with few precedents to guide the Parliament, it could possibly shape up to carrying out any of its functions.

Whate'er is best administered . . . . .

Parliament has, however, a well-tried organisational structure; 'well-tried' because it is modelled broadly on that of the French Parliament, and which in turn several other Parliaments on the Continent have used for many years.

The President is elected annually and is not required to be non-partisan in the sense that Mr. Speaker is in Commonwealth Parliaments. He normally serves for two years, and is assisted by the 'enlarged Bureau', which comprises the 12 Vice-Presidents, elected annually on a basis of country and party, and the Chairmen of the six political groups. The Bureau acts as an 'executive committee' of the Parliament, taking procedural and administrative decisions, and having considerable powers of financial decision-making.

The Clerk of the House is called the Secretary General, who enjoys supervisory powers over all the departments of the House, and is responsible to the Bureau for administration and the execution of Bureau decisions. The secretariat is divided into five directorates general, each headed by a Director General, and including staff of four grades, from messengers to graduate administrators.

Apart from members of the secretariat who are stationed at the Parliament office in Brussels, Parliament runs an Information Office in each Community capital, responsible for a 'two-way street' of information between that country and the Parliament, and *vice-versa*. This is quite unimaginable to most Commonwealth Parliaments, perhaps, but on the other hand, it should be recalled that the House of Lords Committee on European Affairs recently recommended that that House should establish a small office in Brussels, to assist in informing peers about the Community. Coming events cast their shadows, perhaps.

Committees à la francaise

Turning from organisation to procedure, the picture is Continental rather than Commonwealth, West European rather than Westminster. Again, detailed procedures have been based on those of France under the Fourth Republic, principally in regard to the committee system. The Parliament relies chiefly on its Committees to provide Opinions on legislative proposals made by the Commission which, apart from controlling the Budget, is its principal legislative task.

The Committees are organised on the Continental system of permanent sectoral committees, with a high degree of continuity in membership and therefore of expertise. Each deals with proposals emanating from one or more Directorates of the Commission and also exercises varying degrees of policy scrutiny over the Commission. There are 12 Committees,

all with 35 Members except the Rules of Procedure Committee, which has only 18. The principal Committees are those on Budgets, Political Affairs, Agriculture, and Economic and Monetary Affairs. Members are elected to Committees annually by Parliament in proportion to the numerical strength of their political group, and each group tries in turn to ensure that the Member States from which its Members hail are fairly represented in the Committees.

Each Committee elects its Chairman or Chairwoman annually, and a popular and efficient occupant of the chair will often be re-elected for several sessions running – depending on being re-elected to his or her own national Parliament, of course. Each Committee is served by a secretariat of between 3 and 5 A-grade officials, with supporting staff.

Committees of the European Parliament have, however, limited powers. They have power to appoint sub-committees and delegations to visit one or more Member States. But any expenditure of money requires the authorisation of the Bureau, which can thus veto the employment of experts and specialist advisers and can, by refusing to pay witnesses' expenses, prevent the hearing of evidence from witnesses who wish to claim expenses. Evidence cannot be taken on oath, most Committees meet entirely in private, and few Sub-Committees are set up. The nearest to a Public Accounts Committee is a Budget Control Sub-Committee, which with nine Members and three or four staff tries to monitor annual expenditure of £16,000 million. Clearly, there is need for much development there.

But just as our Commonwealth visitor may be feeling rather more at home in a European Parliament Committee than elsewhere in the Parliament, he may stumble over the term 'rapporteur' (reporter). In the European Parliament, it is not the Committee Chairman who drafts and presents reports to his Committee, but a rapporteur, appointed by agreement between the political groups. In some fields and in some Committees, one rapporteur may be entrusted on a continuing basis to bring before the Committee all the draft reports, opinions, papers and proposals which he or she thinks fit, in order that the Committee may carry out effectively and promptly its responsibilities in the field concerned. For example, one rapporteur has handled direct elections and another regional policy for more than four years in each of the appropriate Committees. Normally, however, a rapporteur is appointed for every Commission proposal, save the minority to which the simplified and swift 'procedure without report' is applied.

Once a Committee has agreed a report, by the usual process of debating and deciding on amendments to a draft report, the rapporteur presents the Committee's report to the House, thus providing an opportunity for a wide debate and for further amendments to be discussed.

In addition, debates can arise on oral questions with debate and without debate (the latter resembling a Westminster-style half-hour adjournment debate), and, for one hour only and in urgent cases, on a

question-time question to which the answer has been judged unsatisfactory. Members can also table questions for written answer, but many remained unanswered even after the official two months' period has elapsed.

To the visitor, much of the 'strangeness' of the European Parliament probably consists in the nine nationalities and six languages with which he or she will have to become accustomed. For a staff member coming from a national Parliament, the process of adaptation to the intellectual approach of one's colleagues and to the languages they speak can be difficult. The factors which ease this process are the shared conviction in the ideals of the Community and in the struggle to realise them, the challenge in winning greater powers and influence for Parliament from Council and Commission, and the excitement of launching the first Parliament ever to be elected by the people of nine independent countries.

We end as we began, with the West Indian Clerk airborne over Luxembourg, but this time on his way to London. It is much to be hoped that, as he and his colleagues in those national Parliaments across the world which are based on the Westminster system observe after direct elections next Spring the phoenix of the new European Parliament rise from the ashes of the present one, they will spare a thought for the future of the first Parliament of its kind in the world, and wish it well.

III. TIE IN OPPOSITION

BY GORDON BARNHART

Clerk of the Legislative Assembly, Saskatchewan

For over thirty years the Saskatchewan Legislative Assembly was composed of Members of two political parties. In the general election of 1975, a third party, the Progressive Conservatives, gained representation in the Assembly. In October 1977, the Progressive Conservative party increased its strength to eleven seats and became tied with the Liberal party in the Saskatchewan Opposition. This set a precedent for Saskatchewan and, as far as can be presently determined, a precedent within the Commonwealth. The tie touched off a sequence of events which occupied Members' minds for several months and was one of the key issues of the Fourth Session of the Eighteenth Legislature.

The 1975 general election resulted in the election of thirty-nine New Democratic Party Members, fifteen Liberal Members and seven Progressive Conservative Members. By October 1977, the Liberals had lost four of their seats to the Progressive Conservatives due to two by-elections and two defections thus giving each Opposition party eleven seats.

Many questions immediately surfaced. Who is the official Leader of the Opposition? Who would be entitled to the salary and office grants of the Leader of the Opposition which were larger than those given to the Leader of the Third Party? Which party should sit closest to Mr. Speaker in the Legislative Assembly and which leader should be recognised in the Legislative Assembly as the official spokesman for the Opposition?

A review of the rules, legislation and precedents of the other nine Canadian provincial Assemblies and the Canadian House of Commons offered no solution to the problem. The Ontario Legislative Assembly follows the practice after a general election of the Speaker officially acknowledging in the Assembly the Member who will be recognized as the Leader of the Opposition. The Speaker's choice is based on the principle that the leader of the largest party sitting in opposition is the Leader of the Opposition. To date, the Ontario Speaker has not been faced with a tie in opposition. The Ontario practice was not applicable to the Saskatchewan dilemma since the Saskatchewan Legislative Assembly had not had the practice of officially recognizing the Leader of the Opposition verbally on Opening Day and the tie situation did not seem to be an opportune time to begin such a practice.

An examination of the procedures of the British House of Commons indicated that should such a situation arise (no relevant precedents were found) it would be necessary for the Speaker to designate one of the opposition party leaders as Leader of the Opposition. This procedure is based on provisions in a statute first passed earlier in the century and

now embodied in *The Ministerial Salaries Consolidation Act*, 1965 which provide for the allowance given to the Leader of the Opposition. The Act stipulates that if there is doubt about which Member is entitled to be the Leader of the Opposition for the purposes of the Act, the decision rests with the Speaker.

The British practice was also found not to be applicable to the Saskatchewan situation chiefly because of the existence of a Saskatchewan statute containing conflicting provisions. When the Saskatchewan Leader of the Opposition was given an allowance and office grant effective May 1960, the position was also defined in *The Legislative Assembly Act*. The draftsman of that amendment to the Act anticipated the possibility of a tie in opposition and inserted a further provision to cover that situation. Section 24(1) of the said Act defines "Leader of the Opposition" as "the Member of the Assembly who is recognized as the leader of two or more Members constituting the largest group sitting in the Assembly in opposition to the Government, and in case of equality of membership of two or more such groups, the allowance and the grant provided for by this section shall be divided equally between the respective leaders of those groups having the largest and equal membership." *The Legislative Assembly Act*, as outlined above, indicates that there is no Leader of the Opposition in the case of a tie. The Leader of the Opposition has to be the leader of the largest group sitting in opposition. With a tie, there is clearly no largest group. The Act is also very clear on what should be done with the salaries and grants owing to the Opposition leaders. The salary of the Leader of the Opposition and the salary of the Leader of the Third Party were added together and divided equally, as were the various grants to the offices of the Opposition leaders. No other Canadian province has similar legislative provision regarding the division of salaries and grants of Opposition leaders in the case of a tie.

The financial division was straightforward and covered by legislation but what was to be done regarding the procedural preferences and status given to the Member in the Legislative Assembly who was traditionally recognized as the Leader of the Opposition? Since the statute required that the allowances and office grants be shared equally by the two leaders, it was decided that the status, privileges and responsibilities in the Assembly traditionally held by the Leader of the Opposition should, in like manner, be shared equally whenever possible. This decision to extend the principle laid down by statute for financial matters to all aspects of the role of the Leader of the Opposition parallels the interpretation by procedural authorities of the British law. The British Act outlined earlier, which provides for the payment of an allowance to the Leader of the Opposition, concerns itself only with that specific monetary provision. The authority given to the Speaker in the Act is for the allotment of the Leader of the Opposition grants and salary only but procedural authorities have extended this principle to say that it is the Speaker's function to determine for all purposes, not merely the financial one, who

should carry out the duties of the Leader of the Opposition.* The same principle can be applied to the Saskatchewan situation in that if a statute makes provision for the handling of the financial resources, the same principle should be followed for the duties and privileges.

The first question to arise was which party sitting to the left of Mr. Speaker in the Chamber should sit closest to Mr. Speaker, the place traditionally reserved for the official Opposition. Mr. Speaker determined that since the Liberal party, formerly the official Opposition, had not as yet, become the smallest group and had not been displaced, they therefore should remain in the seats closest to the Speaker's dais. Since the seating arrangements in the Saskatchewan Legislative Assembly have been traditionally determined by Mr. Speaker, it was felt that Mr. Speaker had the right to determine which party sat closest to the dais. Each party traditionally can submit a proposal for individual seating arrangement for that party subject to the approval of Mr. Speaker.

Mr. Speaker met with the leaders, or their designates, of the three parties represented in the Legislative Assembly to determine whether the two Opposition parties could agree to an informal rotational system in which the Speaker would recognize one leader first on one occasion and the other leader first on the next occasion. The Address-in-Reply, Budget Debate, oral question period and replies to ministerial statements were the areas where the rotational system of recognition would be applied. Even though the points at issue were all within the Speaker's purview as to whom he recognized in the Legislative Assembly on a particular occasion, Mr. Speaker felt that if the two parties could agree in advance of the Session on a rotational system, procedural wrangles could be avoided in the Assembly. Not surprisingly, the two Opposition leaders could agree on a rotational system but could not agree on who should be first in the rotation since each claimed to be the Leader of the Official Opposition.

Mr. Speaker, lacking an agreement, was in the unenviable position of having to establish his own rotational system in recognizing speakers giving both parties as equal treatment as was possible. It was determined that there was no one Member designated as the Leader of the Opposition and the two leaders were to be called "the Leader of the Liberal Opposition" and "the Leader of the Progressive Conservative Opposition." Both leaders were to be treated equally in and out of the Assembly.

Could the situation have been handled differently? It has been argued that the Opposition party with the largest popular vote should have been recognized as the Official Opposition Party. Leaving aside the statutory provision, the popular vote argument was not sound. The

*Erskine May's *Parliamentary Practice*, 18th ed., p. 239; Philip Laundy, *Encyclopaedia of Parliament*, "Leader of the Opposition", p. 419.

determination of governments and therefore oppositions have been determined by the number of seats held by each party, not by their popular vote. In the case of the two constituencies in which Members switched party allegiance between elections, would the popular vote in that constituency be credited to the party for which the Member had won the election originally or for the party to which he now belongs?

It could be argued that the incumbent should remain the official Leader of the Opposition unless overthrown by a larger opposition party. Again due to the provisions in the Act it was not logical for the incumbent to receive extra privileges when another leader had equal strength in the Assembly and was to be treated equally in monetary terms.

Another argument put forward was that in an Assembly based on the British parliamentary system, it is necessary to have an official Leader of the Opposition. The role of Leader of the Opposition is certainly an essential element in the traditional parliamentary system. The duties and functions of that office have never been prescribed by rule or law but are based on parliamentary custom. The primary constitutional purpose for having a Leader of the Opposition is to provide an alternative leader and party capable of assuming office and forming a government, should the existing government resign. To have two leaders of opposition parties in the Assembly does not violate this principle. The Lieutenant-Governor presumably has the right to call upon whichever Member he felt was capable of forming a new government.

Based on *The Legislative Assembly Act* of Saskatchewan and the practices of the Assembly, Mr. Speaker determined that he would not recognize one Member as the Leader of the Opposition but would recognize both leaders as being equal and would treat each equally. When a choice had to be made regarding speaking order, Mr. Speaker established a rotational system in the Address-in-Reply, Budget Debate, oral question period and in the replies to ministerial statements.

On the Opening Day of the first Session following the occurrence of the tie in opposition, the whip of the Progressive Conservative caucus wrote a letter to the Speaker, with copies to the press, stating that "the deal obviously made by the majority of NDP with the Liberal Party has now been extended to the Legislative Assembly" and that the seating arrangements in the Chamber, as set by Mr. Speaker, were a product of that "deal".

Mr. Speaker in a statement to the Assembly on the following day, denied that he was involved in, or aware of, any deals between parties regarding the seating arrangements. Mr. Speaker communicated to the Assembly that the letter implied partiality on the part of the Speaker and in his opinion was a *prima facie* case of a breach of privilege. The matter was referred, by the Assembly, to the Select Standing Committee on Privileges and Elections. This lead to extensive investigations, charges

and countercharges and the ultimate expulsion of three Members for five days each for contempt of the Legislative Assembly. The case of privilege and the resulting events, though closely related to the tie situation, go beyond the scope of this paper.

The tie in Opposition still exists and although the Assembly is presently prorogued, it is certain that the vigorous competition between the two Opposition parties to prove that they are the official Opposition will continue in the next Session and until the tie is broken.

IV. NEW ZEALAND: THE EFFECTS OF PROROGATION AND DISSOLUTION ON PARLIAMENTARY BUSINESS AND THE LEGISLATURE AMENDMENT ACT 1977

BY L. B. MARQUET

Second Clerk Assistant, House of Representatives

"The prorogation of Parliament is a prerogative act of the Crown . . . all proceedings at the time are quashed . . . Every bill must therefore be renewed as if it were introduced for the first time . . ."[1]

Applied strictly, the above-stated rule would frustrate the continuation of parliamentary business, including select committees' consideration of bills, during a recess. Given the increasing quantum of legislation and other business brought before Parliament, it can be argued that the rule is highly inconvenient, at the very least.

The House of Representatives sought to bypass the rule in good faith and has purported to do so in varying guises for the past two decades. Initially, the House was content to empower one or more of its committees to consider bills and other business during a recess and require a report within 28 days of the start of the new session. In 1973, the practice crystallized into a resolution carrying forward named bills from the current session to the next and, in 1975, from the dying Parliament to the new. Express recognition was given to the practice by Standing Order 74[2] adopted by the House on the recommendation of the Standing Orders Committee. In making its proposal, the Committee said:

"A perennial criticism of Parliament has been the rush of legislation at the end of the session. This criticism has been largely overcome by the introduction last year (1973) of the procedure whereby bills not passed during the session were held over until the following session and proceeded with then at the same stage they had reached previously . . ."[3]

Two points should be noted. First, Standing Order 74 applied to bills only. Presumably other business, except petitions, was to lapse by operation of law in the usual way. Standing Order 416 already provided that those petitions on which no report had been made by a select committee at the time of dissolution were to be deemed to have lapsed. Second, it is not clear from the report whether the Committee believed that a standing order would cure any legal defect inherent in the practice of carrying business forward, or was intended solely to regularize the procedure attaching to an already established and convenient practice.

On 10th October 1975 the House resolved:

". . . That the Bill set out below and those bills before Select Committees be proceeded with in the first session of the 38th Parliament at the same stage they had reached in the present session . . ."[4]

Three days later Parliament was prorogued and thereafter dissolved on 30th October. In the General Election that followed on 29th November, the Labour Government was defeated and replaced by the National Party. In early 1976 the now Labour Opposition questioned the validity of the proceedings of committees of members, as yet unsworn,[5] hearing evidence on bills introduced in the final session of the previous Parliament and held over for consideration by select committees. In the event both sides agreed to continue the arrangement but the questions raised could not be ignored and it fell to determine two issues:

1. May the House of Representatives, by resolution, carry forward business from one session of Parliament to the next notwithstanding a prorogation or dissolution of Parliament intervening?
2. What was the legal status of a committee, comprising newly-elected members of Parliament, which meets subsequent to a dissolution (in practice after a General Election) and proceeds to consider business carried forward from the previous Parliament?

Because Parliament is invariably prorogued before being dissolved, the first issue could be disposed of by a consideration of the effects on parliamentary business of prorogation alone. The question of dissolution would have relevance only in the event that it could be held that Standing Order 74 was effective within the life of Parliament. The views on this issue may be summarized under four heads:

1. Carrying business forward is "a proceeding in Parliament" – the House is the sole judge of validity;
2. The House is not bound by the law or custom applicable to Westminster – it is open to the House to develop its own practices, based on local experience, without reference to the law or custom of the United Kingdom Parliament;
3. Parliament cannot bind its successors. The real question is whether a subsequent Parliament decides to adopt part of its predecessor's business. As a matter of law, the House is free to dispense from its own rules and it could revive lapsed business by the simple expedient of deeming it to have been introduced and read a first time in the new Parliament and proceed with it at the second reading stage;[6]
4. The common law and statutes of England existing as at 14th February 1840 are part of New Zealand law to the extent that they are applicable to local conditions.[7] Until Parliament otherwise decides, the common law effects of prorogation and dissolution have force notwithstanding any resolution or standing order of the House to the contrary.

Proponents of the "proceeding in Parliament" argument[8] appear to deny that the common law, which includes the law and custom of Parliament, can affect the express will of a constituent part of the legislature. For New Zealand, at least, that denial is untenable. The decision in *Stockdale* v *Hansard*[9] that a resolution of either House cannot

affect the law or place a person beyond its reach has not been challenged in New Zealand. Tacit acceptance of that decision is contained in a judgment of the Court of Appeal:

". . . the practice of the House of Representatives even if prescribed by Standing Orders . . . may not control the meaning or interpretation of an Act of Parliament."[10]

The Court was not asked to pronounce upon the validity of a resolution of the House seemingly at odds with the common law, but it is submitted that were such a question to be raised, the Court would follow *Stockdale*.[11]

In somewhat curious fashion, the House is bound by what applies or more correctly, applied, at Westminster by reason of s242(1) of the Legislature Act 1908:

"The House of Representatives and the Committee and members thereof shall hold, enjoy, and exercise such and the like privileges, immunities and powers as on the first day of January, one thousand eight hundred and sixty five, were held, enjoyed, and exercised by the Commons House of Parliament of Great Britain and Ireland . . . whether . . . held, possessed, or enjoyed by custom, statute, or otherwise."

The Commons have never claimed the power to override the effects of prorogation. In fact, it was felt necessary to pass an Act in 1805 to continue impeachment proceedings against Fox J. during a recess arising from prorogation.[12] It can be argued that for so long as s.242 remains in force the House is free to develop its own procedures, customs, conventions and so forth but only in so far as they are consistent with the provisions of the section. It is noted that the powers of the Houses of the Commonwealth Parliament of Australia are similar to those of the New Zealand House and the statutory power of the Governor-General to prorogue is the same in both jurisdictions. It is submitted that the learned author in the passage cited below has confused the common law, which may be abrogated only by statute, with "custom" in the sense of convention when he states:

"Looked at through Australian eyes, one ponders the acceptability of an argument that a matter of parliamentary law (effects of prorogation), which has its roots in custom and not in statute law, cannot undergo change in its application to new situations, without Act of Parliament . . ."[13]

On balance, it could not be said that the House possessed the power claimed by Standing Order 74 either at common law or "by inheritance" under s.242(1).

As to the second issue, Standing Order 343 provides:

"Select Committees may be appointed by the House and unless otherwise provided shall continue in existence for the duration of a Parliament."

In early 1976, the only select committees in existence, possibly, would be those appointed by the House during the 37th Parliament. It could not be argued that a select committee had been appointed in terms of

Standing Order 346[14] by reason of the fact that the power to appoint is vested solely in the House. Neither could it be submitted that the words in Standing Order 343 ". . . unless otherwise provided . . ." contemplate that select committees live on after dissolution should the House so order.

Dissolution is an exercise of the prerogative,[15] the effects of which are to bring Parliament to an end whereupon members of Parliament cease so to be. It cannot be said that an order of the House, purporting to keep some of its committees in existence subsequent to its own dissolution, has any legal validity.

Moreover, even were it to be accepted that a select committee could subsist and be "revived" during the subsequent recess the members of that committee would not be the same as those comprising the committee before dissolution. *Prima facie*, a change in membership presents no problem (Standing Order 346). However, there is a serious obstacle provided by s.46 of the New Zealand Constitution Act 1852:

> ". . . No member of the said House of Representatives shall be permitted to sit or vote therein until he shall have taken and subscribed the following oath before the Governor, or before some person or persons authorised by him to administer such oath:"

After a dissolution, the section applies to all members. The oath is not taken until the House first meets and it may be argued, by necessary implication, that a member lacks the legal capacity to sit and vote in a select committee until he is sworn. It would be a nonsense to argue that the select committees sitting during a recess arising from dissolution are committees of the Parliament yet to be summoned. The point is that while s.12 of the Electoral Act 1956 provides that the duration of the House is 3 years, it is silent as to the duration of Parliament, a separate institution.

Were the newly-elected, but as yet unsummoned, House to claim the power, through the Prime Minister and the Leader of the Opposition, to appoint select committees before Parliament meets, such would constitute a revolution. No such claim has been made.

It is submitted that no select committees can exist unless and until they are appointed by the House under Standing Order 343. At least that was the position until last year when the Legislature Amendment Act[16] was passed.

Section 2(1) deals with the first issue by enabling the House, as it did at the end of the 1977 session, to carry forward business from session to session or from Parliament to Parliament.

Section 2(2) provides for the appointment of "inchoate" select committees after a general election (issue 2). To enable such committees to operate effectively, subsection (3) deems them to be select committees with their attendant powers, privileges and immunities. This provision is important not only for members but witnesses. To avoid any doubt on the matter, subsection (4) permits unsworn members to sit and vote on the committees.

The Act has been criticized as being both unnecessary and the wrong way of approaching the problem. All that can be said in this context is that optional solutions involve political decisions, (e.g., the time at which Parliament is first summoned), which may commend themselves to another Government at some future time.

On the other hand, the House should not be seen, in the absence of empowering legislation, to be nullifying the common law and it was for this reason that the 1977 Amendment was enacted.

The writer would be pleased to receive the views of the Table Officers of other Commonwealth Parliaments and the solutions, if any, adopted by them where the common law still governs prorogation and dissolution.

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1. May, *Parliamentary Practice* (19th ed) 260,261.
2. "74. Bills held over – Any Bill which would otherwise lapse by reason of a prorogation before it has reached its final stage may, by resolution of the House, be carried forward to the next ensuing session at the stage it had reached in the preceding session."
3. 1974, *Report of Standing Orders Committee*, I. 14.
4. (1975) *JHR* (NZ) 396/3.
5. cf text (infra).
6. As a matter of law, there can be no objection to this argument but it could not cover the questions arising from the second issue.
7. cf English Laws Adoption Act 1908, a consolidation of earlier Acts relating to the same subject.
8. Such proponents appear to confuse "Parliament" with the "House of Representatives" – a confusion assisted by the N.Z. unicameral system.
9. (1839) 9 A&E 1, see also *Wason* v *Walter*; (1868) LR 4 QB 73.
10. *Simpson* v *A-G* (1955) NZLR 271, 282–285.
11. *supra.*
12. cf 45 Geo III Ch 117.
13. Odgers, *Australian Senate Practice* (5th ed) 621.
14. A machinery provision enabling the two leaders to make changes in personnel serving on select committees.
15. The power to summon, prorogue and dissolve is contained in the Constitution Act. In *Simpson* (supra) the majority of the Court of Appeal were inclined to the view that the Governor-General's power to prorogue, etc. was statutory. In context, the point is irrelevant – the effect of the exercise of the power is all-important.

An Act to amend the Legislature Act 1908

28 *August* 1977

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

1. Short Title—This Act may be cited as the Legislature Amendment Act 1977, and shall be read together with and deemed part of the Legislature Act 1908 (hereinafter referred to as the principal Act).

2. Carrying over of Parliamentary business—(1) Where the House of Representatives resolves that any Bill, petition, or other business before it or any of its committees be carried over to the next succeeding session of Parliament (whether the same Parliament or not), that Bill, petition, or other business shall not lapse upon the prorogation or dissolution or expiration by effluxion of time of the Parliament in being when that resolution is passed but shall be carried over accordingly.

(2) Where any resolution under subsection (1) of this section enables the business to which it relates to survive a dissolution of Parliament, the House of Representatives may provide, by that resolution or by any subsequent resolution passed in the same session, for that business to be continued while Parliament is not in session following that dissolution by a committee comprising members of the House of Representatives, and may—

(a) Constitute, or provide for the constitution of, the committee and, for that purpose, confer on any member of the House of Representatives, by name or office, or on the Clerk of the House of Representatives, the power to appoint members of the House of Representatives to the committee:

(b) Delegate to any member of the House of Representatives, by name or office, or to the Clerk of the House of Representatives, the power to make or approve changes in the membership of the committee.

(3) Every such committee shall have, subject to the terms of any resolution under subsection (2) of this section, the privileges, immunities, and powers of a Select Committee of the House of Representatives, and shall be deemed to be a committee of the House of Representatives—

(a) For the purposes of the Standing Orders of the House of Representatives; and

(b) For the purposes of sections 17 to 20, and clause 1 of Part I of the Schedule to, the Defamation Act 1954.

(4) A member of the House of Representatives who has not taken and subscribed the oath required by section 46 of the New Zealand Constitution Act 1852 may sit and may vote as a member of a committee constituted by or pursuant to a resolution under subsection (2) of this section.

3. Validation—An Act resulting from the passing, whether before of after the commencement of this Act, of a Bill carried forward, whether before or after the commencement of this Act, from one session of Parliament to another or from successive sessions of Parliament, and anything done under any such Act, whether before or after the commencement of this Act, shall be as valid and effective as if the introduction and passing of the Bill, and all other proceedings of the House of Representatives and of any committee in relation to it, had taken place within one session.

V. CONDUCT OF MEMBERS

BY C. J. BOULTON

Clerk of the Overseas Office, House of Commons and Clerk of the Select Committee on Conduct of Members, 1976–77

It is inevitably a difficult and delicate task for the House to investigate the private conduct of its own Members. Now that such an investigation is completed at Westminster there is naturally a disposition to consider the whole matter closed. The following notes are intended solely to record some of the problems and procedures that were associated with such a, happily rare, event.

The bankruptcy of a leading firm of architects (J. G. L. Poulson's) in 1972 brought to light the fact that they had been engaged in corrupt practices in order to obtain contracts. It was known that certain Members of the House of Commons had been associated with some of the companies involved, and although the Attorney General announced in October 1976 that there were no grounds for bringing criminal charges against Members, it was felt that it was in the general interest to establish whether any Members had indulged in conduct that amounted to a contempt of the House, or was inconsistent with the standards which the House is entitled to expect from its Members.

A Select Committee of the House was considered to be the appropriate vehicle for such an inquiry – not least because the House would not wish any outside body to consider questions of possible contempt. It was inevitable, however, that such a body would be subject to considerable strains in performing its task, and would be faced with great difficulty in devising procedures that would be fair to Members under investigation, while satisfying the House and the public at large that justice had been done. That the Committee ultimately produced a unanimous Report[1] of great thoroughness was no mean achievement, and it evoked the following tribute from the Leader of the House in the debate on the Report on 26th July 1977:

"When the debate which set up the Select Committee took place a few months ago, many anxieties were expressed about how the Committee would do its work and whether it would be able to carry out its work properly. Whatever view may be taken about the outcome of the inquiry, I believe that most hon. Members – I do not say all – will come to the conclusion that the Select Committee was conducted in a sensible, intelligent and fair manner. It took account of many of the difficulties that were posed in the debate when the Select Committee was set up and also took account of many of the difficulties that have arisen in previous such inquiries.

Some of us were Members of the House at the time of the report of the Lynskey Tribunal in 1949 and some of us believe that the operation of the Lynskey Tribunal in 1949 did the gravest damage to innocent people who were involved in it. For many years, therefore, some of us have tried to ensure that, whatever kind of tribunal or body was set up to deal with these matters, these kinds of debate, if possible, would be avoided. Of course, it is not possible to avoid them altogether.

It has been indicated by the speeches from the right hon. Gentleman and my hon. Friend, both think that they have been unfairly used by the Select Committee. But before we come to discuss that aspect of the matter, I ask the House to contrast what has been done by this Select Committee with what happened in those previous tribunals and investigations. I believe that the case made by my right hon. Friend the Prime Minister at the time when the Select Committee was established has been vindicated by the result. I believe that the choice which the House of Commons made at that time – that the proceedings should take place in private but that the publication of the minutes be made afterwards – has been proved to be the right procedure. I believe that it has been fairer to the individuals concerned, including the individuals involved in the inquiry, and that it may be fairer to many other individuals as well.

As a result of that method of procedure we have received a Report from the Select Committee on which sat many respected hon. Members from all the different parties. That is a further proof that this is not a party question in any sense whatever. I also believe that the Report repudiates the suggestions that in some way or other the House of Commons was going to set up a form of investigation that would be a whitewash or a cover-up. Nothing of the sort has occurred. The investigation has taken place and it was conducted with care, scruple, diligence and speed. All those factors should be taken into account. It should also be taken into account that those who sat on the Committee represented all the different shades of opinion in this House."[2]

The Select Committee consisted of ten Members – 4 Labour, 4 Conservative, one Liberal and one Scottish National Party. Mr. Michael Stewart, the former Foreign and Commonwealth Secretary, was elected Chairman. The Committee were required by their order of reference to sit in private, and even Members of the House were prevented from attending unless summoned. On the other hand, the Committee were ordered at the end of their inquiry to "lay before the House all such oral and documentary evidence as upon consideration by them shall appear to be relevant and such as may fairly be taken into account". The Attorney General was ordered to attend the Committee "so far as the Committee may require, to present evidence relevant to the subject matter of the inquiry" and was enabled "to give such further assistance to the Committee as may be appropriate". In the event the Attorney General made all his papers available to the Committee and attended several of their early meetings to discuss them with the Committee. The Committee were empowered to "appoint persons to carry out such work relating to the Committee's order of reference as the Committee may determine", and this power was held to extend to the retention of counsel to examine witnesses on behalf of the Committee and to represent witnesses before the Committee should this prove desirable. In fact, no staff other than their Clerk were used by the Committee. One Member availed himself of leave to appear with Counsel, but at his own expense.

Apart from the presence of the Attorney General at some deliberative meetings, the procedure in the Committee followed the normal course. The Committee did, however, take the unusual step of requiring all witnesses (including Members and a member of the House of Lords) to give their evidence on oath under the Parliamentary Witnesses Oaths Act 1871, thereby attaching the penalties of perjury to any false evidence.

As the Committee was one of secrecy, extraordinary care was taken with the documents. Nothing was circulated to the Members. Each had his box files which were kept in the Committee Clerk's room, and taken to the Committee room for each meeting. Members wishing to consult papers between meetings did so in the presence of the Clerk.

Two of the witnesses summoned by the Committee were serving prison sentences. Arrangements were made by the Home Office for these witnesses to be able to correspond privately with the Committee. They were delivered by the prison authorities into the custody of the Serjeant at Arms on the days when they were to give evidence. Plain-clothes policemen brought the prisoners to the door of the Committee Room, but they were examined by the Committee without escort.

The Committee sat on thirty days. They asked over 2,000 questions in oral evidence and published 83 appendices of written evidence. They published all the evidence relating to the Members whose conduct they needed to investigate; the fact that they met in private meant that they were able to exclude public reference to persons (both Members and others) whom it would have been unfair to involve simply because their name happened to appear in the 22,000 files of papers to which the Committee had access.

One of most difficult tasks before the Committee was to define the areas of conduct that were relevant to their inquiry. The Report dealt with this question as follows:

> "The requirement in Your Committee's terms of reference that they should consider whether the conduct or activities of Members amounted to a contempt of the House or were inconsistent with the standards which the House is entitled to expect from its Members, has obliged Your Committee to give careful consideration to the criteria that should be used in reaching a judgement upon such matters. They wish to make it clear that they have sought to apply the tests that the House would have applied had it been aware of the facts at the time. For example, it was not until 1974 that the House agreed to resolutions about declarations of interest, and a register of Members' interests. There was, however, a custom of declaration of interest before that date and Your Committee have sought to apply it to the circumstances of each particular case. They have considered, further, whether the conduct of any Member in pursuing matters in Parliament for payment or reward amounted to a contempt of the House, in the context in which the conduct took place. As to the test of "standards which the House is entitled to expect from its Members", Your Committee have found it easier to reach a conclusion in each particular case rather than to expound a general rule. They have no doubt, however, that the House would in the period under examination have expected a Member of Parliament to have regard to his public position and the good name of Parliament in any work he undertook or interests he acquired and to have been frank and open about his interests in his dealings with those who would be entitled to know about them."

The Committee found that one Member had committed a contempt in raising a matter on the Adjournment in order to further his own avowed private interests. He resigned from the House before the debate on the Report. The Committee found that two Members had been guilty of conduct inconsistent with the standards which the House is

entitled to expect from its Members – one in not describing adequately to the House his association with the architect's companies, and the other in approaching persons outside the House as a Member without disclosing his interest.

Before debating the Report and its recommendations, the House gave an opportunity to the two Members criticised (the third having resigned) to make statements. They then withdrew, according to custom, but by the unanimous wish of the House they were then invited to hear the debates on themselves if they so wished. Both Members availed themselves of this opportunity.

The House was unanimous in agreeing with the Committee in the first case, but widely divided in respect of the other two. Opinions ranged from a desire to expel both Members to a straight rejection of the Committee's conclusions. In the event, after a day's debate on 26th July 1977 the House decided on divisions simply to "take note" of the Report in respect of these Members. So there is no authoritative guidance for the future on "the standards the House is entitled to expect from its Members", but there was relief that a Committee of the House were able to work together to examine in an objective way the conduct of some of their fellow-Members, since the privilege of immunity from any outside investigation of proceedings in Parliament carries with it the corollary that the House should always, if the occasion arises, be prepared to do this job for itself.

1. House of Commons Paper 490, session 1976–77.
2. Debate on Report, H.C. Deb (1976–77) 936, col. 332.

VI. RAJYA SAHBA CELEBRATES ITS SILVER JUBILEE

BY S. S. BHALERAO

Secretary-General, Rajya Sabha

Independent India's Constitution envisaged a bicameral legislature at the Centre – the House of the People (Lok Sabha) directly elected on universal adult suffrage and the Council of States (Rajya Sabha) indirectly elected and also with some nominated element. Under the new dispensation, the Rajya Sabha met for the first time on 13th May, 1952, under the distinguished Chairmanship of Dr. S. Radhakrishnan, the first Vice-President of the Country and philosopher-statesman of international repute. Thirteenth of May 1977, therefore, marked the completion of twenty-five years of its functioning. By a happy coincidence, the Rajya Sabha also completed in March/April, 1977, its hundredth Session.

The General Purposes Committee of the Rajya Sabha, whose Chairman is the Chairman of the Rajya Sabha itself, decided to hold a celebration to mark the happy occasion. The Committee approved the following programme for the occasion:—

1. Bringing out a commemorative volume on the working of Second Chambers;
2. Arranging an exhibition depicting the functioning of the Indian Parliament;
3. Issue of a commemorative postal stamp and first day cover; and
4. Radio and T.V. talks on the role played by the Rajya Sabha in the functioning of the Parliamentary institutions in the country.

The main function to mark the occasion on which the commemorative volume was released by the Acting President of India, Shri B. D. Jatti, and the commemorative postage stamp released by Shri Morarji R. Desai, Prime Minister of India, was held on 21st June, 1977, in the Central Hall of the Parliament House in New Delhi. The function was attended by many distinguished guests who included foreign dignitaries, diplomats and members of Parliament. The Deputy Chairman of the Rajya Sabha (Shri R. N. Mirdha) welcoming the guests said:—

"The Rajya Sabha, as the Upper House of Parliament, has played all along this period, an effective role in the process of legislation, decision-making and policy formulation in national and international affairs".

In the course of his speech, the Deputy Chairman dwelt upon the achievements of the Rajya Sabha and recalled the observations of the First Chairman of the Rajya Sabha, Dr. Radhakrishnan:

"There is a general impression that this House cannot make or unmake governments and, therefore, it is a superfluous body. But there are functions which a revising chamber

can fulfil fruitfully. Parliament is not only a legislative but a deliberative body. So far as its deliberative functions are concerned, it will be open to us to make very valuable contributions, and it will depend on our work whether we justify, or do not justify, this two-Chamber system, which is now an integral part of our Constitution".

The Deputy Chairman's welcome Address was followed by an Address by the Acting President, Shri B. D. Jatti, who released the Commemorative Volume entitled "The Second Chamber – Its Role in Modern Legislatures". The attractively produced volume contains articles by Presiding Officers, Clerks and Secretaries-General of the Second Chambers in bicameral Parliaments in various countries, Presiding Officers of the legislatures within the country, members of Parliament, past and present, and other eminent jurists, journalists, scholars and constitutional experts. Describing the Rajya Sabha as "an indispensable part of the Parliament which is the repository of all legislative and constitutional power of the Union", the Acting President observed: "The record of achievements of the Rajya Sabha during the last quarter of a century in the legislative, social and economic fields has been considerable, taking into account the range and the volume of work done during these eventful years".

A commemorative postal stamp and a First Day Cover were brought out on the occasion by the Posts & Telegraphs Department. The colourful stamp depicting the "seat of authority" of the House was formally released by the Prime Minister, Shri Morarji Desai. Expressing happiness to associate himself with the Silver Jubilee Celebrations, the Prime Minister made this laudatory reference to the role played by the Rajya Sabha:—

"In our constitutional scheme, the Rajya Sabha, a body not subject to dissolution and perpetually renewing itself, symbolises the permanence and continuity of Parliamentary institutions. With a record of work, both in legislative and other spheres which is impressive, the Rajya Sabha has more than fulfilled the role assigned to it under the Constitution and has vindicated its usefulness as an effective second Chamber . . . Over the years it has established itself in public esteem as a coordinate constituent of our Parliament, fully worthy of our great democracy".

Shri Lal K. Advani, Leader of the House in the Rajya Sabha and Minister of Information & Broadcasting, delivered the thanks-giving speech in which he recalled the eminent and distinguished Chairmen and members who had at one time or the other in the last quarter of a century adorned the House and added lustre to it.

Simultaneously with the release of the Commemorative Volume and the stamp, a compilation in Hindi and English was brought out recording messages of greetings and good wishes received on the occasion from high dignitaries from all over the world.

On 22nd June, 1977, when the Rajya Sabha met for its usual sitting, a rare gesture was made by the Leader of the House (Shri Lal K. Advani) and the Leader of the Opposition (Shri Kamlapati Tripathi) in placing on record their appreciation of the services rendered by Shri Bhupesh

Gupta, who had continued to be a member of the House since its very inception. The Leader of the House described him as one "who has veritably become an institution by himself" and one "who has maintained an uninterrupted record of the membership of the Rajya Sabha since 1952". The services of other members who were the country's ablest and most eminent personalities and who had occupied seats in the Rajya Sabha were also recalled with great pride and happiness. The Deputy Chairman (Shri R. N. Mirdha), echoing the feelings of the whole House, also paid glowing tributes to Shri Bhupesh Gupta. Shri Bhupesh Gupta, thanking the House for the compliments, observed:

"I hope in this House India's voice will be heard, the voice of the millions which after all, in the final analysis makes Parliament what it is, gives it character and quality. Our rapport with the people is our greatest asset and I do hope all of us will cooperate, collectively work for building up bolder ties with the masses, seek counsel with them and give full expression in policies and otherwise to the urges that inspire them, the urges that set them in majestic historic motions. We are on the march and let us, in this House, march in step with the life outside".

As part of the celebrations, radio and television discussions were arranged to highlight the contribution made by the Rajya Sabha to the social, economic and political life of the country in the last twenty-five years. These proved very useful in creating a better awareness of the achievements of the Rajya Sabha among the general public. Television also telecast special programmes on the eve of the Silver Jubilee Celebrations and also the live programme of the Central Hall function.

An exhibition "Parliament through the years" was arranged in the Parliament House Annexe. It was open for a month. The Exhibition highlighted the activities and achievements of Parliament during the last 25 years by means of charts, photographs and publications which were procured from many sources for display. The Exhibition attracted large crowds and proved very educative and instructive.

Thus concluded the Silver Jubilee Celebration of the Rajya Sabha. It provided an opportunity to take a fresh look at the functioning of Parliamentary democracy in India.

VII. THE GROWTH OF SESSIONAL AND SELECT COMMITTEES IN THE ZAMBIAN PARLIAMENT FROM JANUARY, 1974 TO FEBRUARY, 1978

BY N. M. CHIBESAKUNDA

Clerk of the National Assembly

The National Assembly of Zambia has developed from, and is based procedurally, on the Westminster model. As such. procedures that are followed in Committees, though modified to suit Zambian conditions have basically been derived from Westminster. Parliamentary Committees in the Zambia National Assembly are organs of the House and as such they are "miniature parliaments" with the same powers, immunities and privileges as the House itself. In the National Assembly of Zambia, the powers of these Committees have been enhanced by the National Assembly (Powers and Privileges) Act, *CAP*17. In particular part III of *CAP*. 17 dealing with evidence has given powers to the Assembly and any of its Committees to order attendance of witnesses; Section 14(3) of this Act deals specifically with exemption from attending or producing evidence before any Committee of the House; Section 19 of *CAP*. 17 enumerates offences against the House or any of its Committees. In addition to the provisions of the law, the powers of Committees have further been enhanced by National Assembly Standing Order 136(2) which states that "All Sessional Committees shall have power to send for persons, papers and records".

Although the National Assembly of Zambia Committee system is by and large based on the Westminster pattern, there are a number of differences. Firstly, the Zambian Parliament is unicameral. This therefore means that the Standing Orders of the Zambian Parliament do not provide for joint Committees. What is provided for is the existence of select and sessional Committees. Although Standing Orders 121 and 122 of the House provide for the selection of select Committees and appointment of members to serve on such Committees, these Standing Orders have rarely been used by members. However, Standing Order 136 provides for Sessional Committees, which are reconstituted at the beginning of each Parliamentary Session.

At the end of 1974 there were seven Sessional Committees, namely:

1. The Standing Orders Committee
2. The House Committee
3. The Public Accounts Committee
4. The Library Committee
5. The Committee on Delegated Legislation
6. The Parliamentary Procedure, Customs & Traditions Committee
7. The Committee on Absence of Members from Sittings of the House.

Committees on 'Parliamentary Procedure, Customs and Traditions'. 'Absence of Members from Sittings of the House' and 'Delegated Legislation' were established by the announcement of the Hon. Mr. Speaker on 19th May, 1974. Prior to 1974 there were only four Committees. The changes of 1974 were prompted basically by the following two factors:

(i) the introduction of the One-Party Participatory Democracy in December, 1973; and

(ii) the increased membership of the House from 110 to 136, including Mr. Speaker.

In its report which was tabled on 20th February, 1974 the Standing Orders Committee felt that in a One-Party Participatory Democracy, Parliamentary Committees have a vital role to play in the future participation of Members in the Parliamentary life of the House. They also argued that the Committees will not only serve as watchdogs of the public purse but will also maintain an effective role in the surveillance of the action of the executive. The Standing Orders Committee with a view to strengthening powers of the Committees recommended that all Committees should have powers to send for persons, papers and records. This measure by the House, therefore, brought the total number of Sessional Committees to seven as shown in the table below:—

Committee	*Appointed by*	*Chairman*	*Members*	*Subject*	*Quorum*
Absence of Members from Sittings of the House	Mr. Speaker	Chief Whip	10	Absence of Members	5
Delegated Legislation	Mr. Speaker	Elected	8	Examination of Statutory Instruments	4
House	Mr. Speaker	Mr. Speaker	7+	Comfort of Members	4
Library	Mr. Speaker	Mr. Speaker	7+	Library	4
Parliamentary Procedure, Customs and Traditions	Mr. Speaker	Mr. Speaker	7+	Parliamentary Procedure and connected matters	4
Public Accounts	Assembly	Elected	10	Examination of Accounts	4
Standing Orders	Mr. Speaker	Mr. Speaker	7+	Standing Orders and Staff matters	4

*7+ =in addition to the Chairman.

A Parliamentary Select Committee, the first of its kind since 1964 was appointed by the Hon. Mr. Speaker on Friday, 14th October, 1977 in accordance with the decision of the House at the end of a debate on a Motion of Thanks for His Excellency the President's Address to the first emergency meeting of Parliament and the deliberations of Members of the same. This Committee was given the name of 'The Special Parliament-

ary Select Committee'. It consisted of ten Members including the Chairman who in this case happened to be the Minister of Finance. The Committee was specially chosen to examine His Excellency's Address to the first emergency meeting of Parliament and all contributions that had been made by all Members who had taken part in the debate and any submissions any Member might have wished to give to the Committee during its sittings; to recommend any necessary legislation required to give effect to the directives of His Excellency the President, the Party and Government as stated in the speech; to recommend any necessary actions which must be taken by the executive to give effect to the same; and to make any other relevant recommendations.

In addition to the rules of procedure, powers and privileges which normally apply to Sessional Committees outlined above in the Zambia National Assembly, the following did apply:—

(i) The Quorum of the Committee was four.
(ii) The meetings of the Committee were held in one of the Committee rooms within Parliament Buildings. If the Committee wished to meet beyond the precincts of Parliament it had to obtain leave to do so.
(iii) The times of the meetings of the Committee were determined by the Committee at the first meeting which was convened shortly after the House had adjourned *sine die*.
(iv) Subject to the provisions of Sections thirteen, fourteen and twenty of the National Assembly (Powers and Privileges) Act, *CAP.* 17, the Committee had powers to order any person to attend before the Committee and to give evidence or produce any paper, book, record or document in possession or under the control of such person.
(v) No person other than Members of the House were allowed, except by leave of the Committee, to be present during any of the proceedings of the Committee. In other words, the proceedings of the Committee were held *in camera*.

The report of the Committee was brought up by the Chairman, through Mr. Speaker, and had to be dealt with by the House on a Motion after notice had been given. The report was ready on 24th November, 1977. This was a special case in that it was the first Parliamentary Select Committee ever appointed since the attainment of independence on 24th October, 1964.

The latest in the growth of Sessional Committees has been the newly formed Committee on Parastatal Bodies which was established as a result of the concern expressed by Members of Parliament over the control of parastatal organisations, most of which receive government subventions which are voted by Parliament by way of subsidies, and grants under the appropriate subheads of each head of expenditure controlled by various Ministries/departments. It was set up in the National Assembly and the Standing Orders of the House were amended accord-

ingly by Mr. Speaker on 31st January, 1978. The Committee whose membership is ten and has a quorum of four, has the following duties:—

(a) to examine the reports and accounts of the parastatal bodies;
(b) to examine in the context of the autonomy and efficiency of the parastatal bodies, whether the affairs of the parastatal bodies are being managed in accordance with sound business principles and prudent commercial practices;
(c) to examine the reports, if any, of the Auditor-General on parastatal bodies; and
(d) to examine such other functions vested in the Public Accounts Committee as are not covered by paragraphs (a), (b), and (c) above and as maybe allotted to the Committee by Mr. Speaker from time to time.

The Committee on Parastatal Bodies, in addition to the rules of procedure, has powers like its sister Committees outlined above, subject to the provisions of sections thirteen, fourteen and twenty of the National Assembly (Powers and Privileges) Act, *CAP.* 17 to order any person to attend before the Committee and to give evidence or produce any paper, book, record or document in possession or under the control of such person. A Minister, or Minister of State, is not eligible for appointment as a Member of the Parastatal Bodies Committee.

Each of the eight Sessional Committees have specific duties, some of which like those of the newly formed ones have been outlined above. The servicing of these Sessional and Select Committees of the National Assembly is done by a small body of competent members of staff who are commonly known as Clerks. As in most Commonwealth Parliaments, the Clerk's main function is to attend to all problems of administration, and of a procedural nature and also the clerking of these Committees.

As each new day sees members gain more experience and confidence in their work as representatives of the people, they participate more effectively in the process of decision-making; hence the need for checking the results of their contribution to the political system. This will inevitably call for the establishment of more Committees. In order to enhance the authority of Parliament, the growth of Select and Sessional Committees in the National Assembly of Zambia is, and will continue to be, on the increase in the near and foreseeable future.

VIII. ELECTION OF THE PRIME MINISTER OF PAPUA NEW GUINEA

BY A. F. ELLY

Clerk of the National Assembly

After the first general election since the country gained independence on 16th September 1975 the Parliament of Papua New Guinea elected its Second Prime Minister on 9th August 1977 in accordance with its Constitution. The first Prime Minister after Independence was previously the Chief Minister, Mr. Michael Somare. By virtue of the Constitutional provisons he was the first Prime Minister. The second Prime Minister, who happened to be Mr. Somare again, had to be elected. The Constitution, adopted on Independence Day, 16th September 1975, provides (Section 142(2)) that "The Prime Minister shall be appointed, at the first meeting of the Parliament after a general election and otherwise from time to time as the occasion for the appointment of a Prime Minister arises, by the Head of State, acting in accordance with a decision of the Parliament".

The provision, though containing the basic principle that the Prime Minister must be elected on the floor of the Parliament, is too brief. It does not specify whether the election should be a secret ballot or by open ballot, and it does not provide sufficiently for the procedure for the election of the Prime Minister. The Standing Orders of the Parliament are of no help either. They do not provide any detailed procedure or method of choosing the Prime Minister. Standing Order 8(1) merely provides that "The Prime Minister shall be elected by a motion, duly moved and seconded, without notice".

Under Standing Order 8(1) one motion or nomination had to be moved at a time. This was alright in the case of one nomination only. In the case of two or more nominations, it was contended that the first nomination would have an advantage over the others. So the Parliament suspended Standing Order 8(1) and a new procedure was adopted to enable the Parliament to consider all the nominations at the same time. The procedure adopted was as follows:

(a) Mr. Speaker to call for and accept nominations one at a time, duly moved and seconded;
(b) In the case of only 1 nomination, Parliament to divide for and against and members to move to positions indicated by the Speaker;
(c) In the case of 2 nominations, Parliament to divide and members to move to positions indicated by the Speaker;
(d) In the case of 3 or more nominations, Parliament to divide into the respective number of nominations received, and members

to move to positions indicated by the Speaker; and the candidate with the most number of votes, to be declared Prime Minister;

(e) In all cases, the Clerk to record each vote for publication in the Minutes of Proceedings.

When the nominations were called for, only Mr. Michael Somare and Sir John Guise were nominated. The Speaker then asked the members to indicate their choice between the two by moving to the parts of the Chamber in which the candidates sat. It is now history that Mr. Somare won the election by 69 votes to Sir John Guise's 36.

This unique procedure of electing the Prime Minister on the floor of the Parliament differs drastically from the procedure on the appointment of the Chief Minister during the period immediately before Independence and the systems of appointment of Prime Ministers in other countries. The House of Assembly, as it was then called before Independence, had a Ministerial Nominations Committee which was appointed at the first meeting of the House after a general election. This committee, in consultation with the Administrator, appointed the Ministers and the Ministers in turn appointed the Chief Minister from among their number.

In recommending the method and the procedure for the appointment of the Prime Minister, the Constitutional Planning Committee, founders of the country's present Constitution, felt that the old procedure had outlived its purpose and that its disadvantages and cumbersomeness had become increasingly apparent. The committee therefore recommended the present election procedure, which it reasoned could directly involve the Parliament as a whole in electing the Prime Minister and yet be able to cope with a possible fluid political situation.

The committee felt that this procedure could allow for a maximum of flexibility in that the system would work satisfactorily in a variety of circumstances. If any party or coalition of parties had an effective majority, it would have no difficulty in seeing that its leader was elected. If no party or coalition had a majority, the Parliament could elect the leader of the largest group, and it would then be up to him to form either a minority government or to try to create a majority through choosing a particular combination of Ministers. The committee also envisaged the situation where the most suitable person for the Prime Ministership was either a member of a minority group or belonging to no party at all. The procedure it recommended would give him a chance to be elected to the position of Prime Ministership and it would be up to him to form a minority or a majority government.

To allow further political negotiations between the parties (if need be) before the election of the Prime Minister, Standing Order 7 of the Parliament permits the Parliament to adjourn for up to three sitting days. This extra period was not needed or asked for in the last election but may be needed in future elections of Prime Ministers.

As the Prime Minister is elected on the floor of the Parliament, he can be removed by the Parliament as well. He can be removed by a motion

of no confidence expressed in him and moved in accordance with Section 145 of the Constitution. The Parliament can also remove by a motion of no confidence either a particular Minister or the whole ministry. But to allow the newly elected Prime Minister and his Ministry to settle down and justify their appointments the Constitution further provides that a motion of no confidence in the Prime Minister or in the Ministry should not be moved during the period of 6 months from the date of the appointment of the Prime Minister.

Perhaps the uniqueness of this particular system of the Parliament electing the Prime Minister can be attributed to the original attitude of the Constitutional Planning Committee itself which is illustrated by the following opening remark it made in its final report:—

"The first point we wish to make about the nature of our recommendations is that we have taken the idea of a 'home-grown' constitution seriously. In other words we have assumed that if it had been intended merely to follow some precedent, Westminster or otherwise, no planning committee would have been required, least of all one composed of the people's elected representatives. A lawyer or two could have made up a constitution with scissors and paste in much shorter time than we have required. It is not that we have ignored precedents, for there is such rich variety among the world's constitutions if one looks beyond the more immediately familiar. What has influenced us above all in seeking formulations and adapting them, has been the desire to meet Papua New Guinea's needs and circumstances". *C.P.C. Report P.* 1/2.

IX. PRESENTATION OF A PRESIDING OFFICER'S CHAIR TO THE PARLIAMENT OF GRENADA

BY C. A. S. S. GORDON, C.B.

Clerk Assistant of the House of Commons

On 24th January 1974, in answer to a question by the Leader of the Opposition (Mr. Harold Wilson), the then Prime Minister (Mr. Edward Heath) announced that the Government proposed that the House should offer a parliamentary gift to the House of Representatives of Grenada to mark the forthcoming attainment of independence by that country. It was not, however, until 17th June 1976 that the Leader of the House in a new Government (Mr. Michael Foot) moved the usual Address to Her Majesty; in doing so, he explained that the Grenada legislature was bicameral, with both Houses using the same chamber on different dates, and that the Grenada authorities had suggested that the Chair which had been proposed as a gift should be referred to as a Presiding Officer's Chair rather than a Speaker's Chair. Although the motion was agreed to with unanimity and enthusiasm, a further year was still to elapse before the House gave formal leave of absence (on 30th June 1977) to Mr. Dan Jones and Mr. Anthony Berry to make the presentation on its behalf. It was the good fortune of the writer of this article to receive similar, though less formal, leave of absence from the Clerk of the House in order to accompany the Delegation as their Clerk.

By this time the Chair had already been dispatched to Grenada, having previously been displayed at Westminster. Regard being had to the interior finish of the Grenada House, and the climatic conditions of the island, the upright portion of the Chair was designed (by the Property Services Agency of the Department of the Environment) to consist of open laminated wooden slats, with upholstered pads between their lower parts in order to give back-support to the sitter. Within each arm-rest a recess for books was provided, one of which was filled by a specially-bound copy of Erskine May. The Chair was made of Honduras mahogany, a locally grown timber of Grenada, and manufactured by Messrs. Heal Furniture Ltd., who at the same time produced a small facsimile to which reference will be made later.

A few days before their departure, the Delegation had the pleasure of being entertained to lunch by the Grenadian High Commissioner (Mr. Oswald M. Gibbs, C.M.G.), and were therefore not entirely unprepared for the quality of the hospitality which they were to receive during the course of their mission. We also waited upon Mr. Speaker Thomas, who handed to us letters (in the plural, for the first time) to be delivered to his two Grenadian colleagues, the President of the Senate

(Senator the Hon. Greaves James, O.B.E., J.P.) and the Speaker of the House of Representatives (Hon. A. A. Reason, J.P.).

The outward journey on Thursday 26th July did not begin altogether auspiciously, owing to a four-hour delay in the departure of the aircraft from Heathrow; this resulted in the missing of a connection at Barbados, where the delegation spent an uncovenanted though by no means disagreeable night. A charter flight early the following morning enabled us to fulfil punctually our first formal engagement, a call at Government House in St. George's, where we were received by the Acting Governor-General (Mrs. Colin McIntyre).

After lunch, we were taken to Parliament House for a rehearsal of the ceremony, of which an excellent printed brochure had been prepared by Mr. Curtis Strachan, the Grenada Clerk. Because the gift was being made to both Houses, it was necessary for the sitting to be a joint sitting; it was arranged that the Speaker and the President should sit next to each other, with the Members of the House of Representatives and Senators sitting on their right and left respectively. The Chair itself, instead of being veiled by a conventional shroud, was concealed behind a semicircle of green curtain, parting at the centre and withdrawn to the sides by strings at either end, thereby giving active employment to both members of the Delegation and also to their Clerk (since, when the Members took their positions on either side of the drawn curtain, they were concealed from each other, and required a signal to co-ordinate their actions). It was a particular pleasure to myself to discover that I was invited to sit at the Table during the ceremony. After the rehearsal, Mr. Jones delivered Mr. Speaker Thomas's letters of greeting to Mr. Speaker and the President, and I handed over to Curtis Strachan a similar letter from Sir Richard Barlas, together with the small model of the Chair for permanent retention in his office.

The ceremony itself took place on the morning of the following day, Thursday 28th July. We had previously been informed that the official Opposition would not be present; although it had been made clear to us that this was in no way to be interpreted as a sign of hostility to the United Kingdom, we were nevertheless much heartened to learn, on our arrival at Parliament House, that the decision had been reversed.

At the appointed hour the Delegation, preceded by the Sergeant-at-Arms, entered the Chamber to a fanfare of trumpets. In welcoming us, Mr. Speaker Reason made a gracious reference to the Parliamentary Library which the Grenada Parliament had received nine years before, to mark the achievement of Associated Statehood. He expressed appreciation of the continuing and regular links which existed with Westminster in the shape of C.P.A. seminars and exchange visits of Clerks, mentioning that Curtis Strachan had previously taken his seat at the Table at Westminster in the same way as the writer was now doing in Grenada.

Mr. Dan Jones then offered the Chair to the Grenada Parliament,

paying tribute to the racial harmony, democratic spirit and Christian conviction which were manifest in the island. He expressed his confidence in the future, and his hope that every opportunity would be taken to contribute to the nation's wealth and full employment by the export of its rich variety of fruits and foodstuffs. Mr. Berry then spoke, drawing attention to the fact that the preparations for our visit had extended over the terms of no less than three Prime Ministers, and had at all stages been unanimously supported by the respective Opposition. He laid particular stress on the contribution which could be made to the effective working of Parliament by good relationships between the Whips of the opposing parties, and gave the assurance, as the present Opposition "pairing Whip", that he would provide a "pair" for any Minister who wished to make an official visit to Grenada.

As soon as Mr. Berry had finished speaking, he and Mr. Jones took their places on either side of the curtain. Standing up at the Table, the Delegation's Clerk gave the agreed signal, and the curtains parted with military precision, to a second fanfare of trumpets.

The Delegates returned to their places, and Mr. Speaker called the Leader of Government Business in the House (Hon. George F. Hosten) and the Leader of the Senate (Senator Derek Knight) in turn to convey to the visitors the thanks of their respective Houses. Unexpectedly, when they had done so, the Leader of the Opposition in the House (Hon. Maurice Bishop) rose to catch the Speaker's eye. Having gracefully echoed the thanks which had been expressed by the previous speakers, he developed his views upon the symbolism of the Chair, and in so doing made a number of forthright remarks about the political situation in Grenada. Mr. Hosten, remembering that in his earlier speech he had omitted to read out the precise terms of the motion of thanks which he had been moving, then exercised his right of reply in order to do so and, at the same time, to comment with equal robustness on Mr. Bishop's observations. After this, the motion was agreed to with no dissentient voice, and Mr. Speaker handed an inscribed copy of it to Mr. Jones. The President and Mr. Speaker then adjourned their respective Houses *sine die*, the Delegation left the Chamber, and the ceremony was at an end.

To suggest that the Delegation, during their stay, had no thought for anything other than the immediate purpose of their visit, which has just been described, would be to court disbelief. We were lodged in great comfort on the edge of one of Grenada's splendid beaches, where time could have passed wholly congenially even had no-one been disposed to entertain us; far from this being so, however, we received abundant hospitality, not only from the Acting Governor-General but also from the Grenada government, the President of the Senate, Mr. Speaker and the Acting United Kingdom High Commissioner for the region (Mr. James Paterson), who is normally based in Trinidad but was present in Grenada and assiduous on our behalf during the whole of our stay. We were shown the magnificence and beauty of the island beyond

the confines of St. George's under the agreeable tutelage of a member of the Prime Minister's staff, Mrs. Barbara Radix. For myself personally, one of the greatest pleasures was the opportunity of meeting for the very first time my eleven-year old godson, Master Richard Strachan, who bids fair to become as distinguished a personage, and as amiable a companion, as his father.

We left Grenada on the morning of Saturday 30th July, breaking our journey again at Barbados; one final tribute of thanks must be paid to our High Commissioner there, Mr. Charles Roberts, C.M.G., who in addition to having ensured our comfort and accommodation during our unexpected sojourn on the outward journey, showed us much of the island and entertained us at his home during the several hours of waiting-time on our return. This last kindness set the seal upon the whole expedition, which all the Delegation will long and happily remember.

X. PARLIAMENTARY PRIVILEGE IN SASKATCHEWAN

BY GORDON BARNHART

Clerk of the Legislative Assembly, Saskatchewan

On 24th June, 1977, the Saskatchewan Legislative Assembly was faced with a unique situation – a tie between the two Opposition parties. The standings in the Assembly were 39 Government (New Democratic Party), 11 Liberal Opposition and 11 Progressive Conservative Opposition. The adage that "nothing new procedurally ever happens in Parliament" seemed to be contradicted in this case as research was unable to find a precedent in Canada or other Commonwealth Parliaments.

Pursuant to the Legislative Assembly Act of Saskatchewan, Mr. Speaker determined that the two Opposition parties were to be treated equally in all respects for the time that the tie existed. In anticipation of possible procedural storms over who would fill the position of Leader of the Opposition Mr. Speaker met with representatives of the three political parties to discuss which Opposition leader should be recognized first in the Address-in-Reply, in Oral Question Period, in replying to Ministerial statements and in other situations where traditionally the Leader of the Official Opposition was granted the right of first reply.

Mr. Speaker advised the Members that the seating arrangements of Opposition parties in the Chamber would not be changed. Since the Third Party had achieved equal strength with the Official Opposition Party but had not surpassed them in numbers of Members, the Liberal Party (formerly the Official Opposition Party) would remain on Mr. Speaker's left and closer to the dais than the Progressive Conservative Members (formerly the Third Party). Mr. Speaker asked the parties to send in the nominations of where the leaders would like their Members seated within the designated areas. Care was taken to adjust the Members' desks so that the desks of the two Opposition leaders were an equal distance from the Premier's desk which was in accordance with the Saskatchewan practice of seating the Leader of the Official Opposition directly opposite the Premier.

On the opening day of the Fourth Session of the Eighteenth Legislature, Mr. E. A. Berntson, M. L. A. and Whip of the Progressive Conservative Caucus, wrote a letter to the Speaker with copies to the press, protesting about the seating arrangements in the Legislative Chamber. The letter stated that since two Liberal Members had stated that they would resign within the near future in order to run federally, the Progressive Conservatives in reality were the Official Opposition and thus should be seated closer to Mr. Speaker. The letter went on to say that "the deal obviously made by the majority New Democratic Party with the Liberal Party has now been extended to the Legislative Assembly." The letter charged

that ". . . as part of the apparent deal between the New Democratic Party and the Liberals, the Liberal Caucus has been allocated those seats in the Legislative Chamber which should be allocated to the Progressive Conservative Caucus."

On the following day, Mr. Speaker made a statement in the Legislative Assembly denying that he, as Speaker, had been part of any "deal" between two parties to hinder or limit another party nor had he sought advice from any party regarding the location of the parties within the Legislative Chamber. Mr. Speaker stated that the letter implied that he as Speaker had been part of a deal and thus communicated to the Legislative Assembly that, in his opinion, the matter constituted a *prima facie* case of a breach of privilege.

Immediately following Mr. Speaker's statement, a motion was moved referring Mr. Berntson's letter to the Select Standing Committee on Privileges and Elections "to determine whether the allegations contained therein breach the privileges of any Members and if so, what action ought to be taken in respect thereof." During the debate on the referral motion, Mr. Berntson stood in the Assembly, apologized to Mr. Speaker and withdrew his letter. Over the dinner recess, Mr. Berntson publicly stated outside the Assembly that even though he had apologized to Mr. Speaker and withdrawn the letter, he still believed a deal between the two other parties existed and that the deal was affecting the proceedings in the Assembly.

In the light of Mr. Berntson's public statement, the Assembly, when it reconvened after dinner, refused to drop the motion of referral contending that the implication that Mr. Speaker was involved in a deal still existed. The ultimate result of the debate was that the motion was agreed to and the matter accordingly referred to the Select Standing Committee on Privileges and Elections.

At the organizational meeting of the said Committee, the Table Officers were requested to prepare a research paper on the question of privilege in order to guide the Committee Members in their examination of the matter. The paper outlined Beauchesne's and Erskine May's interpretations of parliamentary privilege and relied on precedents from both Ottawa and Westminster. A research paper prepared by the Canadian Library of Parliament, Research Branch, dated May 1969, stated that "Privilege is designed to enable Parliament and its Members to carry out their functions without hindrance or obstruction. It is designed to protect the authority and dignity of Parliament; to protect individual Members from intimidation and undue pressure; and to empower Parliament to punish those who seek to bring Parliament into contempt or obstruct its Members or officers in the performance of their duties." The Saskatchewan research paper examined May's discussion of contempt of Parliament. May states that ". . . to print or publish any books on libels reflecting on the proceedings of the House is a high violation of the rights and privileges of the House, and indignities offered to their

Houses by words spoken or writings published reflecting on its character or proceedings have been constantly punished by both the Lords and the Commons upon the principle that such acts tend to obstruct the Houses in the performance of their functions by diminishing the respect due to them." (*Erskine May's Parliamentary Practice*, Eighteenth Edition, pp.140 and 141.) And further from May: "Other Acts besides words spoken or writings published reflecting upon either House or its proceedings which, though they do not tend directly to obstruct or impede either House in the performance of its functions, yet have a tendency to produce this result indirectly by bringing such House into odium, contempt or ridicule or by lowering its authority may constitute contempts." (*May*, p. 143.)

The paper noted that reflections on the character of Mr. Speaker or charges of partiality in the discharge of his duty or the publishing of a letter reflecting on the Speaker's conduct had been considered to be breaches of parliamentary privilege at Westminster. (*May*, pp. 148 and 128.)

Parliamentary privilege in the Canadian Parliament and Provincial Assemblies is based on British practice and on the right given to the House in the British North America Act and to Provincial Assemblies in subsequent provincial constitution acts to define their privileges by statute. While the House of Commons has never chosen to codify its privileges in statute and had merely claimed the privileges held by the British House of Commons prior to the British North America Act, some of the provinces, including Saskatchewan, have specified in some detail the rights and immunities of Members and privileges of the Assembly.

The Legislative Assembly Act of Saskatchewan declares the Assembly to have the powers of a court for inquiring into and punishing such acts as insults or libels upon Members, obstructing, threatening or offering a bribe to Members or attempting to do so, assaults upon or interference with officers of the Assembly when doing their duties, falsifying records or documents, refusing to give evidence or disobeying a subpoena issued by the House. The Act further provides for the power of imprisoning offenders, and provides for freedom of speech, freedom from arrest in civil cases and exemption from jury duty.

The Saskatchewan Legislative Assembly has three precedents regarding privilege. In 1941 and 1950, cases of inaccurate or disrespectful press reporting were recognized as *prima facie* cases of privilege but the motions of referral to the Committee were withdrawn before the votes were taken. Members apparently felt that bringing the breaches to the attention of the media was sufficient and that further action would not be beneficial. In 1917, a point of privilege was raised to the effect that a Member of the Legislative Assembly had received Government money. The point was considered to be a *prima facie* case of privilege and was referred to the Select Standing Committee on Privileges and Elections. During the Committee's deliberations, it was learned that the Member had committed

the offence unknowingly and had repaid the money. The point of privilege was not pursued further.

Once the research paper had been presented to the Committee, the Chairman made a statement outlining a proposed course of action for the Committee to follow. His recommendations, which were eventually agreed to by the majority of the Committee Members, were: to keep a verbatim record of the proceedings; to call each witness with a specific motion; have each witness testify under oath and allow the witnesses to retain legal counsel on the condition that only the witness spoke to the Committee. The Chairman's statement also opened the Committee's scope by stating that the Members would be allowed to not only consider whether the letter breached the privileges of the Assembly but also to determine whether there was any truth to the allegations of a deal between the two parties.

During the Committee's consideration of its method of operation, the Progressive Conservative Members of the Committee sought consent of the Committee to allow Mr. Berntson to appear before the Committee with legal counsel with the power to cross-examine the witnesses. The Chairman ruled that Mr. Berntson could retain counsel; could attend the meetings of the Committee as an observer, since he was not a Member of the Committee; and that the Progressive Conservative Members on the Committee could cross-examine any witness called, as well as propose names of witnesses to be called by the Committee. The three Progressive Conservative Members on the Committee disagreed with the Chairman's rulings and the majority wishes of the Committee, with the ultimate result that all three Progressive Conservative Members withdrew from the Committee and did not attend any further meetings. Two Progressive Conservative Members referred to the Select Standing Committee on Privileges and Elections as a "Kangaroo Court", which was raised as a further point of privilege in the Assembly. After a Speaker's ruling, the two Members were ultimately expelled by a resolution from the Legislative Assembly for five sitting days each for contempt of a Committee of the Assembly.

Meanwhile, the Privileges and Elections Committee continued its examination of the truth or untruth of the Berntson letter and called several witnesses to determine the mechanism of allocating the seating in the Chamber and whether there had been any political party influence in determining the seating arrangements. The witnesses that were called were the Clerk of the Legislative Assembly, Mr. Speaker, the Leader of the Liberal Opposition, the House Leader, the Leader of the Progressive Conservative Opposition and Mr. Berntson. All but the last two appeared before the Committee, In summary, the testimony given before the Committee was that Mr. Speaker had left the Liberal Opposition desks closest to the dais since they had been the Official Opposition and had not been displaced and had given each Opposition Party an equal number of front desks and both parties were an equal distance from the Premier.

Mr. Speaker testified that he had not acted under pressure from any political party nor had he been part of a deal between any two parties of the Assembly.

When it became clear that neither the Leader of the Progressive Conservative Opposition nor Mr. Berntson were going to appear before the Committee in compliance with the Committee's request, the Committee considered recommending to the Legislative Assembly that the two Members be either ordered or subpoenaed by the Assembly to appear before the Committee. The Committee noted that the power of subpoena was reserved for calling the public before a Committee or the Assembly itself (*Beauchesne's Parliamentary Rules and Forms*, Fourth Edition, p. 247.). The Committee stated in its report to the Assembly that it was an expected thing for Members of the Legislative Assembly to appear before a Committee of the Assembly when requested to do so. The Committee decided that since any further action by the Committee or the Legislative Assembly to force either Member to appear before the Committee would only lower the dignity of the Assembly and its Committee, no further action should be taken.

The Committee had one Saskatchewan precedent to look at when considering the action to be taken regarding Members refusing to appear before a Committee. In 1916, a Member of the Saskatchewan Legislative Assembly, in refusing to answer questions when called before the Assembly, was considered by the Assembly to be in contempt and upon recommendation of the Assembly was reprimanded by Mr. Speaker. The entire matter was referred to a Special Committee and when that Member again refused to appear or to give evidence, the Committee recommended that a subpoena be issued. No further action was taken and there is no record of the subpoena ever having been issued.

On 3rd January, 1978, the Select Standing Committee on Privileges and Elections tabled its report on the now infamous "Berntson letter," eight weeks to the day after the letter was sent to Mr. Speaker. The Committee reported that the seating arrangements in the Legislative Chamber had been determined by Mr. Speaker without political interference from any political party. The Committee found the Berntson letter to be a breach of the privileges of the Assembly because it impugned the Speaker's impartiality in the discharge of his duties.

The Committee recommended that Mr. Berntson withdraw his letter unconditionally, state that there were no proper grounds for the allegations and apologize to Mr. Speaker. If these actions were taken by Mr. Berntson, the Committee recommended that no further action be taken. If Mr. Berntson refused to comply with the Committee's recommendations, the Committee recommended that Mr. Berntson be suspended from the sittings of the Assembly for a period of time to be determined by the Assembly. The report was concurred in by the Legislative Assembly.

Several days later, Mr. Berntson rose in the Assembly, withdrew his letter, apologized to Mr. Speaker but did not state that the charges of

a deal were unfounded. The Assembly did not accept the statement as being an unqualified withdrawal since, it was argued, if the charge of a deal still existed, the integrity of Mr. Speaker was still at stake. The Assembly thus passed a motion which had been moved by the House Leader suspending Mr. Berntson from the Legislative Assembly for five sitting days. Ironically, the Legislative Assembly was prorogued two days later with the effect that the suspension order expired.

The points of privilege, statements and rulings by Mr. Speaker, the suspension of three Members and the hearings of the Select Standing Committee on Privileges and Elections covered a time span of nine weeks and evoked very bitter debate from all sides of the Assembly. The central theme of the controversy was whether Mr. Berntson had intended to involve Mr. Speaker when he charged that there was a deal between the two other parties and whether Mr. Berntson, in withdrawing the letter and apologizing to Mr. Speaker but not withdrawing the charge of a deal having been made between two parties, had really withdrawn any charge of partiality against Mr. Speaker.

The report of the Committee marked the first time that a Committee on Privileges and Elections had reported to the Legislative Assembly on a privilege case and the first time in the history of the Province that a Member was punished by the Assembly for a breach of its privileges. When the Fourth Session of the Eighteenth Legislature prorogued on 12th January, 1978, the tie in opposition still existed and the Members returned to their constituencies after one of the most bitter sessions in the history of the Province.

XI. PRIVILEGE AT WESTMINSTER, 1978

BY F. G. ALLEN

Clerk of the Journals, House of Commons

In 1966, the House of Commons appointed a Select Committee on Parliamentary Privilege "to review the law of Parliamentary Privilege as it affects this House and the procedures by which cases of privilege are raised and dealt with in this House and to report whether any changes in the law of privilege or practice of the House are desirable"[1]. Over the centuries the House of Commons had fought many battles to secure its status as a legislative body unimpeded by threats or interference from individuals and groups and especially the courts of law. However, though the 20th century House has little to fear from these quarters, Members have continued to use the privilege machinery from time to time to raise matters which could have been dealt with in other ways or were scarcely important enough to constitute a threat to the working of Parliament.

The Committee received representations from a number of organisations, including the Bar Council and the Law Society, the Press and the broadcasting authorities. Their Chairman was Mr. Sam Silkin, Q.C., then a backbench M. P. and now the Attorney General; the membership of the Committee included Mr. Quintin Hogg (later to become Lord Chancellor), Mr. Michael Foot, the present Leader of the House, and Mr. George Strauss, now Father of the House and Chairman of the Committee of Privileges. They summarised the criticisms of the privilege procedure of the House under four main headings—

(*a*) the penal jurisdiction of the House was too readily invoked
(*b*) the procedure failed to accord with the principles of natural justice
(*c*) the scope of the jurisdiction was too wide and too uncertain
(*d*) the defences available to accused persons were likewise uncertain

After a very thorough examination of the matter, the Committee made a series of recommendations, based mainly on the principle that the House should, in future, exercise its penal jurisdiction "as sparingly as possible" and only when it was "essential in order to provide reasonable protection" from obstruction or interference with its functions. Amongst other things, they proposed a reform of the procedure in the House whereby any Member had a right to raise a matter which he considered to be a breach of privilege or a contempt of the House on any day before the commencement of the day's business. The proposal was that, before anything could be said in the House, the matter should be given preliminary consideration by the Committee of Privileges. If that Com-

mittee thought it deserved further examination, they would so inform the House – if not, then it would need a motion, supported by 50 Members, to enable the matter to be brought before the House.

The Committee reported in December 1967. The House considered the Report on a "take note" motion in July 1969, and a further debate arose on Government proposals on the matter in July 1971. But the Government withdrew their principal proposals, which related to the scope of the House's penal jurisdiction, and to the procedure in the House for raising matters of privilege. Thus, with one exception, little was done to implement the Report. The exception was the passing of a Resolution rescinding the obsolete 18th century Resolution that publication of debates (e.g. *Hansard*) was a contempt of the House. And there the matter rested until 27th January 1977, when the House referred the recommendations of the 1967 Committee to the present Committee of Privileges for their consideration and further recommendations.

The Committee of Privileges reported in June 1977 (Third Report, 1976—77, H.C. 417), devoting their observations to the three main considerations of the 1967 Committee which had so far not been dealt with by the House. These were—

(i) The scope of Privilege, i.e. what sort of matters should be treated as contempts within the penal jurisdiction of the House.
(ii) The procedure for raising complaints in the House.
(iii) The penalties appropriate to the 20th century.

The House debated the Report on 6th February 1978 on a motion to agree with the Committee and declaring that such of their recommendations as did not require legislation should have immediate effect. The effect of this decision of the House is best explained by reference to the three considerations already mentioned.

Scope of Privilege. The principle of invoking the House's penal jurisdiction as sparingly as possible and only when absolutely necessary is accepted. But rather than attempt a definition of what is and what is not a contempt, which could well be found to be restrictive at some future time, the House has entrusted to Mr. Speaker the decision whether a particular case is worthy of consideration as a priority over the Orders of the day. In making this decision he is enabled to have regard to previous Reports of the Committee of Privileges. Mr. Speaker is further enabled to have regard to the existence of other available remedies and to the mode and extent of the publication of matters brought to his attention by Members.

Procedure for raising complaints. The frequency with which complaints had been made and the trivial nature of some of them was perhaps a major reason for re-considering the House's attitude to privilege. Accordingly, a new procedure proposed by the Committee of Privileges, after re-considering that proposed by the 1967 Committee, has been adopted by the House. A Member is now obliged first to notify Mr. Speaker of the matter of his complaint. If Mr. Speaker decides that the case deserves

precedence over other business, he announces his decision and the Member may then table a motion for the House's decision – this would most likely be a motion to refer the matter to the Committee of Privileges. If Mr. Speaker does not so decide, then the Member has no right, as he had formerly, to raise the matter in the House. There remains, of course, the right of any Member to table a notice of motion for an "early day" but, like other such motions, it is improbable that the Government would give time for it, if it was known that Mr. Speaker had decided against giving the matter precedence.

At the time of writing (April 1978), in the period of about ten weeks since the House agreed to the new procedure, there have been four applications by Members to Mr. Speaker, of which he has allowed one to be brought before the House. This was a case in which several newspapers published articles describing the contents of a Report of the Select Committee on Race Relations and Immigration, before the Report was laid on the Table, with sufficient accuracy to indicate that someone had 'leaked' the Report to the Press.[2] There have been other similar cases in recent years and it was unlikely, in view of the fact that such premature publication has always been found to be a contempt, that Mr. Speaker would decide against the matter being raised and referred to the Committee of Privileges.

Penalties. At present, the House can admonish or reprimand a person found guilty of contempt or breach of privilege – or it may imprison him in the Clock Tower or elsewhere for the duration of the Session, but no longer. There is no intermediate form of penalty. Formerly the House exercised the power to impose fines, but has not done so for some 300 years and the power is deemed to be obsolete. The proposal of the Committee is that this power should be restored and that the power to imprison should be abolished. However, legislation is required for this purpose and the Government have undertaken that they will endeavour to introduce legislation for this and for other purposes proposed by the Committee of Privileges.

"Proceedings in Parliament". The 1967 and 1977 Committees both commented on a collateral matter which is certainly of interest at Westminster and may be elsewhere. This is the question whether a letter from a Member to a Minister in connection with his parliamentary duties is or is not a "proceeding in Parliament" and therefore protected by parliamentary privilege. In 1957, a Member had written to a Minister about the affairs of the London Electricity Board. The Minister showed the letter to the Board who threatened the Member with proceedings for libel. The threat was referred to the Committee of Privileges who concluded that the letter was a proceeding in Parliament and that therefore a contempt had been committed by the Board. However the House, on debating the Report of the Committee, decided by a small majority that the letter was not a proceeding in Parliament, notwithstanding that the inclusion of its substance in a Question would have been.

The 1967 Committee recommended that this decision should be reversed by legislation which would both extend and clarify the scope of absolute and of qualified privilege. The 1977 Committee recommended the enactment of a draft form of words to define "proceedings in Parliament", which included the following:—

". . . all things said done *or written* between . . . Members and Ministers of the Crown for the purpose of enabling any Member . . . to carry out his functions . . ."

The reason that this is comparatively of such interest at Westminster is that it has become common practice in recent years for many Members to deal with matters in which they are interested by means of a letter to a Minister in the hope of avoiding the need to resort immediately to publication, in the form of a Question, of issues which might be more simply resolved by correspondence. In the debate in February, the Government gave an assurance that they would do their best to introduce the required legislation.

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1. Table, Vol. XXXVII, p.16.
2. See Below, p.95,

XII. THE WORK OF THE HOUSE OF COMMONS FEES OFFICE

BY F. J. WILKIN, O.B.E., D.F.M.

Accountant, House of Commons

The British Parliament, in common with legislatures throughout the world, needs the necessary finance to maintain its buildings, to provide for its services and to pay its servants and to some degree its Members.

The Parliamentary buildings, which are almost entirely located within the Palace of Westminster, are maintained and furnished by the Property Services Agency of the Department of the Environment and the costs thereto are borne by that Department's Vote. Many of the services such as heating and lighting, the provision and supply of Parliamentary papers and the provision of copying machines are also borne on Departmental Votes. The remaining major costs such as the payment of salaries to Members, the reimbursement of expenses incurred by Members on Parliamentary duties, including travel costs, and the payment of salaries and allowances to officers and officials of the House of Commons are met from the Vote of the House of Commons, the net total of which was £16,048,000 in 1977/78.

The actual payments and the day to day administration of the costs falling on the Vote of the House of Commons are made by the staff of the Fees Office under the direction of the Accountant. It should however be borne in mind that the responsibility for all expenditure charged to the Vote rests with the Accounting Officer, who is also the Clerk of the House of Commons. The Fees Office may therefore be described as the finance and accounts office of the House of Commons – a similar office in the House of Lords with the same title performs similar functions and is financed from a separate Vote (£2,504,000 in 1977/78).

The title 'Fees Office' probably got its name when a Fee Fund was set up by authority of the House of Commons (Offices) Act 1812 for the proper and regular accounting for receipts (and payments) charged on account of the House of Commons. Prior to 1812, and indeed up to and including the year 1867/68 the Estimates for the House of Commons formed one with that for the House of Lords.

There is little doubt that many interesting stories can be found in the Parliamentary records of the financial 'dealings' affecting both Houses in the periods up to the late 19th century but however tempting an exercise that might be, a brief summary of the current functions of the Fees Office is all that can be covered in a short article. It is reasonable to expect that as the major item of expenditure is on Members' salaries and allowances the work load of the Fees Office is centred on those items. The physical payment and accounting time schedules present no

particular problem except for the odd occasion when a very indignant Member complains that he has received no cheques from the Fees Office because he had forgotten to tell the office that *he had* changed his bank!

It is the actual level of salaries and allowances that present problems to Members, as well as officials. There cannot be many legislatures whose Members are constantly inquiring "What is my salary?" This rhetorical question can be partly explained if it is remembered that in all of its 700 years of history no Member of Parliament (except Ministers) received any salary payment until 1911. One reason being that constituencies were liable, from the earliest times, for the expenses of maintaining their Members during their attendance upon Parliament. It must be emphasised however that the payment of such expenses had ceased by the beginning of the 17th century, save in a few isolated cases, but the legal liability of the constituencies for these payments to Members has never been removed.

The actual level of the salary is governed by Resolutions of the House which, being phrased in Parliamentary language, need to be explained in plain terms to Members by the issue of Memoranda from the Fees Office. During the years 1911 to 1974 this presented little difficulty but in 1975 the House passed a Resolution which made provision for a salary of £5,750 per annum to be paid to ordinary Members but for pension purposes the salary would be regarded as £8,000 per annum. This reduction in salary was proposed ". . . in the light of the economic circumstances of the country" (*Hansard*, 22nd July 1975, Col. 446). Pensions for Members of Parliament were first introduced in October, 1964 (by the Ministerial Salaries and Members' Pensions Act 1965) when the ordinary salary and pensionable salary of a Member was £3,250 per annum. A contribution of five per cent of that figure was deducted from the salary of every Member and paid into the Parliamentary Contributory Pension Fund which is administered by eight Trustees who are serving Members of the House of Commons. The Accountant is secretary of the Pension Fund.

Space will not permit a detailed explanation of the Members' pension scheme but it is hoped that the reader will understand the issues involved when it is explained that the Members' basic salary of £5,750 p.a. was increased in 1976 by a supplement of £312 p.a., but only if a Member's total salary income from all sources was below £8,500 p.a., and an increase in 1977 of a further supplement of £208 p.a. to all ordinary Members. This latest supplement was accompanied by a Motion which amended the pensionable salary to £8,208 p.a. The answer to the question "What is my salary?" lies somewhere within the figures quoted above.

The Fees Office provide the Secretariat for the Trustees of the Members' pension scheme, involving the preparation of briefs and attendance at meetings of the Trustees. In addition the office carries out the day to day administration of the scheme which includes keeping a watchful eye on the investment portfolio (£7.8M in 1976/77) and the answering of

Members' inquiries. The interest in pensions naturally increases at the approach of a General Election. It should be added that, with the passing of the Parliamentary and Other Pensions Act 1972, the Members' pension scheme was modified to provide for pensions for Ministers in the House of Lords, as well as providing for supplementary pensions for Ministers in the House of Commons.

This could be taken as a good example to illustrate that, although the finances of both Houses are separate and distinct, there remains a close liaison between the two Accountants. Indeed as more and more facilities are made available to the Parliamentarians of Westminster, so there is a greater degree of cost-sharing of common services between the Lords and Commons. For example the costs of the security forces are shared equally between the Houses but a cost-sharing ratio of the telephone services is calculated and expenditure recovered accordingly.

As might be expected a Member also receives allowances from the Vote, but unlike Members of other legislatures, the U.K. Members may only claim *reimbursement* of the actual expenses incurred, subject to the limits imposed by Resolutions of the House. As a result the Fees Office receives regular claims from Members for the reimbursement of expenses of their secretarial assistance and for expenses incurred in living away from home within the limits of £3,652 p.a. and £2,410 p.a. respectively (1977/78). Each claim however includes a form of a certification from the Member that the expenses so claimed have been incurred on Parliamentary business. Without this certificate the claim is not accepted for payment.

The Fees Office also receives claims from Members for the use of a car on Parliamentary business for travel between Westminster, Home and Constituency, and within the Constituency, and for car travel to the local or regional offices of Government departments and of the local authorities. Reimbursement is made on the basis of 13.4p (1977/78) per mile travelled. It will be seen therefore that claims are confined to the cost of travel within certain limits. It must be said, however, that where the car journey is made either from or to a Member's home the costs so claimed may be subject to tax. The Fees Office are responsible for deducting that tax. Since the tax regulations are also applicable to the cost of travel by warrant, the Fees Office are given the task of sifting all returned travel warrants for analysis and notification to Inland Revenue. A similar task is undertaken in respect of travel warrants used by the spouse of a Member. In 1977 the spouse of a Member was entitled to fifteen return journeys from Home to Westminster or from Constituency to Westminster.

Also included in the Vote of the House of Commons is a provision for the reimbursement of drafting fees incurred by a Member in promoting a Private Member's Bill. The reimbursement is limited to no more than £200 for each of the first ten Private Member's Bills listed at the beginning of a Session.

It is stressed that the level of salaries and allowances outlined in the

preceding paragraphs and which affect Members of the House of Commons have all been the subject of Resolutions of the House and any amendments (which are usually increases) must always be authorised by Resolutions of the House. However, in 1931 a Resolution imposed a 10 per cent cut in salaries. The Fees Office are usually consulted prior to the tabling of a Resolution and this forms a useful exercise for the subsequent unscrambling of the Parliamentary phraseology which is a prelude to the issue of the inevitable explanatory memorandum which is sent to all Members once the Resolution has been agreed by the House. A copy of the Resolution usually suffices in the submission to the Treasury for a Supplementary Estimate to meet the cost of the service involved, on the assumption that Treasury Ministers have been consulted prior to the tabling of the Motion.

This brief incursion into the financial provision for Members of the House of Commons, which forms the backbone of the work of the Fees Office, would not be complete without reference to the comparatively recent (January, 1975) addition to Commons expenditure. This concerns the provision of financial assistance to any opposition party ". . . to assist that party in carrying out its Parliamentary business." The level of that assistance on an annual basis was determined by the following formula:—

> £500 for each seat won by the party plus £1 for every 200 votes cast for it at the preceding General Election, subject to a maximum of £150,000 per annum for any party. Minority parties are dealt with in the following way: at least two Members elected or the party has one Member and received at least 150,000 votes for it.

A Resolution of the House of 13th February, 1978 increased the amount of this assistance by 10 per cent.

Any changes in the strength of the parties either as a result of by-elections or individuals changing their party allegiance will not affect the original level of assistance until the next General Election.

It is at the time of a General Election when the resources of the Fees Office are really stretched. Although rumblings of a possible General Election are heard during times of crisis, whether financial or otherwise, very little notice is given of the actual date of a General Election. Prior to 1974 all salaries and allowances payable to Members of Parliament ceased at the date of Dissolution which meant that all Members were 'paid-off' and a certificate of cessation of employment sent to the Inland Revenue office. This Dissolution period is usually of 21 days duration, which enables the Fees Office to balance the Vote Account in preparation for 'taking on' the Members comprising the new Parliament. As a result of a Resolution of the House of 20th December 1971 the payment of a salary to a Member did not stop when Parliament was dissolved on 8th February 1974 but continued until 28th February 1974, the date of Polling Day. The new Parliament assembled on 6th March 1974 but the salary of a Member started from the day following Polling Day, viz. 1st March 1974. This continuation of salary during the Dissolution

period will now apply to all future General Elections until such time as a further Resolution of the House amends the procedure.

Although the writer has set out with the intention of using the minimum of figures or statistics the reader's indulgence is craved whilst it is recorded that on 1st March 1974, 122 Members were taken off the payroll and 127* new Members were taken on in addition to the 508 Members who were returned at the Poll.

It will have been noted from previous paragraphs that the Fees Office authority for the payment of salaries and allowances to Members rests on Resolutions of the House. There are, however, other facilities for Members of a financial nature which are authorised by the Speaker following specific recommendations from the Select Committee on House of Commons (Services). To mention a few, the use by Members of the telephone service within the Palace of Westminster for making calls on Parliamentary business without charge to anywhere within the United Kingdom; the supply of free stationery and Government publications and the encashment of personal cheques at the Members' Post Office. But whichever procedure is used, it is usual for the Fees Office to prepare memoranda on each particular subject setting out the administrative arrangements for implementing the wishes of the House. Each memorandum is submitted to the Speaker for approval before circulation to Members. Generally speaking this system works well and although there are occasional confrontations with Members over the interpretation of the various Resolutions of the House, no Accountant of the House of Commons has yet been sent to the Tower.

The writer hopes that what has been said in these few paragraphs will awaken the interest, and sympathy, of all those who have chosen to work in Parliament towards all Parliamentary finance and accounts departments.

* The House was increased by 5 Members at this General Election following a revision of constituency boundaries.

XIII. PARLIAMENTARY CATERING SERVICES AND MEMBERS' ACCOMMODATION IN THE NATIONAL ASSEMBLY OF ZAMBIA

BY N. M. CHIBESAKUNDA

Clerk of the National Assembly

Matters of policy concerning catering services and Members' accommodation in the National Assembly of Zambia are dealt with by the House Committee (which is one of the eight Sessional Committees of the House) whose main preoccupation is to ensure maximum comfort of Members. According to Standing Order 139 this Committee is empowered to consider all matters connected with the comfort and convenience of Members, the running of the amenities provided by the National Assembly Restaurant and Bar, the availability of office accommodation for Members and staff and connected matters regarding the environment of the National Assembly Buildings.

Catering services:

At the present the National Assembly of Zambia has one Restaurant, a Lounge and one Bar for the use of Members. These services became operational from the time the National Assembly moved from the Old Parliament Buildings in the Government Secretariat area to the new Parliament Buildings on 2nd May, 1967. For day-to-day administration both the Restaurant and the Bar fall under the Accounts Department and are run by the National Assembly staff. The Bar is exclusively for the use of Members of Parliament and their guests. By order of Mr. Speaker, Members of the Press are prohibited from entering the Members' Bar.

The existing Restaurant is basically for Members' use and their guests. At its inception, the catering department of the National Assembly of Zambia obtained a Government Grant to start its operation, but this is no longer the case because from the sale of drinks and food to Members and their guests, the catering department is self-financing. Catering services for Members are likely to improve in the near future with the completion of a Members' Motel, which is still under construction.

Members' accommodation: Parliament Buildings

At the time of independence in October, 1964 the Parliament of Zambia was housed in buildings which lay behind the Government central offices along Independence Avenue. The buildings did not measure up to the status of a Parliament of a sovereign state and the facilities were inadequate. It was in this light therefore that the Government took a decision to provide adequate funds for the erection of Parlia-

ment Buildings which would reflect Zambia's attitude towards Parliament as the highest Legislative Institution in the land and to provide the necessary office accommodation and facilities.

The new Parliament Buildings have the advantage of standing on a most impressive site on the crown of a low hill, dominating the surrounding landscape. It is the site of the original village founding the new city of Lusaka and the capital of Zambia. The building overlooks the town to the south, embracing the houses rising up the slope of the hill. To the north the site rolls down to a small stream, with a panoramic view across to the blue outline of the Chainama Hills.

The building covers an area of approximately 73.15 metres long by 51.81 metres deep and is designed on four main levels:

(*a*) Lower ground level on the south side containing the main service rooms, undercover parking and the Members' and staff private entrance.

(*b*) Podium level containing the main public entrance foyer and the main private Members' rooms; that is Members' Restaurant, Members' Bar and Lounge, the latter opening onto a private Members' terrace overlooking the town, surrounded by the outer perambulatory;

(*c*) First floor level containing the main administrative rooms, Members' rooms and, centrally, the chamber. The area of the chamber at this level (the floor of the House) is some 15.84 metres wide by 20.11 metres long and designed to seat 120 Members; and

(*d*) Gallery level, with the public galleries on the east and west, the press gallery on the south and the Speaker's and Members' galleries on the north side. The size of the chamber at this level is 25.9 metres wide by 30.48 metres long and is designed to seat 268 visitors, apart from members of the press. On special occasions, e.g. Ceremonial Opening of the House by His Excellency the President, more chairs are added to accommodate an increased number of people up to 460.

A group of five Committee rooms, varying in size from 243.84 square metres to 99.53 square metres, allowing for a variety of working arrangements, has been built into the sloping hillside, as an annex to the main building. The planning has been kept simple, the furnishings quiet and dignified as befits their function. There are nine rooms within the building that are specially set aside as Members' offices; there is one office set aside for the Prime Minister as Leader of the House and one for Mr. Speaker. Each Member has a pigeon hole situated in the Committee building annexed to the main building.

Members' Motel

Accommodating Members during the sittings of Parliament has been a problem for sometime. At the moment Members are accommodated in Government Hostels within the capital. This problem will soon be a

thing of the past when the Members' Motel (which is still under construction) is completed. The Motel, of which the estimated cost is K2,000,000, will have 150 rooms, one Bar, Lounges, one Restaurant, Tennis Courts and other recreational facilities for the comfort of Members. The Government has, through Parliament, voted the said amount of money for the construction of the Members' Motel because of the importance it attaches to Members' role in society as representatives of the people and to ease the current accommodation problems Members experience.

Speaker's Lodge

Another important development in the quest to improve Members' accommodation is the construction of the Speaker's Lodge. The Speaker's Lodge of the Zambia National Assembly lies to the north-west of the main Parliamentary Buildings. The estimated cost of the building is K400,000. The Speaker's Lodge has a formal reception hall, formal dining hall and a Guest wing. This is so constructed to allow Mr. Speaker to entertain his guests as the situation may demand. The building is designed to make Mr. Speaker self-reliant in as far as accommodation is concerned, not for himself alone, but for his guests as well. The Lodge is constructed as befits the dignity of the Speaker.

The National Assembly of Zambia will soon be self-sufficient in making the stay of Members and visiting distinguished Parliamentary delegations as comfortable as possible and the House Committee is doing everything possible to improve conditions for the benefit of Members of Parliament.

XIV. THE SESQUI-CENTENARY OF THE TASMANIAN LEGISLATIVE COUNCIL

BY P. T. MCKAY
Clerk-Assistant
AND ROBERT DOYLE
Second Clerk-Assistant, House of Assembly, Tasmania

On Wednesday, 3rd December, 1975, a ceremony was held in the Tasmanian Legislative Council Chamber to commemorate the 150th Anniversary of the separation of Van Dieman's Land (the name Tasmania was called until 1856) from New South Wales and the constitution of the first Legislative Council in Tasmania.

This day became a milestone in the constitutional history of Australia's island state, and its upper house, which is among the most powerful upper houses in the British Commonwealth. The celebration of this event offers a valuable opportunity to relate the constitutional history and development of a colonial upper chamber. One hundred and fifty years may not seem a long period of time to those who inhabit the halls of Westminster, but for Tasmania, 150 years is only 22 years short of the first white settlement of the island.

Tasmania's history of settlement

Tasmania is named after the Dutch explorer, Abel Janzoon Tasman, the first white man to discover the island in 1642. Tasman named the island Van Dieman's Land after the Governor of Batavia at that time. However, the island was not settled by white civilization until 1803. This was the result of the action of Captain Cook in taking possession of the East Coast of Australia in 1770, on behalf of Great Britain, possession giving sovereignty to the Imperial Parliament.

New South Wales was the first of the Australian colonies to be settled by white people and in 1786 was declared to be a place outside England to which convicts might be transported. Both New South Wales and Van Dieman's Land were established as penal colonies.

After being settled in 1803 Van Dieman's Land was administered by a Lieutenant-Governor for the next 22 years, under the jurisdiction of the Governor of New South Wales. On the establishment of a Legislative Council in New South Wales the island then fell within the jurisdiction of the Governor and Legislative Council of New South Wales. However, as the population grew and the island developed, the need and desire for a separate administration increased.

Historical development of the Legislative Council

An Act of the Imperial Parliament gave the British Crown power to separate Van Dieman's Land from New South Wales and authorised

the establishment of a Legislative Council, similar to that established in New South Wales. Independence from New South Wales was proclaimed by the Governor of that colony on 3rd December, 1825.

The Legislative Council, not to have more than 7 members and not less than 5, was established by an Order-in-Council in 1825 and sat for the first time on the 12th April, 1826. The Council was a nominated body and consisted initially of six members (The Chief Justice, the Colonial Secretary and four non-official members) with the Lieutenant-Governor as President. The size of the Legislative Council was increased by an Imperial Act of 1828. This provided for a Council of 15, six official members (the Chief Justice, the Colonial Secretary, the Attorney-General, the Colonial Treasurer, the Senior Chaplin and the Collector of Customs) and eight non-official members, with the Lieutenant-Governor as President. The eight non-official members were nominated by the Lieutenant-Governor, whose autocratic powers were thus considerable, even though the new Act required him to ensure a majority vote in the Council in order to pass a law.

Under Lieutenant-Governor Arthur, Council meetings were held in camera, but with the arrival of Lieutenant-Governor Franklin in 1837, proceedings were thrown open to both press and public.

Meanwhile demands for a representative Government increased. In 1845, several members of the Council (later known as the "Patriotic Six"), walked out of the Chamber in Opposition to a move by Lieutenant-Governor Wilmot to increase taxation to meet expenditure incurred by the continuance of convict transportation. The effect of this walkout was to leave the Council without a quorum. From that time pressure mounted for the ending of transportation and the reform of the Council. However, it was not until 1850 that the first successful break-through occurred in this direction.

The Australian Colonies Government Act (Imperial 13 and 14 Vict. C59) received Royal Assent on 5th August of that year. This Act, which was proclaimed in February 1851, provided for a blended Legislative Council of 24 members, eight nominated by the Crown and 16 elected by the people. Elections were held in October and November 1851 and 16 anti-transportation candidates were returned. The new Council elected its presiding officer from within its own ranks; the Lieutenant-Governor ceasing to be a member. On 31st December 1851, Mr. (later Sir) Richard Dry was chosen as the first Speaker of the partly elected Council and the formal opening occurred on 1st January 1852. This was the first measure of representative government for Tasmania.

In 1854 the Legislative Council passed an Act (18 Vict. No. 15) which increased membership to 33 and, when established, the new Council had authority to make a new Constitution to provide for a bi-cameral system of Parliamentary Government. After investigation by a Select Committee, the new Council debated and passed the Constitution Act

which was then sent to England for Royal Assent and this it received on 1st May, 1855.

The first elections for the bi-cameral Parliament were held in September and October 1856 and the first session of the Tasmanian Parliament under responsible government was opened on 2nd December 1856. (In August 1855 Queen Victoria issued an Order-in-Council directing that as from 1st January 1856 the new name of the colony should be Tasmania). The Tasmanian Constitution Act established a House of Assembly and Legislative Council. This Council was to have 15 elected members. However, franchise was restricted to owners of freehold of an annual value of £50, university graduates, barristers, solicitors, medical practitioners, ministers of religion and officers of the forces. The colony was divided into 12 districts for the Legislative Council elections, each district returning one member, except for Hobart and Launceston (the two major towns) which returned three and two respectively. Five members were to retire every three years, but this was changed by Act of 1859 (23 Vict. No. 43), members holding their seats for six years from that date.

The House of Assembly had 30 members, its maximum term was fixed at 5 years and all seats fell vacant at the same time, to be contested in a general election.

The modern Legislative Council

In over a century of responsible government, there has been a number of constitutional changes. The size of the Council has fluctuated a number of times and changes have been made in the system of voting. The franchise has been gradually extended to the point where universal adult suffrage now prevails in elections for both Houses. All persons of 18 years of age and over are entitled to vote at elections for both the Legislative Council and House of Assembly.

In 1968 full adult suffrage for Legislative Council elections was achieved (Act No. 68 of 1968). From its original size of 45 members the Tasmanian Parliament has varied over the years; at present there are 54 members, 35 in the Assembly and 19 in the Council. Women first became eligible for election to either House in 1921 (12 George V, No. 61) but it was not until 1948 that a woman was elected to the Legislative Council. Voting was made compulsory in 1928 (19 George V, No. 55), as was the enrolment of electors in 1930 (12 George V, No. 88).

Since 1856, the Legislative Council has deliberated in the same Chamber. The President of the Council, for long a coveted honour, conducts the proceedings according to the rules and standing orders of the Council. He has a casting but not a deliberative vote. He can and does sit in Committee, but only rarely takes part in debates. The Council has a number of Committees as well as the Joint Committees with the Assembly. The Council, like the Assembly, meets in the Autumn and Spring. The two Houses do not always, though they do generally, sit on the same

days. The Council is elected by nineteen (19) single member constituencies by all persons in the State over the age of eighteen (18) years of age.

Seven, mainly urban, electorates represent half the voters. Representation in the Council is weighted in favour of rural areas. Members are elected for six years. They retire by rotation of three each year and in the sixth year of four.

The Council membership has tended to reflect the decentralised nature of the State's population (two-thirds of the people live outside the capital). In 1938 there were eight members representing farming interests and another five who were wardens or in some way active in Local Government. In 1954 there were seven farmers and four Local Government men. By contrast, industrial, commercial and trade union interests are hardly represented at all. There are at present three practising lawyers; however, in 1938 and 1945 there were none. There has been more willingness in recent years to elect younger men, and these have considerably lowered the average age of members.

Deliberation within the Council is part of the legislative process, and legislative activity has grown over the years.

It has become practice for Ministers in charge of Bills, even the Premier, to come to the Upper House accompanied by senior public servants, and confer with members of the Council privately in one of the Committee rooms. A regular visitor to the Council on such occasions is the Hydro-Electric Commissioner. In this way queries and objections are often answered quickly and statisfactorily and an unofficial bridge of confidence is established between the Minister and the Legislative Council.

Powers of the Legislative Council

The Legislative Council may originate any Bill provided it is not a money bill; a money bill being, by Section 34 of the Tasmanian Constitution Act, a bill that imposes a tax rate, duty or impost or appropriates revenue. The Council may amend or reject any bill from the Assembly, but it may not amend a money bill. It may, however, request an amendment to a money bill. In addition the Council may not, by any amendment to a vote, resolution, or Bill insert any provision for the appropriation of moneys; or impose or increase any burden on the people. Except for these provisions, the Council has equal powers with the Assembly.

The most significant power of the Legislative Council is that it may reject any bill. A most important year in the history of the Tasmanian Legislative Council was 1948. In July of that year it refused to pass the Supply Bill as it stood. It returned the bill to the Assembly with the request that the sums be reduced to provide for just two months Supply on the understanding that the Government seek an immediate dissolution. The Assembly disagreed with the request.

There was no question of a double dissolution as there was, and still is, no power to dissolve the Legislative Council. A Conference between

the two Houses having failed, the Council laid aside the Supply Bill. The Government had no alternative to the seeking of a dissolution for the purpose of an election. The issue was one of fundamental constitutional importance. The leaders of the Council in 1948 upheld the principle that it was necessary for the Council to exercise its full powers against the Government in unusual circumstances; i.e. because the Government had lost the confidence of the public.

It is undeniable that the Council had the legal power to do what it did. What may be seriously questioned is whether the Council can be justified in taking a political decision which determines the life of the House of Assembly, while leaving the Council untouched.

It is of interest to compare this constitutional crisis with that of the Australian Parliament in 1975 where both Houses, the Senate and Representatives were able to be dissolved. It has been suggested that if the Council's veto in respect of money bills is to be retained, then perhaps it should be necessary to make provision by constitutional amendment for double dissolutions. However, it is arguable whether a provision should be made which could tend to inhibit members of the Council from acting independently of personal considerations, and would serve to entangle them in party conflicts. It must be remembered that the Council has used this power sparingly.

Unlike the Australian constitutional crisis of 1975, the Council in 1948 was rebuffed by the election which followed their refusal of supply and the government was returned. It has become more moderate since then, but it still has the power to force governments to an election simply by refusing to pass Supply.

The Council is unusual among legislative chambers in that it is truly a deliberative body. Only two of its 19 members belong to a party, and few of the remainder display any noticeable pattern of support in their voting for either government or opposition viewpoint. Where other chambers serve mainly to provide a medium for the presentation of decided policy, the members of the Council can be seen actually to come to a decision in the course of debate. On an important issue, observers keep a running tally as each member declares himself. Whether or not this situation leads to better government, the charge is never levelled at the Council that its work merely duplicates that of the lower house. The frequency with which legislation is rejected or radically amended, and the unpredictability of these changes, certainly add up to a special and unusual dimension in the politics of the state. The Australian Labor Party has held government for all but three of the past 40 years and has consistently endorsed candidates for Legislative Council elections. Yet it has never been able to hold more than five seats at any one time. The Liberal Party has never endorsed candidates.

If provision for double dissolutions were made in the Constitution, an intense election campaign for both houses would very likely result in fewer independent members being returned to the Council. Elections

are contested on the personal qualities of the candidates, rather than state issues.

The ceremony commemorating the Anniversary

The Legislative Council Chamber had seating arranged in the opposite direction to the usual opening ceremony plan.

Below the President's chair the front area was reserved for Legislative Council Members followed in the central block of the second row by the Premier, Leader of the Opposition and Deputy Premier. Behind them sat the Ministers of the Crown and all other members of the House of Assembly.

After all visitors and members had been seated, the Presiding Officers of other Parliaments, followed by the Supreme Court Judges took their seats. Then came the Premier of New South Wales, to be followed by the President of the Legislative Council and the Speaker of the House of Assembly. The President then read Prayers. After Prayers, the Governor of New South Wales entered, soon followed by the Governor of Tasmania. His Excellency then delivered a Message from Her Majesty the Queen. At the conclusion of the ceremony a reception was held in the Library and foyer areas of Parliament House.

XV. GIFT OF A CLOCK FOR THE CLERK'S TABLE TO THE NATIONAL PARLIAMENT OF PAPUA NEW GUINEA

BY R. S. LANKESTER

Clerk of the Expenditure Committee, House of Commons

By honoured custom, the House of Commons presents a gift to the legislature of a country which attains independence as a member of the Commonwealth. So, for that matter, does the United Kingdom Government to the Government of the country, and rather more speedily.

It was on 29th July 1975 that the Prime Minister let the House know that, to mark the impending independence of Papua New Guinea on 16th September that year, the Government were to present to the Government of Papua New Guinea the gift of a replica in silver and enamel of a bird of paradise, and that they would propose that the Commons presented to the National Parliament of Papua New Guinea a parliamentary gift.

The accustomed consultations took place and a clock was soon agreed upon for the parliamentary gift. The specification, design and manufacture took longer and it was not until 15th December 1977 that Mr. Michael Foot, the Leader of the House, was able to move:

> "That an humble Address be presented to Her Majesty, praying that Her Majesty will give directions that there be presented on behalf of this House a gift of a clock for the Clerk's table to the National Parliament of Papua New Guinea and assuring Her Majesty that this House will make good the expenses attending the same."

and added that "The clock has now been manufactured and is on display in the Upper Waiting Hall of the House where it will be available for hon. Members to inspect until 16th December." Mrs. Thatcher, Leader of the Opposition and Mr. Freud, on behalf of the Liberal Party supported the motion which was duly agreed to.

The clock was specially designed by the Property Services Agency with four faces in the style of a traditional English bracket clock, to stand on the Clerk's table and to be visible from all sides. The case is of Cuban mahogany with a brass bezel and silver chapter ring engraved with Roman numerals and filled black. The steel blued hands are mounted on a matt brass centre disc and the four movements are quartz crystal battery operated. After being displayed at Westminster, it was despatched to the British High Commissioner in Port Moresby, Mr. Donald Middleton.

Meanwhile on 20th February, 1978 Mr. Foot moved in the Commons:

> "That Mr. Robert Mellish and Mr. Spencer Le Marchant have leave of absence to present on behalf of this House a clock for the Clerk's table to the National Parliament of Papua New Guinea."

and added that I would have the honour of accompanying the delegation.

We left London on Thursday 23rd February and reached Hong Kong on the Friday evening. We spent the night there and the next day were entertained to luncheon by the Governor and to the races by the Jockey Club. We caught the overnight plane to Port Moresby where on the Sunday morning we were greeted by Tony Elly, Clerk to the National Parliament, and Donald Middleton – a happy start to an exhilarating six days in Papua New Guinea.

To deal with first things first, the clock was presented by Mr. Mellish, as Leader of the delegation, to the National Parliament the next afternoon in a simple but moving ceremony. Mr. Kingsford Dibela, the Speaker, welcomed the delegation and invited Mr. Mellish to address the Parliament. Mr. Mellish expressed his admiration for the choice of gift, symbolising democratic traditions and values held in common and also pointed to the parallels in challenges facing both the United Kingdom and Papua New Guinea. While Westminster was still wrestling with Scottish and Welsh devolution, Papua New Guinea had already established provincial governments and assemblies. He also noted that while democratic institutions must allow oppositions to express their views as fully as possible, at the same time, majorities must be allowed to govern. He congratulated Papua New Guinea on its membership of the Commonwealth and its links with the EEC through its accession to the Lomé Convention and wished its people every happiness. He then delivered the clock into Tony Elly's charge.

Mr. Speaker thanked Mr. Mellish and accepted the clock, whereupon the Prime Minister, Mr. Michael Somare, moved:

> "That we, the members of the National Parliament of Papua New Guinea convey to the Commons House of Parliament at Westminster, our nation's sincere thanks for the gift of the Table Clock to mark the continuing relationship which exists between the Mother of Parliaments and this Parliament."

and was supported by Sir Tei Abal, Leader of the Opposition, who both warmly thanked Mr. Mellish for his speech and concurred in its themes. The motion was carried. Mr. Spencer Le Marchant then addressed the Parliament, paid tribute to those who had, over the years, contributed to the progress of Papua New Guinea and paid further tribute to the country's democratic traditions. The delegation then withdrew from the Parliament.

Mr. Mellish had, meantime, delivered a letter from Mr. Speaker Thomas at Westminster to Mr. Speaker Dibela, who, in the evening entertained the delegation to dinner and thus afforded the opportunity to meet a number of leading "back-bench" members of Parliament.

The Government had arranged a most enjoyable programme for the delegation, enabling them to see a great deal and meet many people both in and around Port Moresby, and further afield. Among others, the National University, a High School, the Radio Station and the

PNG Banking Corporation were visited and various British VSO workers met. The delegation then visited the Paguna copper mine on the island of Bougainville, and Rabaul on New Britain. They were accompanied throughout by Donald Middleton and on their visits away from Port Moresby by Graeme Whitchurch, the Executive Officer of the National Parliament. They were greatly indebted to both for making the visits so rewarding, and to the National Parliament for sparing Graeme Whitchurch whilst they were in session. It was a privilege to have seen so much, yet, with time limited, it was with regret that the delegation had to leave so much of this wonderful land unvisited.

Before their departure the delegation called on the Speaker, not only in that capacity, but also as acting Governor-General in the absence abroad of Sir Tore Lokoloko, the Governor-General. Finally, the Prime Minister paid an informal visit to the delegation at their hotel to wish them well, and epitomised the warmth of the welcome and the many kindnesses the delegation received wherever they went.

On our return journey we stopped at Singapore where we spent a most enjoyable and instructive evening aboard HMS *Tiger*, then on a goodwill visit on her way home from her tour of duty in the Far East. We also visited the Bird Park and the Orchid Gardens, and just before leaving were able to meet members of the crew of HMS *Tiger* again at a reception given for them by the British High Commissioner.

On 17th March Mr. Mellish reported to the House that the delegation had discharged its function. He spoke of the warmth of the welcome the delegation had received, his surprise at seeing how much progress had been made in regional devolution and his gratitude for having had the opportunity to visit a country which he was proud to see and for which he now had a great affection. Mr. Le Marchant then added his tribute to the courtesy shown to the delegation and spoke of those who in earlier days had contributed to the development of Papua New Guinea and of his impressions of a country which was determined to play a full part as an independent democratic nation.

I can now add how privileged I feel to have been selected to accompany the delegation on so rewarding and enjoyable a mission.

XVI. PRIVATE MEMBERS' BILLS

The Questionnaire for Volume XLVI asked the following questions:

What opportunities are available to back-bench members for introducing and piloting legislation through your House?

Is any limitation placed on the subject-matter of back-bench legislation?

What role does government generally adopt during the passage of such legislation? For instance, does it help with drafting or the provision of extra time, is it neutral or hostile?

What assistance is available to back-bench members either through the Clerk's Department or elsewhere?

Roughly what proportion of back-bench members' bills reach the Statute Book?

The returns show that in nearly all legislatures provision is made for back-bench Members of Parliament to initiate legislation. However the time available within most parliamentary timetables is insufficient to allow private Members' legislation much opportunity of success. Upper Houses generally have more time to consider such legislation but it stands a very poor chance of passing the lower House.

House of Lords

It is the privilege of any Lord to present a Bill to the House without notice and without moving for leave to bring it in. After First Reading, which is almost always accorded without dissent or debate, the bill is printed. So long as the House allows it to proceed through each stage and so long as sufficient time remains before the end of the session, time is invariably found for a private member's bill to complete its passage through the House.

No limitation is placed on the subject-matter of back-bench legislation. However a Lords bill which has as its main object the imposition or alteration of a charge upon public funds can only be proceeded with in the House of Commons if taken charge of by a Minister of the Crown.

Due to the more flexible timetable arrangements in the House of Lords there is no need for the provision of extra time for consideration of a private member's bill. The Government sometimes provides help with drafting. On other occasions it remains neutral. Rather less often it takes up an actively hostile attitude.

Other than through outside organisations or pressure groups who may be the unofficial promoters of the bill or who may support its provisions, no financial or other assistance is available to the back-bench peer. However a peer may submit a draft of his bill and an explanatory memorandum to the Public Bill Office before presentation in order to ensure that it is in proper form, before being printed.

Very few Lords' private members bills reach the Statute Book, though many pass through all their stages in the Lords. This is because, having been sent to the House of Commons, a Lords private member's bill, unless taken up by an MP who has been successful in the private members' bills ballot, must join the "queue" of Commons private members' bills most of which will fail to advance beyond Second Reading. One or two Lords private members' bills (less than 10 per cent) receive Royal Assent.

The flexible House of Lords timetable has, however, allowed an opportunity for a number of controversial Bills to be introduced and discussed, with the Government's advice on drafting, before being introduced the following session in the House of Commons. The initial discussions in the House of Lords have prepared both public and House of Commons opinion in advance of legislation being enacted. Such Bills include those to reform the law on homosexuality and abortion.

House of Commons

Government business takes priority at all sittings of the House, with certain exceptions provided for under the Standing Orders. One of these (S.O. No. 6) provides for 10 Fridays to be devoted to private Members' Bills. Recently however the number of Fridays devoted to Bills has regularly been increased to 12. The first six of these days are used chiefly for second readings. On the remaining days Bills which have passed their second reading have priority. There is keen competition for this very limited amount of time, particularly since Bills which have not been agreed to by both Houses die at the end of one session and must start again from scratch in the next.

Private Members' Bills originating in the Commons may be introduced in three ways:—

(*a*) under the ballot procedure (S.O. No. 6(4)) whereby the first six Members have the chance of a full Friday's second reading debate, although on some Fridays there may be time for several Bills (if they are uncontroversial);
(*b*) by ordinary presentation (S.O. No. 37); and
(*c*) under the "ten minute rule" procedure (S.O. No. 13).

Private Members' Bills may also, of course, be brought from the Lords.

Since success in the ballot secures priority for debate and progress, the procedure is extremely popular. In recent sessions about three-quarters of all private Members have put in their names for it. Of those who are unsuccessful in the ballot, and who therefore have little chance of time for debating their Bills anyway, most prefer the ten minute rule procedure. This ensures at least some publicity, and at a time when the Chamber and the Press Gallery tend to be quite full. Opinion can sometimes be tested on controversial matters by putting them to the vote. If the motion is defeated, however, the Bill cannot be introduced and cannot therefore be printed. Recently the number of Members giving notice of ten minute rule Bills has increased, and more Members have resorted to

the simple procedure of presentation under S.O. No. 37. The latter procedure enables a Member to have his Bill printed even if it is highly controversial.

In choosing the subject matter of his Bill, a Member has to bear in mind the rule prohibiting him from presenting a Bill the main object of which is a charge on public funds or on the people (i.e. taxation).

He can either choose to follow up some particular interest or idea of his own; or he may promote a suggestion made to him by an outside individual or pressure group; or he may agree to proceed with a small Bill provided by the Government.

Members are responsible for drafting their Bills with whatever outside assistance they may be able to call on. Since November 1971, Members winning one of the first ten places in the ballot are entitled to claim up to £200 towards the cost of drafting their Bills. It is the duty of the Public Bill Office to see that the published text of a private Member's Bill, as of any other Bill, is within the long title, that money provisions are, where necessary, italicised, and that all the other rules of the House are observed. A Member may receive free up to 101 copies of his Bill. It is printed at public expense.

The Government's attitude to private Members' Bills clearly varies, depending on their content. Government Ministers invariably intervene in debates to make their attitude known. Not infrequently the Government persuade the promoter of a private Members' Bill and the House to make amendments to it.

On a very limited number of occasions the Government have made some Government time available to private Members' Bills.

In recent sessions, of all the private Members' Bills introduced into the Commons (or brought from the Lords), some 15 to 20 per cent have usually received the Royal Assent.

Isle of Man

The Standing Orders of the Legislative Council provide that:

"Any member of the Council may ask leave to introduce a Bill into the Council and, if the Council by resolution grant such leave, the Bill shall be printed and circulated by the Clerk of the Council".

The Standing Orders of the House of Keys provide that:

"Before any motion is made for leave to be given to a member to introduce a Bill, notice thereof shall be given in the House at least twenty-four hours before such motion is made. The notice shall specify the proposed long title and the objects of the Bill".

In each Branch of the Legislature leave is generally granted as of course. No limitation is placed on the subject matter of private members' Bills but they must not involve expenditure of public monies unless the statutory concurrence to the expenditure has been obtained.

There is no division between Government and Opposition or Front

Bench and Back Bench members in the Manx legislature. Every facility is therefore granted to members in the preparation of private members' bills and the passage of such Bills through the Branches is in no way different from that of a Government Bill. The chances of a private members' Bill becoming law are no less than those of a Government Bill.

Canada: Senate

Rule 55(1) of the Senate reads as follows:

"A Senator may as of right present a bill to the Senate",

which means that any Senator may present a bill at any time during a sitting of the Senate.

In principle, no limitation is placed on the subject matter of back-bench legislation but under the Constitution, "money bills' – bills for appropriating any part of the public revenue or for imposing a tax or impost – must originate in the Commons. Moreover a Bill should not deal with a matter coming within provincial jurisdiction, unless there has been a Federal–Provincial agreement in that regard.

The Law Clerk and Parliamentary Counsel of the Senate prepares drafts of all bills presented by Private Members in the Senate and gives legal advice to individual Senators on all matters connected with past and present legislation. The Officers of the appropriate Government Departments are often consulted in the drafting of a bill.

Because of the more leisurely timetable and general procedural flexibility of the Senate, a Senator is better placed for introducing legislation than is a member of the House of Commons; but his chance of getting the measure enacted is very slim indeed, except for agreed proposals. Since the end of the war only one back-bench Senator's bill has reached the Commons, and that was subsequently placed on the Statute Book. Although such bills may have no hope of passing within a single session, their introduction and the subsequent debates in the Senate may prepare the ground for some future introduction by a private member in the Commons or induce the Government to adopt the measure and introduce a government bill.

Public bills introduced by private Members in the House of Commons containing provisions changing the name of their constituencies are generally allowed to pass by the Government. The Senate has never objected to such legislation.

Canada: House of Commons

Unlimited opportunities are available for introducing private members' public bills. Consideration beyond first reading is dependent upon precedence. There is no subject-matter limitation but Bills involving ways and means of supply must be initiated by the Government.

The Government is involved with the timing of the consideration of private members' bills, requesting that bills stand and retain their precedence if the member is not ready or available to proceed. With

respect to the actual consideration, the Government's role may be neutral or hostile, the latter is usually accomplished by using up the time available and not allowing the question to be put. The Government does not help with the drafting of bills, this being left to the Law Branch of the House of Commons. Extra time is rarely provided for the study of private members' bills. If the Government supports a proposal in a private members' bill, usually they would bring in their own bill to be considered in Government time.

For the current Parliament, there have been, on the average per session, nine private members' bills out of 242 public bills becoming law. However, that drops to two out of 242 if bills respecting changes in names of constituencies are not included.

Ontario

A new system for Private Members' Public Business was instituted in 1976. Under the new procedures the length of consideration given by the House to Private Members' Bills or Resolutions was increased and provisions were made to allow Private Members' Business to proceed to a vote.

The Members' names are selected by ballot. In drafting a Bill a Member receives assistance from Legislative Counsel of the Assembly, whose duties also include drafting government legislation. The subject matter included in the Bill is only limited by Standing Order 86, which does not allow a Private Members' Bill to authorize either a "charge on the revenue or on the people". A Bill is blocked if twenty Members stand in their place when the question for second reading is about to be placed.

Until the procedure adopted on 20th October, 1977 only one Private Members' Bill, of over twenty debated, has received Royal Assent. However, a number of Bills are now in the Committee stage.

The Speaker made the following statement to the House regarding the new procedures:—

"Since this is the first occasion in this Parliament during which the House will consider Private Members' Public Business, I thought I should review for honourable members the procedure which will be used this afternoon and on future Thursdays.

As honourable members know, two items of business are scheduled for debate each Thursday afternoon. At the time of the commencement of such proceedings until 5.50 p.m., the time will be divided equally between the two orders. The mover of the motion will be allotted 20 minutes and may reserve any portion of that time for reply provided he advises the Speaker beforehand of his intention to reserve time for reply just before the conclusion of the debate. All other Members will be allowed a maximum of 10 minutes to speak.

When debate on *both* (see Provisional Standing Order 36(f)) orders has been concluded, and if no petition adverse to a vote has been filed, I will put a question on the first order as follows: "Shall this question be put to the House? Any Members opposed to the putting of the question must now rise". If 20 Members rise the question will not be put. A recorded vote can be requested after the usual voice vote if five Members stand in their places in the usual way. I must also caution Members that, in the event of a recorded vote, the division bell will ring for only five minutes whether or not the Whips have reported."

Prince Edward Island

Back-bench bills are rarely introduced either by the Opposition or by Government back-benchers. In the past sixteen years, there have been only three or four such Bills.

Every assistance is given in drafting (by the Law Clerk), the Table, House staff and, in short, all involved. "Time" is not a problem, as there is ample (nearly unrestricted) opportunity under "Motions Other Than Government". No limitation exists on subject matter, other than the traditional aspect of action calling for expenditure of public funds.

The Government's attitude has been more than mere neutrality. One Bill was supported and passed unanimously; a second Bill, in Committee, was withdrawn by the Private Member on the evidence of Government that to enact the proposals would provide an unanticipated hardship; a third Bill was voted down as contrary to Government policy; and, a fourth Bill was allowed, by its promoter, to die on the Order Paper following a Government commitment to establish a Special Committee of the House to examine the subject matter.

Quebec

Back-bench legislation is very scarce. Such bills are seldom tabled and they are exceptionally adopted. They are drawn up by the law clerks or in collaboration with them. Private bills are often wrongly called back-benchers' bills. In urgent cases thus qualified, it often becomes a means to avoid paying the expenses incurred by the presenting of a private bill.

Saskatchewan

Any back-bench Member can introduce a Bill into the Legislative Assembly. The Law Clerk assists the Member in drafting the Bill and the Legislative Assembly Office pays all printing costs. The only restriction placed on the subject matter of the Bill is that the Bill must not be a Money Bill (Rule 30). Unfortunately, Saskatchewan Speakers over the years have taken a very broad interpretation of money Bills. It is on this ground that many back-bench Members' Bills are ruled out of order.

Approximately 4–8 back-bench Members' Bills reach second reading stage per year in the Saskatchewan Legislative Assembly. The private Member is thus able to present his second reading speech and evoke some debate. The debate on the Bill is then usually adjourned and it dies on the Order Paper at prorogation. Very few private Members' Bills reach the Statute Book.

The Special Committee on the Rules and Procedures of the Legislative Assembly recommended in their Third Report on 22nd November 1976 that Private Members' time should be reduced to one day a week, Tuesday, rather than two days as previously.

Australia: Senate

The opportunities available to back-bench Senators to introduce legislation are good and many private members' Bills have been introduced and adjourned at the second reading stage. Piloting the legislation through the House to the completion of the third reading is a far more difficult exercise. In addition, private Senators' Bills which achieve passage through the Senate must compete for debating time with the legislative programme of the Government in the House of Representatives

On every sitting day of the Senate, there is an opportunity for Senators to give notice of a motion relating to virtually any topic. This procedure permits a Senator to give a Notice of Motion for leave to bring in a Bill. On the next sitting day it is the usual practice that the Notice of Motion be declared either "formal" or "not formal".

Unless there is widespread disapproval of the content of the proposed legislation, it is usual for the Senate to allow the Notice of Motion to be declared formal, at which stage the Senator introducing the legislation will present the Bill and move for its first reading. In some cases, the first reading will be agreed to, the second reading of the Bill moved, and a speech made supporting it. In either event, however, the Bill will not usually come before the Senate again until the next General Business day, at the earliest. General Business normally takes precedence of Government Business once a week, on Thursday afternoon or evening. Whether the Bill will be considered promptly or not depends on the priorities of the various General Business items. With certain exceptions the items are placed on the Notice Paper in the order in which they are introduced to the Senate, but the order may be varied by the Senate as a whole, or following arrangements made between the Whips.

If a Bill is considered to be important by a number of Senators, it is not usually difficult to have the proposals in the Bill aired.

The only limitation placed on the subject-matter of back-bench legislation is the same as for any legislation originating in the Senate. Section 53 of the Constitution includes provision that the Senate has equal power with the House of Representatives to originate legislation, except that "proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate".

The attitude of government to back-bench legislation is generally neutral. While Government Bills receive priority from Parliamentary Counsel, drafting assistance is available to private Senators, depending on the workload of the Counsel. It is the experience of some Senators that Parliamentary Counsel cannot make sufficient time available for the drafting of private Senators' Bills which are of a complex nature, or which seek to amend Acts currently in force.

It is rare for the Government to grant extra time for the consideration of private Senators' Bills. It has sometimes been the case that, after a private Senator has put forward a legislative proposal, the Government

has realised the appropriateness of the general provisions, and has therefore introduced legislation of its own, incorporating or modifying the proposals in the private Senator's Bill.

In the Australian Senate, no officer is specifically assigned to assist Senators in the drafting of private Senators' Bills. It is the practice, however, for officers to assist Senators in preparing a brief for Parliamentary Counsel relating to proposed legislation, should Senators so desire it. Some Senators contact Parliamentary Counsel in the first instance and prepare their own briefs.

Three per cent of private members' Bills originating in the Senate reach the Statute Book.

Australia: House of Representatives

The opportunities available to a back-bench Member to introduce a Bill are very limited. Notice of intention to present the Bill is listed on the Notice Paper under general business. General business takes precedence over government business on alternate Thursday mornings when the House is sitting and is usually considered for approximately 1½ hours (Standing order 104). By practice, general business days are numbered consecutively from the commencement of each Session and a Member indicates the day on which he intends to introduce a Bill or move a motion. More than one notice can be listed for each general business day but as it is unusual for more than one notice to be called on on any one day Members normally select the next available general business day. On average only six days each year are devoted to general business. Consequently many notices given by private Members are not considered by the House. The normal procedure as for Government Bills is followed, but if the Government does not support the legislation then either the debate will be interrupted at the expiration of general business time and remains on the Notice Paper as an order of the day or if a vote is allowed the Bill will usually be defeated on the question for the second reading.

Legislation imposing a tax, or legislation proposing an appropriation of public monies, cannot be introduced by a back-bench Member unless a message from the Governor-General recommending an appropriation for the measure has been announced to the House prior to its introduction (Standing Order 292, Constitution s.56). The fact that no back-bench Member could obtain the Governor-General's recommendation for an appropriation, effectively prohibits the introduction of this type of legislation. However a Bill which amongst its clauses provides for an appropriation to be made in some other Act over which the Government has control, e.g. the Appropriation Act, would be acceptable.

The attitude of the government on back-bench legislation is generally neutral. Drafting assistance is available but Government Bills receive a priority. As a rule the Government does not extend the time for debate on a back-bench Member's Bill.

As has been mentioned, officers of the Parliamentary Counsel's Office

are available to assist back-bench Members in drafting legislation provided that this assistance does not interfere with official duties and that the draftsman is at liberty to let the relevant Minister know what he is doing. In practice staff shortages in the area of parliamentary drafting has made it difficult for draftsmen to provide much assistance to back-benchers. There are no draftsmen located in the Department of the House of Representatives although senior Clerks do provide assistance to back-bench Members in drafting amendments and on occasions small bills.

Between 1901 and 1977, 51 House of Representatives Private Members' Bills were introduced, 5 of which were enacted. The total number of private Members' Bills brought before the House of Representatives was 77, of which eight were enacted. The proportion of back-bench Members' Bills introduced, which are enacted, is therefore 10 per cent.

New South Wales: Legislative Council

In the Legislative Council of New South Wales it is competent for any Private Member to initiate a Private Member's Public Bill in accordance with the Standing Orders. However, the scope of such action is limited by the application of sections 5 and 46 of the Constitution Act, 1902, which vest certain initiative in the Legislative Assembly. They state:—

"5. The Legislature shall, subject to the provisions of the Commonwealth of Australia Constitution Act, have power to make laws for the peace, welfare, and good government of New South Wales in all cases whatsoever.

Provided that all Bills for appropriating any part of the public revenue, or for imposing any new rate, tax or impost, shall originate in the Legislative Assembly."

"46. It shall not be lawful for the Legislative Assembly to originate or pass any vote, resolution, or Bill for the appropriation of any part of the said Consolidated Revenue Fund, or of any other tax or impost to any purpose which has not been first recommended by a message of the Governor to the said Assembly during the Session in which such vote, resolution, or Bill shall be passed."

Standing Order No. 163 states: "A Public Bill (unless sent from the Assembly) shall be initiated by a Motion for leave to bring in the Bill".

Standing Order No. 165, in reference to the first reading of such a Bill, states *inter alia*: "When *a Member* has obtained leave to bring in a Bill, and a fair copy of the Bill has been presented in pursuance of leave granted . . ." The only hindrance to a Member introducing a Private Member's Public Bill is for the Member not to have the support of the majority of the House to have his Motion carried.

Since reconstitution of the Legislative Council in 1934, there have been occasions when the Leader of the Opposition has moved for leave to introduce such measures but, in 1977, a Member of the Opposition

(in the majority in the Council) was successful in piloting his Bill – Property Compensation (Just Terms) Bill – through all stages despite the objections of the Government, which resulted in divisions at all stages of its passage through the Council. The Bill was laid aside in the Legislative Assembly after the Speaker had stated that the Bill was not properly before that House and ruled it out of order.

The Government, being generally hostile to such measures, does not assist with the drafting of this type of Bill. Assistance is available to back-bench Members, on request, through the Clerk of the Parliaments' office. Since 1934 six Private Members' Public Bills have been introduced, none of which has reached the Statute Book.

New South Wales: Legislative Assembly

Standing orders provide for the introduction and piloting of legislation through the Legislative Assembly by back-bench members, although the opportunities to do so are in fact few. The procedure for the introduction and passage of private members' bills is similar to that for public bills. There are, however, marked restrictions on time, both for the giving of notice and passage of the bill, as general business is dealt with but for two hours on one sitting day (Thursday) each week. General business notices of motions take precedence for two consecutive Thursdays, orders of the day being dealt with on the third Thursday. The private member also faces the problem, following the introduction of Standing Order 122B this session, that grievances are noted prior to dealing with general business orders of the day. The entire time allotted to such orders, however, has so far been taken by the airing of grievances. Thus, for practical purposes, it is most difficult – and there is little opportunity available – for private members to pilot legislation through the Assembly.

No limitation is placed on the subject-matter of back-bench legislation. If the government considered the bill of sufficient importance it could make government time available to facilitate the passage of the bill or it could even take up the bill itself.

It is unlikely that the government would provide any assistance in drafting the bill. The government recently announced, however, that for the first time the Parliamentary Counsel would be available to assist back-bench members in the preparation of amendments to public bills. The Clerks assist members in the drafting of amendments in so far as format and procedural aspects are concerned. Since the Clerks are not draftsmen as such, back-bench members usually seek the services of the legal profession in the drafting of bills.

In recent times, no private members' bills have reached the Statute Book.

Tasmania: House of Assembly

Any private member may introduce a Bill in the Tasmanian House of Assembly, though a Bill which contains financial provisions is introduced by a Minister and is accompanied by a Message from the Governor recommending expenditure. Private members' time of approximately one hour is allocated to Bills each week, but the Government usually agrees to extend private members' time to allow a debate to be completed. Members receive assistance with drafting. Only about a quarter of private members' Bills would become Acts of Parliament.

South Australia: Legislative Council

In the Legislative Council Private Members' Business has priority over Government Business on Wednesdays, and it may also be dealt with on other sitting days after Government Business has been considered. The only limitation placed on the subject matter of back-bench legislation is in respect of "money" bills, which must originate in the Lower House. The Government makes available the staff of the Parliamentary Counsel to assist private members in their drafting of Bills. Clerks of the House are always available to assist private members in procedural matters and all members are provided with secretarial services. The Government usually supports private members' bills provided that the same do not cut across Government policy. Roughly, about 50 per cent of back-bench members' bills would reach the Statute Book.

South Australia: House of Assembly

About three hours per week on Wednesdays are set aside for Private Members' Business. This may be increased to four hours by a voluntary curtailment of Question Time on that day. In the later part of the Session it is usual for the Government to move – That for the remainder of the Session, Government business take precedence over all other business, except questions. Two weeks notice is usually given of the motion to enable votes to be taken on those matters which have been moved and replied to. During this time-allotment Members are able to introduce whatever measures they may propose, subject to the usual limitations on money bills. However, in the last ten years, less than one third of the available time has been devoted to bills, the balance being motions seeking an expression of opinion of the House.

The Government, generally speaking, is neutral, opposing the second reading of bills with which it disagrees and facilitating their passage, particularly where there is disagreement between the Houses, when there are bills with which they agree.

Parliamentary Counsel are available to assist with the drafting of bills, as is advice from the Clerk's Department. Approximately 25 per cent (i.e., 1–3 bills in each Session) ultimately reach the Statute Book.

Western Australia: Legislative Assembly

Private members may introduce any legislation into the Legislative Assembly of Western Australia. In practice this apparently wide discretion is narrowed by—

(*a*) the requirement in the Constitution that a Governor's Message must accompany a Bill appropriating revenue;
(*b*) the requirement in Standing Orders that only a Minister may move a Bill imposing taxation into Committee;
(*c*) the limitation on time available to discuss private members' business.

As far as is known, on one occasion only was a private member's Bill supported by a Governor's Message.

A legal draftsman is made available by the Government to assist private members with their legislation and amendments. This officer is not employed within the same section of the Crown Law Department as those who carry out the drafting of Government legislation. Following the adoption of the Address-in-Reply approximately one-third of the sitting time of the House is available for private members' business. Of this time, at least half is taken up with substantive motions and grievances. As private members' business is usually taken in strict rotation, it is not easy for such legislation to be fully debated and it is rare for it to pass. The Clerks assist all members in handling the procedural stages of their Bills. They will also offer advice on and carry out the drafting of reasonably minor amendments.

Between 1970 and 1977, 30 Bills were introduced into the Assembly by private members, including five private members' Bills which came from the Legislative Council. Of this number, eight eventually reached the Statute Book, albeit amended drastically in some cases. In the same period 830 Government Bills were passed.

Northern Territory

Standing Order 80 provides:

"In this order 'government business' means any business introduced by a Cabinet Member.

Unless otherwise ordered, government business shall, on each sitting day, have precedence of all other business except that on sitting days nominated by the Majority Leader, being not less than one in every twelve sitting days, precedence will be given to general business."

Thus, at least every twelfth sitting day, Bills of which notice has previously been given may be introduced by back-bench Members. The question "That the bill be now read a second time" cannot be determined by the Assembly before the lapse of one month from the day on which the bill was read a first time except in the case of a bill declared by the Speaker to be an urgent bill (S.O. 151). The Majority Leader, however, is the only Member who can submit an application for urgency to the

Speaker. Because of the time-table for sittings of the Assembly it could well take six months for the fate of a back-bench Member's bill to be determined.

No limitation is placed on the subject matter of back-bench legislation other than the restriction imposed by the Northern Territory (Administration) Act—

"An Ordinance, vote, resolution or question, the object or effect of which is to dispose of or charge public moneys, shall not be proposed in the Legislative Assembly unless it has in the same session been recommended by message of the Administrator to the Legislative Assembly."

It is too early in the life of the Assembly to gauge the attitude of government to back-bench legislation generally. The Majority Party in the First Assembly gave the handling of 2 bills out of 184 bills presented to one of its own back-benchers. Two independent Members presented 17 bills, of which 7 passed, 8 were withdrawn and 2 lapsed. In the Second Assembly one majority party back-bencher's bill has been passed and the same Member has another bill on the Notice Paper together with five presented by Opposition Members.

The pre-occupation of the limited number of draftsmen with legislation consequential to the transfer of powers from the Federal Government to the Assembly has not made it possible for back-benchers to receive drafting assistance. The Clerks check Members' bills drafted privately and assist with amendments during committee stages.

New Zealand

Opportunity for the introduction and debating of private members' bills is facilitated by SO 69(a)(iii) (c). The resolution giving the Government's business precedence is not usually passed until roughly half-way through a session. Even then, time can usually be found to debate this type of bill, if the subject matter is topical or contentious.

There are two limitations on subject matter:

(1) A private member may not propose a taxing measure, (SO 325);
(2) A bill which would involve the use of public money requires the sanction of the Crown to the proposed expenditure before it passes the House. It has been customary to allow a limited second reading debate before Mr. Speaker rules the bill out on the ground that it involves an appropriation for which no recommendation has been received from the Governor-General.

The Government's role is determined largely by the subject of the bill and the policy (if any) which it has adopted towards an issue. In 1976, the Opposition introduced bills which were refused introduction because of the Government's declared opposition to their subject matter.

Many members ask the Clerk's Office either to draft a bill in accordance with instructions, or "vet" a bill drafted by outsiders. It would be unusual for a member, as a client, to instruct his lawyer to prepare a draft bill.

With an average of about eight bills per session, two private members' bills have reached the Statute Book in the last 40 years (1951, 1975), after the Government supported them.

India: Rajya Sabha

Any member can give notice of a motion to introduce a Bill in the Rajya Sabha. No limitation, except those imposed by the Constitution of India, is placed on the subject matter of legislation of a Private Member. The Government does not play any active role in the passage of legislation of a Private Member, except that, for obvious reasons, its support would be required, if a Bill is to be passed by the House; nor does the Government render any assistance in the drafting of such a Bill. The Rules of Procedure empower the Presiding Officer to allot every alternate Friday during a session for the transaction of Private Members' Bills. Even though the primary responsibility for drafting a private members' Bill rests with the member concerned, the respective Secretariats of the two Houses render all possible technical assistance and advice required by the members in this regard.

So far 311 Private Members' Bills have been introduced in the Rajya Sabha, of which five have reached the Statute Book.

India: Lok Sabha

On the first Friday of the Session and thereafter on every alternate Friday, 2½ hours are allotted for introduction, consideration and passing of Bills initiated by Private Members. This facility is availed of by all Members, excluding Ministers.

As Parliament can legislate only on matters enumerated in the Union List or Concurrent List of the Seventh Schedule to the Constitution, Private Members' Bills have similarly to be confined to matters specified in those Lists. Apart from that, by convention, a Member is allowed to introduce only four Bills during a session. The notice period for introduction of a Private Member's Bill is one month, whereas in the case of Government Bills, the Bill can be introduced with only seven days notice and in urgent cases with notice even less than that.

There are also certain restrictions about the introduction of Bills identical to Bills already pending before the House or consideration of a Bill whose contents are identical to, or substantially covered by, a Bill on which the House has given a decision. A Bill seeking to amend the Constitution is allowed to be introduced only after a Committee of the House, called a Committee on Private Members' Bills and Resolutions, goes through its contents and recommends to the House the introduction of the Bill.

The time allotted for Private Members' Bills is already fixed by the Rules of the House and Government has no say in the matter. No assistance is rendered by the Government to Private Members in the drafting of Bills. When a Private Member's Bill comes up for discussion

the Government expresses through the Minister concerned its view on the merits of the Bill. In a number of cases the Government appreciates the underlying idea behind the Bill and may promise to bring forward comprehensive Government legislation on that matter. On rare occasions a Bill introduced by a Private Member may be supported by the Government and enacted into law.

The primary responsibility for the drafting of Private Members' Bills is that of the Members concerned. However, the Lok Sabha Secretariat renders all possible technical assistance and advice to Members, so that Bills are not rejected on technical grounds. The Secretariat, however, takes no responsibility for the contents of the Bill. The Secretariat also helps in taking up the correspondence with the Government departments for obtaining the President's recommendation, wherever necessary for the introduction or consideration of a Private Member's Bill.

Between 1971 and 1976 no Private Member's Bill reached the Statute Book. Between 1967 and 1970, one Bill introduced by a Private Member in Lok Sabha and one Bill introduced by a Private Member in Rajya Sabha (Upper House) were enacted into law. The Bills introduced in Lok Sabha by Private Members during the aforesaid periods were 282 and 347, respectively.

Andhra Pradesh

Private Members can introduce Bills in the same way as the Government. The Secretariat provides whatever assistance is required. No such Bills have ever reached the Statute Book.

Karnataka

Under the Rules the Members have to draft their own bills. However, assistance is provided by the clerks in obtaining the recommendation etc., of the Governor. The Reference Branch also provides the Code Volumes, Original Acts, etc.,

Private Members' Bills are taken up only on days allotted for non-official business. The Government's attitude is not hostile. If members seek assistance in drafting it is given to the extent possible.

Madhya Pradesh

The last two hours of Friday sittings are allotted for the transaction of non-official Bills and Resolutions – the back-bench members get equal opportunities for introducing and piloting Bills. There is no limitation on subject matter. The Legislature Secretariat offers all possible help in drafting Private Members' Bills. So far only one Private Member's Bill has been passed by the Legislature and placed on the Statute Book.

Maharashtra: Legislative Council

Rule 107(1) of the Maharashtra Legislative Council Rules provides that if a private member wishes to introduce a non-official Bill he has

to give notice of his intention to move the Bill together with statements of Objects and Reasons 15 days before introduction.

One day a fortnight is allotted by the Chairman for the Introduction or Consideration of Private Members' Bills. Their relative place in the order of Introduction and Consideration is decided by ballot. The Committee on Private Members' Bills and Resolutions allocates suitable time for each such Bill.

No limitation is placed on the subject matter of such legislation.

If the Government proposes to accept any piece of non-official legislation, such legislation is redrafted by the legal department before it is finally passed by the House. It is general practice for the Government not to accept private members' Bills.

The legislation Branch of this Secretariat (Clerks Department) helps members in drafting Bills and gives all other assistance which they may ask for.

Private Members' Bills are accepted by Government as an exception, and hence no rough indication can be given of the proportion of such Bills which reach the Statute Book.

Maharashtra: Legislative Assembly

One day a fortnight is earmarked by the Speaker for introducing, discussing and passing private members' Bills. Such Bills can be introduced after giving 15 days notice. No limitation is placed on the subject-matter of such legislation.

If the Government proposes to accept any piece of non-official legislation, such legislation is redrafted by the legal department before it is finally passed by the House. It is general practice for the Government not to accept private members' Bills.

The legislation Branch of the Clerk's Department helps members in drafting Bills and provides all such assistance which may be asked for.

Private Members' Bills are accepted by Government only as an exception and hence no rough proportion can be given of such Bills which reach the Statute Book.

Punjab Vidhan Sabha

Opportunities are available to Private Members for giving Notices of Bills under Rule 115 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha. Subject to the provisions of the Constitution and the Rules of Procedure, a Private Member can give notice of a Bill with respect to any of the matters on which the State Legislature is competent to make laws.

No help is given by the Government in drafting Private Members' Bills. However, such assistance, if needed, is given by the Vidhan Sabha Secretariat.

The proportion of Private Members' Bills that reached the Statute Book during the period from 1952 to 1977 is insignificant.

Tamil Nadu: Legislative Council

Private Members may give notice of Bills, either to enact a new piece of legislation or to amend the law. A Member is primarily responsible for drafting his bill, but in most cases the help of expert draftsmen is necessary to translate the ideas of the Members into the form of a Bill. For this purpose the Legislative Secretariat gives all the help it can to the Members. The limitations that apply to Government Bills, namely, that they must be within the ambit of the constitutional provisions and within the competence of the Legislature, are also applicable to private Members' Bills. Since the establishment of the Constitution of India in 1950, only one Private Member's Bill has passed the Tamil Nadu Legislative Council and reached the Statute Book.

Tamil Nadu: Legislative Assembly

There is no distinction between front bench and back bench members in the Tamil Nadu Legislative Assembly. Any member may give notice of a Bill, either to enact a new piece of legislation or to amend a law on the Statute Book, for introduction into the House and may pilot the same through the Assembly. The Member is primarily responsible for drafting his bill, together with its Statement of Objects and Reasons. However, if necessary, assistance in drafting the bill is given by the Legislature Secretariat. The Law Department is consulted on any Delegated Legislation to be incorporated in the bill, and as to the need for the Governor's recommendation, as required under Art. 207(1) and 207(3) of the Constitution of India.

If recommendations from the Governor are required, the members will be informed of the fact and on their request, the Governor's Secretariat will be asked by the Legislature Secretariat to obtain and send the recommendation of the Governor. The limitations applicable to a Government bill, viz. that it must be within the ambit of the Constitutional provisions and within the competence of the Legislature, are applicable to Private Members' Bills also.

Uttar Pradesh

Members can give notice of intention to move non-official Bills in the Legislative Council under Rule 146 of the Rules of Procedure and Conduct of Business. One day a week is set aside for Bills and resolutions introduced by non-official members. No assistance of any sort is given by the Secretary's Department.

Papua New Guinea

In the Papua New Guinea National Parliament on each Thursday private business takes precedence over Government business. This priority can be altered by leave or by the suspension of Standing Orders to re-arrange the order of business determined previously by the Private Business Committee, which requires an absolute majority. It is difficult

for the Government to obtain success by either method as the back-benchers jealously guard their right to bring Bills and motions before the Parliament. Private business gives the back-benchers, particularly those in the Opposition, the right to bring before the Parliament motions which are of national importance. It also gives them the right to initiate and introduce private members' Bills which they may not be given the opportunity to present by the Government of the day under normal Parliamentary procedure.

When a motion for a Bill by a private member receives its priority then there is no way that the Government can prevent its coming to the floor of the Parliament. This is a privilege afforded the Opposition and back-benchers, which is perhaps not apparent in other Legislatures in the region. A motion is voted upon, but the vote does not bind the Government of the day to obey the terms of the resolution. It does, however, give a pointer to the Government of the views of the Parliament and it would be foolish if the Government refused at least to take note of the decision. During the private business debate there is seldom an intervention by Party Whips, except on very contentious motions. Private business day is in line with the Papua New Guinea idea of decision by consensus and gives the private member a feeling of being part of the Parliament rather than being a small cog in a huge Party machine.

The Private Business Committee was formed as a result of the revised Standing Orders of the House of Assembly which allowed for the formation of the first committee. The old Standing Order No. 28 provided for a Private Business Committee to be appointed at the commencement of each Parliament and for the members of the committee to consist of the Speaker, the Chairman of Committees and five other elected members. Under new Standing Order 24 the Committee consists of the Speaker, Deputy Speaker and five other elected members other than Ministers. These five elected members of the committee were nominated and approved by the Leaders of all major political Parties prior to their final appointment. There are two members of the Opposition United Party, two Independents and one from the government Pangu Party. The first of these committees was appointed in June, 1971, the second in June, 1972 which served the third House of Assembly prior to Independence and the current First National Parliament after Independence and the current third Committee was appointed in August 1977.

The original function of the committee was for it to study private members' Bills and motions and to determine the order of priority they should receive on private business day. By 1974, it was found that private business was becoming so voluminous that there was little chance that any but a small percentage of matters would reach the floor, considering the very limited time available for debate. This was mainly due to the fact that members were moving motions of a purely parochial nature which could gain for themselves political capital in their electorates but which had very little interest to the Parliament or the nation. As a

result, the following new paragraphs (3) and (4) of the current Standing Order 24 were adopted by Parliament in 1975 to strengthen the functions of the committee:

(3) The functions of the committee shall be—

i. To meet each Wednesday during meetings of Parliament to examine all notices of motion submitted to the committee under Standing Order 141 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 of national importance – to deliver a copy of the notice to the Clerk for reporting to Parliament.

iii. Upon determining a notice is of 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; or

(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 1.45 p.m., the functions and duties of the committee under paragraph (3)(i), (3)(ii) and (3)(iii) shall be carried out by Mr. Speaker.

Paragraph (4)1 refers to 1.45 p.m., because Parliament resumes at 2 p.m. The quorum of the committee is three. If a quorum is not formed within the given time, then the functions and duties of the committee shall be carried out by the Speaker. The following guidelines are used by the committee to make decisions on determining priorities for each Thursday's private business day:

(*a*) Give preference to matters of national interest over those of local interest only.

(*b*) Give preference to matters which the Parliament is ready to debate over those for which it is not yet prepared.

(*d*) Consider how long the matter has been waiting on the Notice Paper.

(*e*) Give special consideration where debate has been interrupted on previous private business day by the the automatic adjournment of the Parliament under Standing Order 48.

Under Standing Order 148 it is stated:

> Where at the end of three successive meetings following the meeting at which it first appeared on the Notice Paper, a notice of motion (private business) has not been moved, it shall be withdrawn from the Notice Paper.

Kenya

Private Members' Bills are governed by Standing Order 95(2) as follows:—

"95(1). A Minister desiring to introduce a Bill shall, upon publication of the Bill in the *Gazette*, deliver to the Clerk sufficient number of copies of the Bill for distribution to Members. On receipt of such copies the Clerk shall forthwith despatch a copy to every Member.

(2). A Member other than a Minister desiring to introduce a Bill shall move a Motion requesting the leave of the House to do so and shall at the same time make a brief explanatory statement of the object and reasons of the Bill. If the Motion is carried, the provisions of paragraph (1) of this Standing Order shall apply *mutatis mutandis* and subject thereto and to the provisions of Standing Orders 96, 97, 98, (relating to Public Bills) the Member shall be at liberty to introduce the Bill."

The subject-matter of back-bench legislation is however, restricted by Standing Order 132. It states as follows:—

"Except on the recommendation of the President signified by a Minister, the House shall not—

(*a*) Proceed upon any Bill (including any amendment to a Bill) that in the opinion of the person presiding, makes provision for any of the following purposes—

(i) for the imposition of taxation otherwise than by reduction;

(ii) for the imposition of any charge upon the consolidated Fund or any other fund of the Government of Kenya or the alteration of any such charge otherwise than by reduction."

Back-bench Members are assisted by the Clerk's Department in drafting their Bills. But so far, there have only been two private members' bills passed by the House since 1963.

Sabah

There are no opportunities for back-bench Members to introduce and pilot legislation through the Legislative Assembly.

Cayman Islands

Members have every opportunity for introducing bills into the Assembly. The Government assists with drafting and advice. The Clerks Department also helps with drafting and with publication in the *Gazette*. Two private members' bills have been introduced in the four years since the legislature was set up and both have reached the Statute Book.

Bermuda

Private Members' Bills may be introduced at any meeting of the House of Assembly and the Legislative Council, and as very few are

introduced they are piloted through both Houses within approximately three months of their introduction. Provided the subject-matter of back-bench legislation is agreed by a majority of the Government Parliamentary Caucus no limitation is placed on back-bench legislation.

The Government provides back-bench members with the legal assistance of a Parliamentary Counsel and will have copies of the bill printed for its First, Second and Third Readings at Government expense. The Government is neutral but will provide extra time for the consideration of Private Members' Bills whenever possible. The Clerk to the Legislature will give every possible assistance to a back-bench member who introduces a Bill.

Approximately one in every four Private Members' Bills reach the Statute Book.

Barbados

In the House of Assembly (24 Members, all elected), Standing Orders provide for one-and-a-half hours private members' time at each sitting. Question time lasts for half an hour and immediately precedes private members' time. Time left over from question time will normally be available for private members' business.

The only significant limitation is that any measure which will result in the expenditure of public funds or create a charge on revenue must be initiated "on the recommendation of the Cabinet, signified by a Minister".

Private members' legislation is often drafted privately, i.e. not by parliamentary counsel, not because of any objection by Government but rather because of the pressure of work on the draftsmen and the choice of private members. Extra time will sometimes be encouraged by the Government, subject to the Government's requirements for its legislation. The Government will be hostile only to legislation which is in conflict with its own policies or programmes, and will often support back-benchers' legislation.

Private Members' legislation will usually go to a Select Committee and parliamentary draftsmen will normally then review provisions of the legislation.

The Clerk's Department must render every aid to backbenchers in preparing questions, resolutions, bills etc., though backbenchers are sufficiently resourceful and experienced in resolving many of their problems themselves or in getting other assistance which is conveniently available, e.g. through the University.

A few such bills have become law in the past four years. Backbenchers prefer resolutions. A higher proportion of private members' resolutions will pass the House in which they are debated.

The Senate (21 members, all nominated) has no time limits for debate on Private Members' Business, though Government Business will take priority over all other business. Generally, the same principles and practice apply as in the House of Assembly.

St. Vincent

Any bill (not being a Government measure) intended to affect or benefit some particular person, association or corporate body, known as a "Private Bill' may be introduced and piloted by a back-bencher. Through the Attorney General's Department, the Government scrutinises the bill before printing. Government is usually accommodating towards private bills.

These bills are always submitted to the Clerk's Department who if in doubt about the relevance of any clause or section refer it to the Attorney General's Department. Whatever changes are recommended by the Attorney General's Department are communicated to the Back-bencher for his acquiescence before it is submitted for printing.

There has never been an occasion over the past 25 years when a Private Bill has been thrown out.

Bahamas

There is opportunity under the Standing Orders on Ordinary Business for private members to introduce and pilot legislation through the House of Assembly. There are no limitations on subject matter. The Government is generally neutral but the Clerk's Department assist as far as possible. No private member's bill has reached the Statute Book.

XVII. APPLICATIONS OF PRIVILEGE

At Westminster

House of Commons (Complaint concerning articles in two newspapers).—The new arrangements for dealing with alleged breaches of privilege are described elsewhere in this volume p. 52). The first case to be raised under the new procedure concerned the alleged leaking of the proceedings of a select committee considering the controversial subject of immigration. The complaint was made by Mr. Frederick Willey, Member for Sunderland North, and Chairman of the Select Committee on Race Relations and Immigration. In accordance with the new procedure Mr. Willey wrote to the Speaker who on 10th March 1978 informed the House that he was prepared to give precedence to a motion relating to two of the newspaper reports concerned. Accordingly on Monday 13th March the House debated a Motion "That the matter be referred to the Select Committee of Privileges", and on a division (133 votes to 70) the Motion was carried after a short debate.

The Committee met twice to consider the matter and on 18th April agreed to a report (HC 376 (1977–78)) which concluded that parts of the articles complained of "were more than inspired speculations and could only have been written as a result of first hand knowledge of the Report" of the Select Committee on Race Relations and Immigration "or through information given by one or more members of the Committee". Publication of the various articles in the press constituted a contempt of the House and further their publication constituted "an improper interference with the work of the Select Committee . . . whose comprehensive report could have been damaged by premature disclosure". The Committee were unable to discover who had informed the press and since they believed that the action of the press was less serious than in some previous cases they recommended that no further action should be taken.

Isle of Man

House of Keys.—On 18th January 1977, Mr. T. E. Kermeen, a member of the House of Keys for West Douglas, drew the attention of the Speaker to an article which had appeared in the previous Friday's issue of the Isle of Man *Examiner* under the heading "Executive Council Expectations". It contained the following words:

"It may be remembered that in November last this column commented upon the telephone conversations and private discussions which would be in progress during the weekend immediately after the General Election results were known. It does appear from the outside that the nomination of Alec Moore (to the Executive Council) is the result of private discussions and perhaps even bargains which were entered into behind closed doors".

The Speaker undertook to consider the matter and on 8th February 1977 delivered the following ruling:

"The question before me today is whether the House's authority and dignity and that of its members has been impugned by the article appearing in the "Isle of Man Examiner" under the title "Talking About Tynwald" in the edition of Friday, 14th January. The law of the Isle of Man on privilege is somewhat different from that of the United Kingdom, and accordingly I have had recourse to the provisions of the Tynwald Proceedings Act of 1876. Section 5 of that Act provides that "A contempt of the House shall be punishable by the House by fine or imprisonment". However, this only applies to contempts committed in the presence of the House while it is sitting; that section, therefore, does not apply in this case. I have also considered whether the article constitutes a libel of the House which might be punishable under section 6 of the Act. Section 6 states: "Whosoever shall maliciously publish any libel of and concerning the Tynwald Court or either House constituting such Court, or of or concerning any member of either, with reference to his conduct in the discharge of his duties as such member, shall be guilty of a misdemeanour and be liable to a fine not exceeding £50 and to be imprisoned for any term not exceeding six calendar months." The word I have particularly considered is the word "maliciously". I think hon. members would agree that they, as public figures, will always attract public comment; such comment is to be welcomed in a free society. This section gives protection to members where a comment exceeds the bounds of justifiable public debate, and is truly uttered from *malus animus*, or to translate roughly, ill-will. I do not consider that this article was written or published maliciously, and accordingly it does not fall within the ambit of section 6. Indeed, the legal authorities which have been drawn to my attention suggest that one of the requisites of a libel is malice, but whilst this article, I am convinced, is not a libel, this does not mean that the privileges of the House have not been breached. In 1699 the House of Commons resolved that "The publishing of the names of members of this House and reflecting upon them, and misrepresenting their proceedings in Parliament is a breach of the privilege of this House, and destructive of the freedom of Parliament." I consider that this article does constitute a *prima facie* breach of this House's privilege. I am, however, relieved that the offence is not so serious as to warrant proceedings being taken under the relevant provisions of the Tynwald Proceedings Act, and I am of the view that to muzzle the press is not the wish of the House, and that to be magnanimous better befits the dignity of this House. I accordingly recommend to the House that the appropriate action in this instance is for the House to direct the Secretary to write to the editor of the "Isle of Man Examiner" expressing the House's regret that he should think fit to publish an article which reflects adversely on this House and its members. However, I would draw to the House's attention the fact that the House itself has very limited powers to protect itself in instances such as this. The privileges of the House are not as clearly defined as are the traditions of the Commons, and this is something that I think should be examined by a Committee of the House with a view to hon. members receiving the protection that they not only deserve but require to fulfil their functions."

CANADA

Alberta: Legislative Assembly (Minister alleges that Leader of the Opposition had impugned his character).—Mr. Yurko, Minister of Housing and Public Works, raised as a matter of privilege on 31st October 1977, the attempt, as he alleged, by the Leader of the Opposition "through his line of questioning, to leave the impression with the House, with the media, and through the media with the public

that he as Minister was guilty of impropriety, in the conduct of his duties".

The Speaker of the Assembly ruled on the matter on 7th November 1977. In making his ruling Mr. Speaker said—

"It is a well-known parliamentary principle, and a rule of common sense, that no member may subject another to a vague charge whether in a motion or in a question. A charge may be made only by a motion on notice and must be very specific, with clear particulars, so that the person charged may know exactly what the charge is. This common-sense principle is recognized in all parliaments of our tradition.

Consequently a question used as a means to make an accusation is out or order. When does it go that far? There is only a shadowy gray line between a *bona fide* question and an accusation. That poorly defined gray line is the area between, on the one hand, a member's right of free speech and his duty to make effective inquiry and, on the other hand, an abuse of the right of free speech and of the duty to inquire.

Undoubtedly there is no member of this Assembly who would deny the right of any member, other than a minister, to ask questions concerning governmental or ministerial actions. Obviously this right has to extend to inquiring as to whether there may be a case of mistaken action or of impropriety. It could be said that it is the duty of members to inquire into such matters. And if members, no matter where they sit, have such a duty, then certainly the Leader of the Opposition is most of all under such a duty."

Drawing on a ruling by Mr. Speaker Lamoureux in the Canadian House of Commons on 5th December 1974, Mr. Speaker said that there was no *prima facie* breach of privilege in the case raised by Mr. Yurko. He went on to say that in the matter which had given rise to the allegation of breach of privilege there had been a difference in allegation of the facts. He pointed out that the Speaker had no power to investigate such facts and said—

"A difference as to facts, however, does not constitute a question of privilege, and it does not even, as has been held many times, support a point of order."

India: Lok Sabha

Alleged wrong statement about detention of political leaders by Indian Ambassador in U.S.A.—On 1st April, 1977, Shri Jyotirmoy Bosu, a member, sought to raise a question of privilege against Shri T. N. Kaul, former Ambassador of India in U.S.A. for certain remarks made by him on a television network in U.S.A. in July, 1975, about the detention of political leaders.

Subsequently on 7th April, 1977, the Speaker disallowed the question of privilege and ruled *inter alia* as follows:—

"I have carefully considered the matter. In order to constitute a breach of privilege, the impugned statement should relate to the proceedings of the House or to members in the discharge of their duties as members of Parliament. It may be seen that the impugned statement of Shri Kaul related to political leaders and not to members of Parliament as such, although members of Parliament are also political leaders.

Secondly, Shri Kaul's remarks were made in July, 1975, when the Fifth Lok Sabha was in existence. The matter cannot be raised as a privilege issue in the Sixth Lok Sabha.

In the circumstances, no question of privilege is involved in the matter."

Making a statement by a Minister on radio and television while the House was in session instead of making it in the House.—On the 29th November, 1977, Shri Vayalar Ravi, a member gave notice of a question of privilege against the Minister of Home Affairs (Shri Charan Singh) for making a statement on A.I.R. and T.V. regarding the alarming increase of sabotage cases in vital sectors, in which he disclosed not only the various steps taken by the Government but also definite information about the sabotage. He contended that the Minister had not cared to make any statement on this matter on the floor of the House which was in session.

On the following day Shri Vayalar Ravi sought to raise the matter in the House and enquired whether it was proper on the part of the Minister of Home Affairs to go outside the House and make a statement while the matter was still before the House.

On the 7th December 1977, while withholding his consent, the Speaker (Shri K. S. Hegde) ruled as follows:—

"I do not think that any question of privilege arises in the present case. I also do not think that the broadcast made by the Home Minister was inappropriate. Evidently, the Home Minister made a broadcast to the nation with a view to warn the public about the existence of a certain state of affairs. He also wanted to inform the public of the various steps taken by the Government. Early information to the public in respect of the matters mentioned in the broadcast was necessary and the same was in public interest.

Under these circumstances, the consent asked for under rule 222 is refused."

On 6th April 1977, in a somewhat similar case the then Speaker (Shri N. Sanjiva Reddy) disallowed a question of privilege raised in respect of a statement alleged to have been outside the House by the Minister of Health and Family Planning regarding payment of compensation of victims of forcible sterilisation on a day when the House was in session. The Speaker then ruled that no question of privilege was involved.

Alleged insinuation against a Minister by a partner of a firm in a letter to a newspaper.—On the 11th July 1977 Shri Jyotirmoy Bosu, a member, sought to raise a question of privilege against Shri Kishore J. Tanna, a partner of M/s. Jamnadas Madhavji and Co., Bombay for making alleged insinuations in a letter to the Editor published in the *Times of India*, New Delhi, dated the 11th July 1977, in respect of a statement made by the Minister of Commerce and Civil Supplies and Cooperation (Shri Mohan Dharia) in Lok Sabha on the 27th June 1977, during the discussion on Demands for Grants of the Ministries of Commerce and Civil Supplies and Cooperation.

On the following day the Deputy Speaker informed the House that he was referring the matter to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report.

In their First Report, presented to the House on the 14th November 1977 the Committee of Privileges, after perusing the written statement of apology submitted by Shri Kishore J. Tanna, reported that they were "of the view that the unqualified apology tendered to the Committee by Shri Kishore J. Tanna, may be considered as sufficient and adequate and that no further action need be taken by the House in the matter".

The Committee recommended that no further action be taken by the House in the matter and that the matter should be closed. No further action was taken by the House in the matter.

XVIII. MISCELLANEOUS NOTES

1. Constitutional

Isle of Man (Constitutional changes).—On 15th November 1977, the Constitutional (Amendment) Bill, having been passed by the House of Keys and the Legislative Council, was signed in Tynwald. The Bill will:

(*a*) reduce by stages the term of office of the elected members of the Legislative Council from eight to five years; and

(*b*) restrict the power of the Legislative Council to delay Bills passed by the House of Keys to a period of one year instead of three years.

Australia (Constitution Alteration Referendums).—Between 1901 when the Commonwealth of Australia was established, and May 1977, only five of thirty-two proposed laws to alter the Constitution submitted to a referendum of the people had been agreed to. On 21st May 1977 a further four proposals were submitted to the electorate, and three were agreed to.

All proposals were agreed to by absolute majorities of both the Senate and the House of Representatives in February 1977, and 21st May was then set as the date on which the proposals would be submitted to the electorate. The Constitution requires that, to be successful, any change must be approved of by a majority of the electors voting in a majority of the States, that is, in four of the six States, and also by a majority of all the electors voting.*

The Constitution Alteration (Simultaneous Elections) Bill 1977 and the Constitution Alteration (Senate Casual Vacancies) Bill 1977 were the only two proposals to meet serious parliamentary opposition.

The purpose of the Constitution Alteration (Simultaneous Elections) Bill was said by its supporters simply to make elections for the House of Representatives and the Senate simultaneous. That is, every time there was a general election for the House, half the Senate would have to face the electorate also. This was said to have obvious benefits – there would be fewer elections with a resultant saving of taxpayers' money. It was also said that if half the Senate were to be brought before the electorate at the same time as the House of Representatives, this would make the Senate more "responsible" for its actions and to the people.

Opposition to the proposal was led principally by ten Senators who voted against it in the Parliament. They pointed out that no constitutional amendment was required to ensure that elections for both Houses were held simultaneously, and asserted that the effect of the proposed law, if agreed to, would be to weaken the power and independence of the

*Commonwealth of Australia Constitution Act, s.128.

Senate. They argued, for instance that the Senate's power to amend Bills would be severely weakened if a Government were to call elections whenever it had a disagreement with the Senate. That is to say, a government with a temporary electoral advantage could cause elections to be held for the purpose of gaining control of the Senate, thus weakening its role as a House of Review.

In the event, this was the only proposal the people rejected. Although it received the support of 62 per cent of all electors voting, it was defeated in three of the less populous States.

The Constitution Alteration (Senate Casual Vacancies) Bill was ultimately approved by the electorate but was also opposed in the Senate. Eight Senators voted against it, and took their case to the electorate.

The purpose of the proposed change was to ensure that, as far as practicable, a casual Senate vacancy should be filled by a member of the same political party as a deceased or retiring Senator. It also provided for the deceased or retiring Senator's place to be filled by a State Parliament for the remainder of the Senator's term, instead of the prior provision where a replacement Senator held his place only until the next general election for members of the House of Representatives or the next election of Senators for the State.

Some opposed the measure on the grounds that, while the idea was admirable, it was impractical. What would happen, they asked, if a deceased or retiring Senator had changed his political views or allegiances substantially since his election. It was also argued that a vacancy should be filled by an election as soon as possible after the vacancy happened. Under the new proposal, a replacement Senator could sit and vote in the Senate for almost six years without ever having faced the electorate.

The proposal was approved at the referendum by a majority of electors in all States and by 73 per cent of all electors voting.

The other two proposed laws submitted to the electors were the Constitution Alteration (Retirement of Judges) Bill 1977 and the Constitution Alteration (Referendums) Bill 1977. The purpose of the first was to set a compulsory retiring age of seventy for judges in Federal Courts, while the purpose of the second was to allow electors in the Australian Capital Territory and the Northern Territory to vote in Constitution alteration referendums.

These proposals were both approved by a majority of electors in all States and by 80 per cent and 78 per cent, respectively, of all the electors voting.

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

Western Australia (Validation of certain Acts).—Section 46 of the Constitution Acts Amendment Act sets out the respective powers of the two Houses in respect of Bills which appropriate revenue and Bills which impose taxation. This section is the one which requires a Bill or resolution for the appropriation of revenue to be supported by a Governor's

Message recommending appropriations. By an amendment in 1977 it is ensured that once a Bill becomes an Act, the Act cannot be called in question in any court by reason of non-compliance with section 46 of the Constitution Acts Amendment Act.

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

India (Parliamentary Proceedings (Protection of Publication)).—The Parliamentary Proceedings (Protection of Publication) Act, 1956 was enacted to afford protection to persons against any proceedings, civil or criminal, in any Court of Law in respect of the publication of substantially true reports of any proceedings of either House of Parliament, provided the publication was without malice and was for public good. That legislation was in force for about two decades when the Act was repealed by the Parliamentary Proceedings (Protection of Publication) Repeal Act, 1976, as the then Government was of the opinion that the actual experience proved to be that the privilege given by the Act was misused frequently and systematically. The present Government which came in to power after the general election held in March, 1977, felt that the basis of a democratic Government was the opinion of the people and it was therefore of paramount importance that proceedings in Parliament should be communicated to the public; and for that purpose newspapers and other mass publicity media should be afforded the privilege of publishing substantially true reports of proceedings in Parliament, without being exposed to any civil or criminal action. The Government, therefore, considered it necessary to restore the privilege which the citizens used to enjoy prior to 1976 in the matter of publication of parliamentary proceedings and accordingly the Parliamentary Proceedings (Protection of Publication) Act, 1977, which was on the same lines as the provisions of the Parliamentary Proceedings (Protection of Publication) Act, 1956, came to be enacted by Parliament.

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

Karnataka (Size of Assembly).—Under the provisions of the Delimitation of Constituencies Order 1977, the strength of the Legislative Assembly has been increased from 216 elected members to 224. Reserved seats for Scheduled Castes and Scheduled Tribes have been increased from 27 to 33.

Hong Kong (Size of Council).—The size of the Legislative Council was increased by four by raising the number of official members from 23 to 25 and the number of unofficial members from 23 to 25.

Bahamas (Constitutional Referendum Act).—The Constitutional Referendum Act 1977 provides for a Referendum to be held on any Bill which seeks to alter an Article of the Constitution or any of the provisions of the Bahamas Independence Act 1973.

2. Electoral

Quebec (Director general of Elections).—The Election Act was amended during 1977 to provide that the resolution appointing the Directeur général des elections must in future be approved by two-thirds of the Members of the National Assembly.

Australia (Decrease in the number of Members of the House of Representatives).—An increase in the number of Members of the House of Representatives to 127 was described in The Table (Vol. XLIII, pp. 126–7). A redistribution of electoral boundaries occurred in 1977. Legislation relating to electoral matters had been amended as a result of High Court judgments on related cases.

The 1977 Electoral Redistribution resulted in the loss of 2 seats in New South Wales, 1 seat in Victoria, 1 seat in South Australia and the gain of 1 seat in Queensland, thus the number of Members elected in the General Election of 10th December 1977 to the 31st Parliament was:

New South Wales	43	(45)
Victoria	33	(34)
Queensland	19	(18)
South Australia	11	(12)
Western Australia	10	(10)
Tasmania	5	(5)
Australian Capital Territory	2	(2)
Northern Territory	1	(1)
	124	(127)

(previous entitlements in brackets).

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

New Zealand (Electoral Amendment Act 1977).—Most of this Act is devoted to restoring certain aspects of the law to its pre-1975 position. Additionally, the Act increases the maximum election expenses for a candidate from $2,000 to $4,000, and prohibits advertisements, in various forms and guises, promoting a particular candidate unless he or she gives prior written consent to publication and the advertisement contains the true name and a proper address of the promoter. News bulletins and comment are exempt from the ambit of the provision.

India (Disputed Elections (Prime Minister and Speaker) Act, 1977).—Article 329(A) of the Constitution, which came into force on 10th August, 1975, provides that an election in the case of Prime Minister or Speaker of the Lok Sabha can be questioned only before such authority or body and in such manner as may be provided for by, or under, any law made by Parliament. As the Lok Sabha was dissolved on 18th January, 1977 and the Rajya Sabha was not in session, and a general

election for the purpose of constituting a new Lok Sabha was to be held shortly, it became necessary to provide for the setting up of such authority urgently. Accordingly an Ordinance entitled the Disputed Elections (Prime Minister and Speaker) Ordinance, 1977, detailing the authorities to be set up for the purpose was promulgated by the President on 3rd February, 1977.

After the general election the new Government formed in March, 1977, considered that the above mentioned Ordinance should be enacted subject to the modification that the authority for trying a petition questioning an election in the case of the Prime Minister or Speaker, shall consist of a single member, who is a Judge of the Supreme Court, to be nominated by the Chief Justice of India, and shall not be a Council consisting of nine members, as envisaged in the Ordinance. Thus the Disputed Election (Prime Minister and Speaker) Act, 1977, which mainly provides for authorities to deal with disputed elections to Parliament in the case of Prime Minister and Speaker of the House of the People came to be enacted by Parliament. The Act also provides the procedure to be followed by the authority, the grounds on which the election may be called in question and other matters of detail relating to security for costs, reliefs that may be claimed by the petitioners, withdrawal and abatement of petitions, etc. which are similar to those contained in the corresponding provisions of the Representation of the People Act, 1951.

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

India (Presidential and Vice-Presidential Elections (Amendment) Act, 1977).—Article 71 of the Constitution of India, as originally framed, provided that doubts and disputes arising out of, or in connection with, the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final. That article was substituted by the Constitution (Thirty-ninth Amendment) Act, 1975 which came into force on the 10th August, 1975. The amended article empowered Parliament to constitute an authority or body for inquiring into and deciding doubts and disputes relating to Presidential and Vice-Presidential elections and further provided that the decision of such authority or body shall not be called in question by any Court. Accordingly on 3rd February, 1977, the President promulgated an Ordinance amending the Presidential and Vice-Presidential Elections Act, 1952, providing for the setting up of an authority consisting of nine members – three to be nominated by the Speaker of the Lok Sabha – one of whom shall be the Chief Justice or retired Chief Justice of the Supreme Court and another a person having knowledge of election law, three to be elected by the Lok Sabha and the remaining three to be elected by the Rajya Sabha.

The new Government which was formed after the general election held in March, 1977, decided not to replace the Ordinance mentioned

above by parliamentary legislation and allowed the Ordinance to lapse. The Government was of the view that not only was it appropriate but it would also be desirable to restore the position obtaining prior to the Constitution (Thirty-ninth Amendment) Act, 1975, with regard to the forum for the trial of election petitions challenging Presidential and Vice-Presidential elections including the scope and amplitude of the offences of bribery and undue influence. To achieve that object the Presidential and Vice-Presidential Election Act, 1952, was amended by the Parliament by legislation entitled the Presidential and Vice-Presidential Elections (Amendment) Act, 1977 providing specifically therein, as required by new article 71, that the Supreme Court shall be the authority for the trial of disputes relating to Presidential and Vice-Presidential elections.

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

3. Procedure

House of Lords (Church Questions).—Bishops of the Church of England are represented in the House of Lords by the summoning to each Parliament of the Archbishops of Canterbury and York and the twenty-four most senior diocesan bishops. It might, therefore, seem strange that the issue of whether questions on Church matters were admissible or not should be a matter of dispute, especially since questions relating to the responsibilities of the Church Commissioners are admissible in the House of Commons. However the controversy had existed since 1930 when it was stated in a Procedure Committee Report that the Archbishop of Canterbury had been interrogated on matters concerning the Church. No evidence was found, however, for this statement. On two occasions in the 1960's the clerks were asked to advise on whether questions addressed to the Archbishop of Canterbury were admissible; one was accepted by the Table and placed on the Order Paper but never asked.

The Procedure Committee considered the matter in February 1977 and recommended (HL 1976–77, 65) that questions on Church matters should not be admissible. They made clear that this recommendation was due not to any pressure from the Church of England but to the procedural difficulties which might arise in connection with the tabling and answering of such questions. The House agreed to the Procedure Committee's recommendation on 1st March 1977.

House of Lords (Minimum intervals between stages of Public Bills).—The House agreed on 10th November 1977 to a recommendation of the Procedure Committee that the following minimum intervals should be observed between the stages of Public Bills:

(*a*) two week-ends between the introduction of a Bill, or of a Bill as brought from the Commons, and the debate on Second Reading;

(*b*) fourteen days between Second Reading and the start of the Committee stage;
(*c*) on all Bills of considerable length and complexity, fourteen days between the end of the Committee stage and the start of the Report stage;
(*d*) three sitting days between the end of the Report stage and Third Reading;

and that, except when Standing Order 43 (No two stages of a Bill to be taken on one day) has been suspended, notice should be given to the House by the Lord in charge of the Bill whenever these minimum intervals are departed from.

Isle of Man (Register of Members' Interests).—When the report of the Select Committee of Tynwald dealing with the question of a Register of Members' Interests was considered on 22nd October 1975, various recommendations contained therein were approved, or amended and approved. The Recommendation that the Register be a public document was, however, defeated. At a sitting of Tynwald on 21st June 1977, Mr. G. V. H. Kneale, a Member of the Legislative Council, moved that:

"The Register of Members' Interests shall be a public document and all reasonable facilities shall be afforded the public to peruse it".

Mr. R. E. S. Kerruish, a Member of the Legislative Council, moved as an amendment that the words—

"subject to the conditions set out in section 8 of the annex to the report on the subject approved by Tynwald on 22nd October 1975".

be added.

Mr. Kneale indicated that he accepted the amendment. The resolution as amended was passed. The conditions referred to are:

(*a*) access to the register by members of the general public shall be permitted on prior appointment being made with the registrar (the Clerk of Tynwald). Any appointment made by telephone shall, save in exceptional circumstances, be confirmed in writing and normally at least 48 hours' notice of the proposed inspection should be given;
(*b*) before granting an appointment the registrar shall ask the applicant to furnish in writing his name and address; and
(*c*) members of Tynwald shall be able to inspect the register without prior appointment during office hours.

Saskatchewan (Oral Questions).—The Special Committee appointed to consider the Rules and Procedures of the Legislative Assembly reported in their First Interim Report on 12th March 1976 as follows:

"Although the Rules and Procedures of the Legislative Assembly have not provided for an oral question period, the practice has developed over the years of allowing four oral questions each day before Orders of the Day, with two supplementaries to each question.

Oral questions have become a very important part of the parliamentary day by serving as a device which enables the Legislature to carry on its traditional function of examining executive action. The purpose of the parliamentary questions is to seek information, and consequently thereby allow Members to bring a problem or issue to the attention of the Government and the public.

The Legislative Assembly, at the last Session, requested the Committee to review several matters, including the oral question period and to report back to the Assembly with specific recommendations and proposed amendments to the Rules and Procedures of the Legislative Assembly.

In this Interim Report, it is the intention of the Committee to make specific recommendations to establish an oral question period with a time limit as an experiment. After the Assembly has had an opportunity to try the new oral question period, the Committee will make its final report with proposed amendments to the Rules.

The Committee was instructed to consider styling the Saskatchewan oral question period after the one in the House of Commons. The Committee was impressed with the oral question period in the House of Commons but realizes that because of the size and complexion of that House, their oral question period cannot be transplanted into the Saskatchewan Legislative Assembly without some modifications.

The implementation of a time limit question period will provide a basis for more effective use of the right of Members to ask questions but the success of this experiment will depend on the acceptance by Members of certain guidelines regarding questions and answers.

All Members must appreciate that in the end Mr. Speaker must interpret the rules and guidelines under which the question period operates. Even though they may have differences of opinion, Members must respect the decisions of the Speaker. In order to facilitate a quick exchange of questions, Mr. Speaker must be able to move on to the next questioner. This will allow us to utilize our time in the best possible manner.

Recommendations

The Committee therefore recommends:

1. That the Legislative Assembly, upon acceptance of this Report, immediately implement an oral question period which shall begin not later than five minutes after the commencement of the sitting and shall conclude not later than thirty minutes after the commencement of the sitting.

2. That, notwithstanding Rule 8(2), the Routine Proceedings shall be as follows:

PRESENTING PETITIONS
READING AND RECEIVING PETITIONS
PRESENTING REPORTS BY STANDING AND SPECIAL COMMITTEES

NOTICES OF MOTIONS AND QUESTIONS
INTRODUCTION OF GUESTS
ORAL QUESTIONS
MINISTERIAL STATEMENTS
INTRODUCTION OF BILLS

3. That Mr. Speaker will not entertain points of order during the oral question period. Points of order may be raised later on Orders of the Day.

4. That this experiment will be in effect for the duration of the present Session only and that the Assembly will make its final decision re the oral question period after evaluating the experiment and receiving the Final Report of the Committee.

5. That the Committee recognises that the question period should be a productive time with a very quick exchange of questions and answers as it is in the House of Commons in Ottawa. To obtain this end, the guidelines governing questions and answers set out in *Beauchesne's Parliamentary Rules and Forms*, Fourth Edition, Chapter V, and *Sir Erskine May's Parliamentary Practice*, 18th Edition, pp. 319–331 should be followed. Some of the basic guidelines are as follows:

(*a*) questions may be asked of Cabinet Ministers by any private Member
(*b*) questions must be brief and to the point
(*c*) questions should be asked only in respect of matters of sufficient urgency and importance as to require an immediate answer
(*d*) questions must be stated without preamble or speech nor be in the nature of debate
(*e*) questions must seek and not offer information to the Assembly
(*f*) questions must not be of a nature requiring a lengthy and detailed answer
(*g*) questions must not repeat in substance a question already answered or to which an answer has been refused
(*h*) questions must not be hypothetical
(*i*) questions must not be asked which might prejudice a pending trial in a court of law
(*j*) questions must not embody a series of questions which should be moved for an Address or Order
(*k*) questions must not seek information set forth in documents equally accessible to questioner, as statutes, published reports, etc.
(*l*) questions must not seek information about proceedings in a Committee which has not yet made its report to the Assembly
(*m*) supplementary questions may be allowed at the discretion of the Speaker and must pertain to the question in order to clarify the answer or elicit further information on that issue
(*n*) answers to questions should be as brief as possible, should deal with the matter raised, and should not provoke debate
(*o*) the Minister, in replying to an oral question, has several choices as outlined in the Ruling of the Chair, November 27th, 1975 as follows:

(i) the Minister may give a brief answer
(ii) the Minister may ask the Member to submit a written notice of the question
(iii) the Minister may take the question as notice and reply to the question at a later sitting of the Assembly
(iv) the Minister may reply that the information sought is "not in the public interest." (*Beauchesne's Parliamentary Rules and Forms*, 4th Edition, p. 153).
(v) the Minister may ask for a written notice and then refer this written question to the Crown Corporation Committee . . ."

In their Third Report on 22nd November 1976 the Committee made

the following comment on the experiment which resulted from their earlier recommendations,:"

"Your Committee has evaluated the experiment over the year and although some unhappiness has been expressed with some aspects of the Oral Question Period, Your Committee feels that these points of unhappiness arise not out of the proposed Rules as such, but because of the practices of the Assembly and is confident that given one more year, all Members will be more familiar with the new Rules and will find them quite acceptable. If this new Oral Question Period is unacceptable to the Assembly after one more Session, amendments to the Rules can then be passed."

Australia (Drafting Questions and Notices of Motion by Public Servants).—As outlined in previous issues of THE TABLE (Vol. XL, pp. 158–9 and Vol. XLI, pp. 97–8), the House of Commons in the United Kingdom set up a Select Committee in January 1972 to inquire into newspaper allegations that Ministers in the Department of the Environment had authorised civil servants to prepare files of "friendly" questions for tabling by Government supporters. The House approved several of the Committee's suggestions, including the conclusion that, while there was nothing wrong in Members accepting questions or draft questions from an outside source, civil servants should not in the future be asked to prepare questions which seek to redress the party balance of questions on the Order Paper.

In May 1977 in Australia, newspaper reports alleged that it had been discovered that a lawyer employed in the Commonwealth Attorney-General's Department had written at least 72 questions placed on the Notice Paper by the Opposition with another 100 "in the pipeline" as well as preparing a notice of motion seeking reference to the Court of Disputed Returns of the qualification of membership of the House of a Government Member. The officer admitted that he had prepared the material but no charges were laid under the Public Services Act. Nevertheless the Government felt that the officer's actions were incompatible with his duty to the Department, and he was transferred to another area in the Department.

In answer to each such Question, Ministers concerned provided the same written statement: "I have been informed that this question was prepared by an officer of the Attorney-General's Department. In these circumstances I do not propose to answer it".

As a result of the allegations, the opposition Member who gave the notice of motion rose during the Adjournment debate on 24th May and questioned a public servant's liability to discipline by a government for private political activities contrary to the government line.

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

Australia (Court Proceedings initiated against Ministers of former Government by private citizen–resignation of Attorney-General).—The proceedings of the case, known as the Sankey Case,

were referred to in THE TABLE 1976 (Vol. XLIV, pp. 170–1) and 1977 (Vol. XLV, pp. 123–4).

Briefly, a private citizen, Mr. D. Sankey, initiated proceedings in 1975 against Ministers of a former Government in relation to attempted overseas loan borrowings. Protracted legal argument continued during 1977 and was largely concerned with the rights of the Stipendiary Magistrate before whom the proceedings were commenced to continue to hear the case.

As reported in the last edition, in response to a petition on behalf of Mr. Sankey, the House agreed to a motion in June 1976 to grant an officer of the House leave to attend the Court hearings. The motion also granted leave for the inspection and production in Court of relevant documents and records. The then Clerk of the House attended the Court on 16th December 1976 with the documents in question. As they form part of the original Votes and Proceedings for 9th July 1975, the Clerk retained custody of the documents until they were required by the Court. On 28th September 1977 the Clerk surrendered to the Court those of the subpeonaed documents in the House's possession. They will be returned to the Clerk when the Court's use has ended. During Court proceedings doubts were expressed as to whether or not the terms of the motion permitted the records to be used and assessed in Court. On 24th March 1977, the Hon. R. J. Ellicott, Q.C. (Attorney-General) presented a further petition to the House of Representatives on behalf of Mr. Sankey, the wording of which was designed to overcome this problem. At the dissolution of the House of Representatives on 10th November 1977 no further action had been taken in the House to grant the matters sought in this petition.

An event of unusual interest occurred on 6th September 1977 when the Attorney-General, the Hon. R. J. Ellicott, Q.C. resigned from the Ministry. In a statement to the House Mr. Ellicott explained that he had resigned because he considered that decisions and actions of the Prime Minister and the Cabinet in relation to the case had impeded him, and in his opinion constituted an attempt to direct or control him, in the exercise by him as Attorney-General of his discretion in relation to the criminal proceedings *Sankey* v. *Whitlam and Others*. (Mr. Ellicott returned to the Ministry following the general election in December as Minister for Home Affairs and Minister for the Capital Territory.)

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

Australia (Wrong Bill Assented to by Governor-General).— A situation without precedent in the history of the Australian Parliament arose in December 1976, when the Governor-General assented to a Bill which had not been passed by both Houses of Parliament, as is specifically required by the terms of section 58 of the Commonwealth Constitution. The background parliamentary history to this occurrence is as follows.

On 19th May 1976, a States Grants (Aboriginal Assistance) Bill 1976

was introduced into the House of Representatives and was passed by the House on 3rd June 1976. Debate on the Bill in the Senate was adjourned at the second reading stage, and the Bill remained on the Senate Notice Paper as the Government had decided not to proceed with it.

A second Bill, slightly different in content, but bearing exactly the same title, was introduced into the House on 3rd November 1976. This second Bill was passed by the House on 17th November, transmitted to the Senate and agreed to by that House on 9th December 1976.

In accordance with House of Representatives standing order 265 (requiring that every Bill originating in the House and finally passed by both Houses be presented by the Speaker to the Governor-General for royal assent after certification by the Clerk that the Bill has passed through all necessary stages) the Bill was presented to the Governor-General on 13th December 1976. The Governor-General having also received a certificate from the Attorney-General, as is the practice, in relation to the Governor-General's prerogatives under section 58 of the Constitution, signed the Bill on the same day and it "became" Act No. 184 of 1976.

However, due to a clerical error in the Department of the House of Representatives, the Clerk's certificate was placed on the wrong Bill, that is the first Bill which had not passed both Houses. The mistake was discovered in January 1977 and action was immediately taken to rectify the situation. The Governor-General cancelled his signature on the incorrect Bill and gave his assent to the second Bill which had passed both Houses and which is numbered Act No. 1 of 1977. There is, therefore, no Act No. 184 of 1976.

Upon the recall of Parliament on 15th February 1977, the Speaker made a statement to the House on the matter. The Opposition then moved a motion to the effect that the Attorney-General's action for his part in the certification in relation to an incorrect Bill constituted a breach of ministerial responsibility. This motion was debated and defeated by a vote of the House. The prorogation of Parliament in February ensured that the Bill listed on the Senate Notice Paper, the first Bill, lapsed.

On the matter of the possible recurrence of an event of this nature, the checking procedure of Bills in the House was reviewed by the Clerk and some additonal safeguards incorporated. This will ensure that a similar situation, which had never occurred before, is not likely to occur again.

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

Northern Territory (Powers and privileges).—On 16th March 1977 the Legislative Assembly for the Northern Territory suspended standing orders to permit the passage in one sitting of the Legislative Assembly (Powers and Privileges) Bill 1977. Urgency was necessary as a member of the Privileges Committee had discovered to his dismay that the amendments to the Northern Territory (Administration) Act

made in the Federal Parliament in 1974 to create the Legislative Assembly failed to ensure that the provisions of the Legislative Council (Powers and Privileges) Ordinance 1963 would apply to the new Assembly. The 1977 Bill was largely a copy of the 1963 legislation and included a clause deeming the latter to have continued in operation until the date of commencement of the new Bill. Thus the continuity of application of the powers and privileges was maintained.

Northern Territory (Money Bills).—As a consequence of the devolution of powers from the Federal government to the Assembly, the first "Money Bills" were introduced into the Assembly in 1977 in the form of the Allocation of Funds (Supply) (Nos. 1 and 2) Bills 1977–78. Such Bills can only be proposed if, in the same session, they have been recommended by message of the Administrator to the Legislative Assembly.

Maharashtra: Legislative Council (Motions to discuss matters of urgent public importance).—The Rules Committee of the Legislative Council agreed a Report on 3rd November 1977 which dealt *inter alia* with new procedures for debates on matters of urgent public importance. Previously matters of urgent public importance were sought to be discussed by means of Adjournment Motions but the Committee considered that this was inappropriate in the Legislative Council. The provision for an Adjournment Motion in the Rules of Procedure and Conduct of Business for the Legislative Council owed its origin historically to the provision made therefor in 1920 in the Indian Legislative Rules for the Legislative Assembly to be constituted under the Government of India Act, 1919. According to these rules, an Adjournment Motion could be moved, unlike in the United Kingdom, in either chamber. This position was subsequently corrected in 1947 by substituting the words "the Assembly" for "either chamber", while adopting the Indian Rules and the Legislative Assembly Standing Orders for the Constituent Assembly (Legislative). However, there being only one House from 1947 to 1952, the question of an adjournment motion in the Upper House did not arise. Further, in 1952, on the constitution of both the Houses at the Centre, i.e. the Lok Sabha and the Rajya Sabha, the provision for an Adjournment Motion was retained only in the Lok Sabha Rules on the grounds that the Council of Ministers is responsible only to the House of the People (refer Art. 75(3) of the Constitution of India).

It was thought in some quarters that the device of an Adjournment Motion might have in it an element of censure. The Committee, therefore, felt that rules relating to an Adjournment Motion should be replaced by suitably drafted new rules to provide for a motion (without an element of censure in it) to discuss urgent matters on the same day or within one or two days immediately thereafter.

Maharashtra: Legislative Council (Calling Attention Notices).—In view of the increasing number of notices received from Members

and in order to provide greater opportunity to raise such matters, particularly those relating to current events, the Rules Committee recommended that instead of two matters as at present, three matters should be permitted to be raised in the same sitting, of which one should necessarily relate to a matter of recent occurrence or of current event.

Solomon Islands (Election of Governor-General).—The Solomon Islands attained independence on 7th July 1978 following the passage through the Westminster Parliament of the Solomon Islands Act 1978. On 13th April the House passed the following Resolution: "That this Assembly RESOLVES to amend Standing Orders to make provision for the election of a person to be nominated as the first Governor-General of the Solomon Islands and for this purpose adopts the additional Orders laid before this honourable House."

On 24th April the House adopted a Motion for the first Governor-General to be elected on the next day, and the election duly took place on 25th April. Five candidates were involved; two of them Members, one of them the Speaker (who is not a Member) and two non-Members. The Attorney-General presided over the election. The successful candidate was Mr. Baddeley Devesi, a civil servant and Permanent Secretary, Ministry of Transport & Communications. The Attorney-General was assisted by the Clerk, the Deputy Clerk and two members of the staff of the Attorney-General's office. When the election was over the House adjourned and was prorogued by the Governor the next day until after independence.

4. STANDING ORDERS

Australia: Senate (Appointment of certain Committees).—New Standing Orders 36AA and 36AB provide for the appointment of Legislative and General Purpose Standing Committees and Estimates Committees. Between 1970, when the Committees were instituted, and 1977, their appointment was effected from session to session by resolution. This facilitated modifications to the structure and powers of the Committees. Finally, on 15th March 1977, with the Committee system firmly established, the Senate agreed that the Committees should be given recognition in the Standing Orders. The first appointments under the new Standing Orders were made on 17th March and 20th April 1977.

Australia: Senate (Amendments to Papers).—New Standing Order 365A provides that no amendments, other than formal or typographical amendments, be made in Papers ordered to be printed by the Senate without the authority of the Senate.

Western Australia: Legislative Assembly (Incorporation of unspoken material in *Hansard*).—A new Standing Order 113A was

agreed to by the Assembly to permit the incorporation of unspoken material into *Hansard* in certain cases. The requirements are—

(i) the material must have been referred to by the Member in debate;
(ii) the material must be of such a nature that it was unsuitable for presentation in a speech (e.g., tables, graphs, charts);
(iii) the Member must be given leave by the House to have the matter incorporated;
(iv) the Speaker must give the final direction (in case, for some technical reason, the matter cannot be incorporated).

Western Australia: Legislative Assembly (Additional suspension of a Member).—A new Standing Order No. 72A was proposed by the Standing Orders Committee to provide that a Member who has been suspended but who continues to commit offences before leaving the Chamber may incur a further penalty of three consecutive sitting days suspension for each such offence. The new amendment was agreed to by the Assembly.

Western Australia: Legislative Assembly (Seconding of Motions).—Standing Order No. 215 was replaced by a new Standing Order which provides that only the following motions or amendments shall require seconding before the question can be put:—

(*a*) a motion proposing that a Member take the Chair of the House as Speaker;
(*b*) a motion for the adoption of the Address-in-Reply;
(*c*) a substantive motion, or
(*d*) an amendment to either the Address-in-Reply or a substantive motion.

5. General

Westminster (Broadcasting of Proceedings).—The sound broadcasting of parliamentary proceedings at Westminster began on 3rd April 1978. The first proceedings to be broadcast was Question Time in the House of Commons, which went out "live". The following day Prime Minister's Questions were broadcast live, as they have been twice a week since, and House of Lords proceedings were recorded and broadcast for the first time. Subsequently the Chancellor of the Exchequer's Budget Statement was broadcast live. In addition, much use has been made by the broadcasters of recorded material from both Houses for both radio and television current affairs programmes.

Thus after over twelve years since sound broadcasting was first recommended, radio coverage of both Houses finally began. This step followed the recommendations made in the Second Report from the Joint Committee on Sound Broadcasting [H.L. 123, H.C. 284, 1976/77] which were referred to in Volume 45 of The Table. At the end of July 1977

each House passed a resolution governing the broadcasting of proceedings in the following terms:—

That, pursuant to the Resolution of the House of . . . and certain Recommendations made in the Second Report of the Joint Committee on Sound Broadcasting—

(1) the British Broadcasting Corporation and the Independent Broadcasting Authority ("the broadcasting authorities") be authorised to provide and operate singly or jointly sound signal origination equipment for the purpose of recording or broadcasting the proceedings of the House and its committees subject to the directions of the House or a committee empowered to give such direction ("the committee");

(2) the broadcasting authorities may supply signals, whether direct or recorded, made pursuant to this Resolution to other broadcasting organisations, and shall supply them to any other organisation whose request for such a facility shall have been granted by the committee, on such conditions as the committee may determine;

(3) no signal, whether direct or recorded, made pursuant to this Resolution shall be used by the broadcasting authorities, or by any organisation supplied with such signal, in light entertainment programmes or programmes designed as political satire; nor shall any record, cassette or other device making use of such signal be published unless the committee shall have satisfied themselves that it is not designed for such entertainment or satire;

(4) archive tapes of all signals supplied by the broadcasting authorities shall be made, together with a selection for permanent preservation, under the direction of the committee.

It was hoped that occasional live broadcasting of proceedings could begin from the opening of the new session in November, with regular broadcasts starting early in the New Year. However delays occurred, principally due to lack of accommodation for the broadcasters, and it was eventually agreed that broadcasting should start after the Easter Recess on Monday, 3rd April.

As will be seen from the terms of the resolution above, the recommendations of the Joint Committee were agreed to in that broadcasting was left to the broadcasters, who would originate the signal and use the material as they wished, subject to the limitations imposed by the resolutions. Control by the two Houses was to be exercised not by means of a broadcasting unit but by Committees appointed for this purpose, who would have the power to join with each other whenever necessary. These Committees were appointed shortly before broadcasting commenced.

As recommended by the Joint Committee, a Sound Archive Unit of the House of Lords Record Office was established to preserve an archive tape of all proceedings of both Houses. This unit has a staff of four and provides facilities for members of both Houses to hear tapes, both of proceedings and of broadcast programmes. Subject to the rulings of the Committees referred to above, the unit will also make copies of tapes available to Members for their private use.

Westminster (New size of Hansard).—It is not only great issues

of state or major political questions that divide Members of the British House of Commons: strong feelings are also sometimes aroused by apparently simple proposals for change in long-standing practices that affect Members. The great battle over the size of *Hansard* was such a case.

The House of Commons and House of Lords Official Reports (known everywhere as *Hansard*, after the name of the original printer) are printed by H.M. Stationery Office. They have always (i.e. for some 150 years) used a page size known as Large Royal Octavo ($9\frac{3}{4} \times 6\frac{3}{8}$ in.). However, the volume of Parliamentary printing has increased enormously – the total was doubled between 1964 and 1972 – and much of the machinery used is obsolescent. H.M.S.O. are therefore building a new printing works for their Parliamentary printing and they naturally want to use the best equipment and to minimize costs. This means as much standardisation of page-size as possible (at present Parliamentary papers are printed in three different sizes). And the size preferred by H.M.S.O., for various technical reasons, is A4 ($11\frac{3}{4} \times 8\frac{1}{4}$ in.) which is an international standard size widely used in the printing industry. Production of all Parliamentary papers in this size would save nearly £1 million on capital cost and about £250,000 per annum on manpower costs. H.M.S.O. also claim that papers would be produced more quickly in this larger size.

H.M.S.O. proposals for changing the format of *Hansard*, and particularly its size, were referred to the Services Committee. After careful consideration they recommended, in December 1976, their acceptance. But, at this point, the battle commenced.

It soon became apparent that H.M.S.O.'s cold calculations of financial savings and production efficiency cut little ice with some of *Hansard's* main readers, namely M.P.'s. For when the report of the Services Committee was debated in January 1977, a number of Members, for simple practical reasons, much preferred the present smaller size: it was easier to handle, it was easier to read, it could be put in a pocket (at least a fairly large pocket), it fitted better on bookshelves, it slipped more easily through the letter box, etc. etc. One Member even protested that he would not be able to read an A.4 size *Hansard* in bed, as was his normal habit. The supporters of the bigger size were mostly mute on this occasion and certainly were not present in sufficient numbers for their cause, for when it was put to a vote, the motion to approve the larger size could not be carried because the quorum of forty was not present.

The question was again debated in March 1977. This time the Leader of the House answered the criticisms and emphasised again the financial and production advantages of the larger size. But the opponents had marshalled their forces and, on a free vote, an amendment referring the whole issue back to the Services Committee and instructing them to provide "more comprehensive information", was carried by a large majority.

This the Committee duly did in a further report on the Size of *Hansard*.

They set out H.M.S.O.'s costings in detail; they emphasised the improved quality of service that the larger size would make possible (fewer pages can be printed and bound more quickly); they assured the House that the various departments concerned, and outside libraries, would find no difficulty in adjusting their shelves; and they answered other criticisms made in the debates. They again recommended the adoption, as soon as possible, of an A.4 size *Hansard*.

When the matter was brought back to the floor of the House in May there was a longer debate and the arguments on both sides were more fully deployed, but the result was still inconclusive. An amendment welcoming improved printing arrangements, but requiring that *Hansard* be made no larger, was agreed to by 63 votes to 53, but the motion, as amended, was then defeated by 53 votes to 55. The House had thus come to no resolution at all.

It seemed, for a while, that the result of this match would be a draw, with no decision taken. But urged by H.M.S.O., who were anxious to go ahead with their new printing works, and by Members who had been convinced by the arguments of the Services Committee, the Government returned to the fight. and on 26th January 1978, after a debate in which (not surprisingly) few new arguments were advanced, a motion to agree with the Services Committee's recommendation for A.4 size *Hansard* was agreed to by 92 votes to 63.

And so, after 15 months delay, two Committee reports and four debates in the House the matter was decided. The height of the Commons *Hansard* will, from 1980, be increased by 2 in. and its width by $1\frac{5}{8}$ in. (Incidentally, the Lords have agreed to follow suit). Many battles on much more important political issues have been less hard fought and less prolonged.

(*Contributed by M. T. Ryle, Clerk of Select Committees, House of Commons*).

Saskatchewan (Recording of Committee proceedings).—The Special Committee on the Rules and Procedures of the Legislative Assembly in their Third Report recommended that proceedings in the Committee of the Whole House and the Committee of Finance be recorded and included in the Debates and Proceedings of the Assembly. The Committee explained their recommendations as follows:

"Saskatchewan is now one of the few provinces in Canada that does not record all of its proceedings. Although some of the proceedings in Committee may seem detailed, Your Committee believes that some of the best debate of the Session takes place in Committee where the Members usually do not have prepared statements but engage in spontaneous and serious debate on the merits of a Bill or an estimate. Even much of the detailed information given out in Committee of Finance is worth recording so that when that estimate comes up again the following year, the Member does not have to repeat all of his questions about the year gone by but can merely refer to the verbatim record. This record of the Committee will also be of value to the Minister's staff as they prepare each year for the Committee of Finance and will be useful to the general public.

Your Committee notes that many important amendments to Bills are moved and adopted in the Committee of the Whole, yet these important proceedings are presently not

being recorded. Recording in the Committee of the Whole would complete the record of consideration of legislation as it proceeds through the Legislative Assembly."

Saskatchewan (Daily Hansard).—The Special Committee also recommended in their Third Report that a daily *Hansard* should be produced and take the place of the bound volumes. The Committee's proposals were as follows:

"Your Committee recommends that the Debates and Proceedings be produced on a daily basis with the official copy being mailed approximately 36 hours after the debate has taken place in the Assembly. This daily *Hansard* would then replace the present bound volumes.

The proposed schedule to produce this daily *Hansard* would be as follows:

(*a*) Transcribe, edit and retype copy within two hours after speech is given;

(*b*) Final copy would be posted in Members' lobby for one hour in case any Member wanted to check for major errors;

(*c*) Total day of *Hansard* could be printed in booklet form and ready on the Members' desks within approximately 36 hours.

The Committee has reviewed the cost of producing the present *Hansard* in Saskatchewan and notes that it is one of the least expensive in Canada. Your Committee was informed that to print *Hansard* on a daily basis would cost approximately the same amount as is now being spent on printing the Sessional bound volumes. However, the recommendations for a complete record on a daily basis will increase the total cost of *Hansard* because of the necessity for increased staff but the cost will still be very reasonable compared with the costs in other jurisdictions. Your Committee has recommended that the implementation of these recommendations be done in two phases in order to allow time to recruit and train well qualified staff."

Australia (Re-organisation of the Department of the House of Representatives).—In 1977 the Department began implementing the findings of a report prepared by a private firm of management consultants commissioned by the Department to review the organisation and functioning of the Department. The report contained many worthwhile recommendations, some of which were: the amalgamation of the Table and Bills and Papers Offices into one Table Office designed to service the Chamber, Members and senior officers; the formation of a Procedure Office as the Department's research centre, its immediate task being to prepare a major work on the practice and procedure of the House of Representatives; the appointment of an operations manager, at senior level, whose role includes oversight of the administrative function of the Department thus leaving Chamber Officers more time to attend to Chamber duties and parliamentary and procedural matters. On the recommendation of the report, a personnel manager was also appointed to supervise staff training and counselling.

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

6. Accommodation

Westminster (Cleaning and restoration of the exterior of the Palace of Westminster).—The pages of The Table are usually

full of procedural changes, attempts to refurbish the practice of legislatures throughout the Commonwealth. The outcome of procedural reform is, however, often unpredictable. A recent report from the Select Committee on House of Commons (Services) (Third Report, HC 302 (1977–78)) recommended the speedy restoration of the outside of the whole Palace of Westminster, which it is confidently expected will have immediate and impressive results.

In a preface to their Report the Committee set the scene vividly:—

"Less than ten years after its completion the exterior of Barry and Pugin's new Palace of Westminster was suffering serious decay. Natural flaws in the stonework were soon attacked by atmospheric pollution.

Despite a major ten-year programme of stone replacement after 1928 the fabric is still at risk. The all too evident accumulated filth, which obscures so much of the intricate detail of almost every facade, contains chemicals which are attacking the stone, both old and new. Only by timely action can further serious decay be prevented.

From 1971 onwards the Department of the Environment undertook stone-cleaning experiments on the south front of the House of Lords. As a result, a method has been evolved which removes the injurious deposits without in any way damaging the fabric. Armed with this expertise, the Department are anxious to clean the whole of the exterior of the Palace."

After describing some of the technical problems the Committee quoted a figure of £3,500,000 as the likely cost of carrying out the work in a three year programme. They also paid attention to the practical problems of carrying out the work in such a way as to minimise the inconvenience to all those who work within the Palace. Their conclusion was that:

"on the grounds of conservation the cleaning of the exterior of the Palace is long overdue. By carrying it out in the near future, and replacing the worst of the stonework, it should also be possible to prevent the development of serious deterioration in the remainder, thus avoiding for the foreseeable future the need to carry out a second major programme of re-facing."

They accordingly recommended that the cleaning programme should go ahead as soon as possible, preferably commencing in 1979. Inevitably, of course, the work is dependent on the provision by the Government of funds for the project. No decision has yet been announced by the Government.

Australia (New and permanent Parliament House).—As was reported in THE TABLE (Vol. XLIV, pp. 193–4) deliberations of the Joint Standing Committee on the New and Permanent Parliament House were brought to a close by the dissolution of both Houses of Parliament on 11th November 1975. In March 1976 the Joint Standing Committee were reappointed for the 30th Parliament with the same terms of reference as the former committee. The first report of the Joint Committee was presented to Parliament on 3rd May 1977.

In its First Report, publication of which coincided with celebrations

to mark the 50th anniversary of the opening of the present provisional Parliament House, the Committee agreed unanimously to a programme which would enable a fully functioning, *stage 1* Parliament House to be constructed and occupied by 26th January 1988 – the 200th anniversary of European settlement in Australia. The Committee's decision would not involve the expenditure of any significant funds or commitment, to be required before the 1979–80 Budget.

The *stage 1* concept is to construct a building of about twice the size of the existing provisional Parliament House capable of providing improved accommodation for Senators, Members, Ministers, essential parliamentary staff, services and the press. Non-essential staff and some services would remain in the present building until completion of the next stage when further accommodation would be provided for Senators, Members, Ministers, Parliamentary Departments, services and the press.

In its Second Report, presented prior to the dissolution of the House of Representatives on 10th November 1977, the Joint Committee informed Parliament of its progress in preparing a design brief for the new Parliament House. The report also recommended that a similar committee be appointed early in the life of the 31st Parliament so that the programme of work leading to construction of the new building would not be delayed. The Committee reiterated that it remained feasible and practical to achieve occupation of the first stage of the new building by 26th January 1988.

The Committee's reports have not been debated in either House of the Parliament nor has the Government announced its attitude to the conclusions reached by the Committee.

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

7. Emoluments

Australia (Parliamentary salaries and allowances).—Reference was made in a previous issue of The Table (Vol. XLIV, pp. 177–9) to the procedures for the review of parliamentary salaries and allowances and the rates applicable from 1st March 1975 and of the disapproval by the Senate to the Remuneration Tribunal's Review of 6th August 1975.

The Tribunal further reviewed salaries and allowances in 1976 and took into consideration increases in salary movements of the Public Service and public office areas in all States since 1st March 1975. Neither House disapproved of the Tribunal's determinations which took effect from 1st June 1976, and were as follows:

(*a*) All Senators and Members received a yearly Parliamentary Allowance of $21,250 and an electorate allowance of $5,400 for an electorate of less than 5,000 square kilometres and $6,750 for an electorate of more than 5,000 square kilometres.

(*b*) In addition, Ministers and office holders of the Parliament received the following salaries and allowances:

A. SALARIES

	Salary of Office $ p.a.	*Special Allowance* $ p.a.
MINISTERS		
Prime Minister	28,250	12,000
Deputy Prime Minister	14,250	6,000
Ministers in Cabinet	11,750	5,000
Ministers *not* in Cabinet	10,500	5,000
Treasurer	13,250	5,000
HOUSE OF REPRESENTATIVES		
Speaker	10,500	5,000
Chairman of Committees	4,500	1,000
Leader of the Opposition	11,750	5,000
Deputy Leader of the Opposition	8,500	4,750
Government Whip	3,250	—
Opposition Whip	2,750	—
Third Party Whip	2,500	—
Assistant Government Whip	1,250	—
Assistant Opposition Whip	600	—
Chairman of Parliamentary Committee	600	—
Chairman of Joint Parliamentary Committee of Public Accounts	1,000	—
Chairman of Parliamentary Standing Committee on Public Works	—	—
Members	1,000	—
SENATE		
President	10,500	5,000
Chairman of Committees	4,500	1,000
Leader of the Opposition	8,500	4,750
Deputy Leader of the Opposition	3,500	1,000
Whips	2,500	—
Deputy Whips	600	—
Third Party Whip	600	—
Chairman of a Parliamentary Committee	600	—
Opposition Whip	2,500	—
Deputy Opposition Whip	600	—
Senators	—	—

B. TRAVELLING ALLOWANCE

Payable for overnight stays in places other than nominated home bases when stay occasioned primarily by direct travel to or from sittings of Parliament; meetings in Canberra of political party, its executive or one of its committees; meetings of Parliamentary Committees; official business as a Minister or office holder; or meetings of political party executive in a capital city.

RATES	$
Prime Minister	
At official residences	NIL
Elsewhere	70
Ministers	
Canberra	37
Elsewhere	52
Office Holders	
Canberra	37

Elsewhere	52
Senators and Members	
Canberra	37
Elsewhere	41

C. POSTAGE STAMP ALLOWANCE

Senators and Members representing city and country electorates $1,000 p.a.

In addition to stamp allowance, for parliamentary business, Members shall be provided each month with 1,000 postage pre-paid (within Australia) official Parliament House envelopes, to be posted only from Parliament House.

Unlimited postage is provided to each office holder in relation to the duties of his office.

The Remuneration Tribunal made its next Reports and Determinations on 20th June 1977. Neither House disapproved of the Tribunal's determinations which took effect from 1st June 1977, and varied the rates and salaries and allowances as shown below:

A. SALARIES

(*a*) All Senators and Members receive a yearly Parliamentary Allowance of $24,369. Members receive an electorate allowance of $6,000 for an electorate of less than 5,000 square kilometres or less than 120,000 population and $7,500 for an electorate of more than 5,000 square kilometres or more than 120,000 population. Senators receive an electorate allowance of $6,000.

(*b*) Salaries of office for Ministers and office holders of the Parliament remained unchanged except for those of the Government and Opposition Whips in both Houses. Revised rates for the Whips are:

	$ p.a.
HOUSE OF REPRESENTATIVES	
Government Whip	4,250
Opposition Whip	3,750
SENATE	
Whips	3,500

B. SPECIAL ALLOWANCE

Special allowances for Ministers and certain office holders of the Parliament were increased to reflect the increase in the CPI (Consumer Price Index) and in the case of some senior Ministers an additional provision because of their extra commitments. Revised rates are as follows:

	$ p.a.
MINISTERS	
Prime Minister	13,200
Deputy Prime Minister	6,600
Minister in Cabinet	5,500
Minister *not* in Cabinet	5,500
Treasurer	6,600
Leader of the House	6,600
HOUSE OF REPRESENTATIVES	
Speaker	5,500
Chairman of Committees	1,100
Leader of the Opposition	6,600
Deputy Leader of the Opposition	5,250

SENATE	
President	5,500
Leader of the Government in the Senate ...	6,600
Chairman of Committees	1,100
Leader of the Opposition	5,250
Deputy Leader of the Opposition	1,100

C. TRAVELLING ALLOWANCE

RATES

Prime Minister

Accommodation and sustenance for each overnight stay by the Prime Minister at an official establishment, or in a place other than an official establishment which is not his home base, is at government expense when his stay is occasioned primarily by his official business as the Prime Minister.

	$
Ministers	
Canberra	37
Elsewhere	57
Office Holders	
Canberra	37
Elsewhere	57
Senators and Members	
Canberra	37
Elsewhere	45

D. POSTAGE STAMP ALLOWANCE

Senators and Members representing city and country electorates are allowed 500 letters per month at normal letter rate instead of £1,000 p.a. The other allowances remain unaltered.

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

India (Salary and Allowances of Leaders of Opposition in Parliament Act, 1977).—Having regard to the fact that, in a Parliamentary Democracy, the Leader of the Opposition plays an important role, the Government decided that the Leaders of Opposition in the Lok Sabha and Rajya Sabha should be accorded statutory recognition, and given a salary and other facilities and amenities to enable them to discharge their functions in Parliament. Accordingly legislation entitled the Salary and Allowance of Leaders of Opposition in Parliament Act, 1977 has been enacted by Parliament which *inter alia* provides for payment of a monthly salary of Rs. 2,250 and other allowances and amenities to Leaders of Opposition in Parliament.

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

XIX. REVIEWS

Legislative Drafting: A New Approach. By Sir William Dale (Butterworths, 1977. £15).

Comparison between the drafting of United Kingdom Acts of Parliament and the drafting of continental legislation is often made in general terms. This book provides a comparison based on a detailed study of specific texts. The study was commissioned by the Commonwealth Secretary General and was intended to assist developing countries to decide on the sort of style they should adopt in drafting legislation to meet the many economic and social problems they have to face. It has much of interest, however, to offer to lawyers and others in the United Kingdom.

The author, a distinguished former Government lawyer in the United Kingdom, has proceeded by comparing the texts of a number of laws on the same subject as enacted in, respectively, the United Kingdom, France, Germany and Sweden. By his reckoning the United Kingdom texts come out very badly. Too often they are not readily intelligible and are unnecessarily long. By contrast the continental texts are "lucid and often succinct".

The author's own style is refreshingly spirited. Much of the analysis of texts is perceptive and most impartial reviewers would probably accept much of what he says. A good deal of it echoes criticisms that have for long been made from many quarters about the drafting of United Kingdom Acts, most recently by the Report of the Renton Committee. One does not, however, have to be unduly complacent about the way United Kingdom Acts are now drafted to question whether they are in general quite as bad, or continental texts are in general quite as good, as the author suggests. An exercise designed to show United Kingdom Acts in a more favourable light might not have chosen the same Acts for comparison. It is questionable, for example, whether it would have chosen the Copyright Act 1956 – the Act to which, with its continental counterparts, is devoted the most extensive comparative exercise in the book, occupying the first three chapters. Styles have changed since that Act was drafted — for the better it may fairly be claimed – and even in 1956 it is doubtful whether it exemplified the best in United Kingdom parliamentary drafting.

Some of the criticisms of United Kingdom drafting are hard to swallow. The author summarises his conclusions about United Kingdom Acts with a list of eight features "making for obscurity or length, usually both". They include "Subtraction as in 'Subject to ...' 'Provided that ...'" If this is an objection to drafting in such a way as to add qualifications or exceptions to any stated proposition, it is difficult to take it seriously. The objection may to some extent be an objection to the device, which

United Kingdom draftsmen admittedly use a good deal more than their continental brethren, of signalling exceptions or qualifications that are to follow later by the use of "Subject to" or the like. But if that is the objection it is hardly one of great moment and it is, in any event, a matter on which there is room for legitimate differences of opinion.

Another feature in the author's black list is the extensive use by United Kingdom draftsmen of interpretation provisions. He seems to dislike particularly the device of adopting and then defining what may be called expressions of convenience, whether single words or whole phrases. No doubt some draftsmen do this too much and sometimes they bury the definitions in a way that can trap the reader. One looks in vain, however, for any recognition of the fact that used sensibly the device can undoubtedly make the text both shorter and clearer than it would otherwise be. Even more captious seems the author's objection to the use of Schedules in United Kingdom Acts ("too many and too long"). If, for better or worse, an Act contains a lot of detail there is a self-evident case for the United Kingdom practice of putting the detail into schedules so that the exposition of the fundamentals is not unduly broken up. The Renton committee recognised this and positively encouraged the use of schedules (Report, para. 10.13). As far as can be seen, the book produces no reasoned case for the assertion that their use in United Kingdom Acts is excessive.

A good deal of the author's fire is directed against the amount of detail in United Kingdom Acts – their tendency to try and cover as many situations as possible rather than to lay down broad principles and leave the courts to work out their detailed application. This is a familiar criticism. It received a lot of attention in the Report of the Renton Committee. The objection here, of course, is not simply to a matter of drafting technique. The draftsmen are largely responding to the demands made by the Governments they serve. In turn, Governments are responding to the demands of Parliament itself which, as the Renton Report recognised (para. 10.6), has shown a disposition to insist on elaboration. This is perhaps not surprising, because the more Parliament puts into its Acts the less it leaves to the courts. There is, however, no escaping the fact that a change towards less elaboration in Acts of Parliament would represent a loss in the matter of certainty for the user. That is the price that would have to be paid for the increased intelligibility that would follow from confining Acts to broad expressions of principle (so far as their subject matter was susceptible to such treatment). Many people consider that that is a price worth paying. That is a legitimate point of view but, as the Renton Committee pointed out, you cannot have it both ways.

It is on this issue that the author's whole-hearted devotion to the cause of continental drafting, and his equally whole-hearted antipathy towards United Kingdom drafting, seems to lead him into his least tenable position. He will not have it that broad terms of principle leave

much to be resolved by the courts. On the contrary, quoting Leviticus 24, v. 17, "When one man strikes another and kills him he shall be put to death" the author declares: "We observe the complete generality and utter certainty. Width is not the same thing as uncertainty. The objection to too broad a statement is that exceptional circumstances may be overlooked. Leviticus left out any kind of mental element; and in Exodus 21, vv. 12–13 we find 'Whoever strikes another man and kills him shall be put to death. But if he did not act with intent, and they met by act of God the slayer may flee to a place which I will appoint for you' ". The argument is, therefore, that an enactment as framed in Leviticus would carry no element of uncertainty: it would simply be too far-reaching in that it would not require intent on the part of the killer. That, however, begs the question. Is it seriously to be supposed that given an enactment in these terms the courts would refuse to consider the question whether it imported any element of intent? And, even if you add the element of intent expressly, as in Exodus, can it seriously be claimed that *that* answers all the questions that may arise? The proposition is surely absurd. On the meaning of intent alone a host of questions would remain to be answered, and would have to be answered by the courts.

In truth, the author has a reforming zeal which, though it makes for stimulating reading, does not always make for balanced judgments. But it is the role of the reformer to be an advocate rather than a judge and the author would like to see a radical change in the system of producing Acts in the United Kingdom. He points out that in the United Kingdom there is no stage between the drafting of a Bill on behalf of the Government and its introduction into Parliament. Furthermore, he considers (and many would agree with him in this) that the ordinary committee and report proceedings on a Bill in Parliament are far from an ideal mechanism for improving its form. On the continent there is, before the enacting stage in Parliament, an intermediate stage, the revising stage. This is a dual stage at which the draft is first examined by experts – in France, the Conseil d'Etat; in Sweden, the Law Council – and then examined by a Parliamentary committee in round-the-table discussions with the promoting department.

The author would like to see a revising stage introduced in the United Kingdom, consisting of the scrutiny and revision of draft Bills by an independent body – perhaps, following Sweden, called the Law Council – comprised of judges, magistrates, practising and other lawyers, and laymen. At the same time he would like to see Bills drafted within the promoting departments rather than by Parliamentary Counsel. In his view those expert draftsmen lack the common touch which he thinks should be a feature of our legislation. He acknowledges "their unique command of the needed skills (and) their thorough knowledge of the Statute Book in general" and by implication concedes that there would be a loss in this respect if responsibility for drafting were transferred to

the departments. That, however, need not, he considers, be a cause for concern "so long as there is a Law Council to maintain consistency and the required standards".

The proposal to transfer the drafting of Acts to the promoting departments is not a new one. The Parliamentary Counsel regularly come under fire from critics of United Kingdom Acts. To a considerable extent, however, this seems to be a case of shooting the pianist because you do not like the music. Many will doubt whether to hand over the drafting of our legislation to general practitioners overlooked by a committee is the best way to improve the quality of the Statute Book.

(*Contributed by Derek Rippengal, Counsel to the Chairman of Committees, House of Lords*).

The Constitutional Law of Jamaica. By Lloyd G. Barnett (Oxford University Press, 1977, £18).

This is a most distinguished study, comprehensive and scholarly in content. In some degree, moreover, it is a pioneer work in that the constitutional law of no other newly independent country has been surveyed so authoritatively as has been done by Dr. Lloyd Barnett.

The book is divided into four parts. Part 1 gives an historical introduction which, although severely condensed, brings the development to 1962 when Jamaica gained independence with a new constitution. It deals admirably with the early constitutional development of the colony. It is clearly written and supported by valuable detail on the historical, literary and material, and legal sources.

Parts 2 and 3 deal with the executive and the legislature and examine the operation of the independence constitution. Both parts reveal a wide knowledge of the subject and of the Jamaican background which is so essential in any authoritative study of this kind.

It would be churlish to remark on the omissions in a work so detailed and comprehensive. In writing a notice for THE TABLE, however, it is perhaps worth mentioning that in describing the post of Clerk and Deputy Clerk of the Senate and of the House of Representatives, as established by the constitution, the author does not refer to the practice which early became established in the Jamaican Parliament and which may well be unique in the Commonwealth. From the inception of the 1866 constitution the office of Clerk in the Jamaican legislature differed from that in other colonial legislatures in that the elected Members in the Legislative Council insisted that their Clerk should be not a civil servant but a legal practitioner of some seniority in private practice. The convention was also established that one Clerk and Deputy Clerk should serve both Houses of Parliament, and the 1962 constitution made specific provision for this practice to continue if it were desired. The conventions that the Clerk should be a lawyer in private practice and that he and the Deputy

Clerk should serve both Houses have continued to be observed since the 1962 constitution.*

Part 4 deals with the judicial system which in most of its basic features follows the common law and is modelled on the English system. Dr. Barnett points out that, following strong representations that the ordinary and appellate jurisdictions of statutory courts should be vested in separate courts with different personnel, the constitution established a superior court and a separate court of appeal. It did not, however, set up a similar system of inferior courts and these have remained dependent on statutory provisions. At this level, he observes, the judicial system presents a confused and complicated pattern. A chapter of particular interest and importance deals in considerable detail and supported by case law with the judicial protection of fundamental rights and freedoms.

Dr. Lloyd Barnett, a barrister and attorney-at-law, has had wide experience both in public service and in private practice. He has revealed in the study not only a profound knowledge of his country and its laws but also the best qualities of a scholar. It is indeed to be hoped that his book will encourage scholars in other countries to emulate his example, for such a work is an invaluable contribution to the study and understanding of the fundamental constitutional, parliamentary and judicial structure of every country, and especially of those whose independence is comparatively recent.

(*Contributed by Ian Grey, Editor of The Parliamentarian*).

The Gentleman Usher of The Black Rod. The Lord Chancellor. By M. F. Bond and D. R. Beamish (H.M.S.O., £0.60, £1.25).

These publications are the first in a House of Lords Information Office series which seeks to remedy the lack of simple, popular booklets relating to the life and work of that House. The aim of the booklets is to provide a brief account of the origins and history of the offices of Black Rod and The Lord Chancellor and to describe their present day duties. The authors, both clerks in the House of Lords, are to be congratulated on the way in which they have achieved this aim. The booklets, whilst obviously well researched, maintain their 'popular' appeal by being succinct, easy to read and attractively produced.

Both booklets have a similar format, set out in sections devoted to various aspects of each office, although the very nature of their subjects results in some differences. 'Black Rod', who is described as 'a slightly mysterious ceremonial officer', is an original study based largely on House of Lords Journals and Papers.

The booklet traces Black Rod's work as an officer of the Order of the Garter to letters patent of the year 1361, although it seems almost certain that an Usher who carried a rod and 'kept the doors' had been

*Since writing this review, I have learned that the convention has been breached. Mr H. D. Carberry resigned from the Office of Clerk on his elevation to the Jamaican Bench. The able and experienced Deputy Clerk, Mr Edley Deans, who is not a lawyer, has now been appointed Clerk of the Jamaican Parliament in his place.

employed from some earlier time. The earliest known reference to his parliamentary duties is in the Garter Statute of 1522 and the authors describe his responsibilities from then until the present day.

Holders of the office of Black Rod have normally prospered, although Henry Norris, Groom of the Stole to Queen Anne Boleyn and Black Rod, was suspected by the King of an intrigue and has the unhappy distinction of being the only holder of the office to be executed. A lesser offence is recorded in 1641 when exception was taken to 'Mr. Maxwell coming to the House (i.e. The Commons), with a message, without his black Rod; and coming in, before he was called in;'. This is the first indication of what became, and still is, the custom of not admitting Black Rod to the Commons Chamber until he has knocked three times.

By the nineteenth century the office of Black Rod had become extremely profitable. Fees from Private Bills often exceeded £3,000 a year, and the sale of offices within Black Rod's control, such as 'deputy necessary woman' and 'firelighter', was a profitable sideline. Towards the end of the century, however, many reforms were undertaken and Black Rod's fees were replaced by a salary.

Developments during this century have included the practice of appointing Black Rod from each of the armed services in turn, and a new administrative system introduced in 1971, which made Black Rod the chief administrative officer of the House of Lords and not just a largely ceremonial figure.

The booklet also contains a well illustrated section on the antiquities of the office of Black Rod, a list of holders of the Office from 1361–1976 and a short section on 'Rods' from other legislatures and Orders of Knighthood.

'The Lord Chancellor' who is described as an officer 'exceptional . . . in the diversity of his responsibilities', is more a collection of information gathered from already published sources, although it does provide an overall perspective not easily found elsewhere.

The booklet describes how one man manages to combine being a senior member of the Cabinet with his own department, *ex officio* Speaker of the House of Lords and head of the Judiciary. His importance is reflected in his being, after the Royal Family, second in precedence in the country, coming only after the Archbishop of Canterbury.

Today, as from the time of the Norman Chancellors whose main function was to supervise the preparation and sending out of the King's letters and to seal them with the 'King's Seal', the 'Great Seal' is both the principle means of conducting the business and the symbol of the Chancellor's office. The Sovereign in person delivers the matrix of the Great Seal into the custody of the Lord Chancellor and he only relinquishes it on leaving office.

The authors succeed in outlining, without confusion, the various responsibilities of the Lord Chancellor – once described by A. P. Herbert as 'a human orchestra complete, Who played the cymbals with his feet . . . And never ceased to strike a multitude of drums and things' – and it is easy to follow the development of an office once held by a single royal scribe into a large and complex department of state.

The booklet ends with a section devoted to the Maces, the Lord Chancellor's Purse, Robes and Residence and a short piece about the Lord Chancellors of Scotland and Ireland.

(*Contributed by Sally de Ste. Croix, a Clerk in the House of Commons*).

XX. EXPRESSIONS IN PARLIAMENT, 1977

The following is a list of examples occurring in 1977 of expressions which have been allowed and disallowed in debate. Expressions in languages other than English are translated where this may succintly 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

"absurd" (*Bermuda H.A. Hans.*)
"blackmail" (*Can. Com. Hans.* 16.11.77)
"cover-up" (*Can. Com. Hans.* 16.11.77)
"culpability" (*Can. Com. Hans.* 16.11.77)
"denigrate" (*W.A.L.A. Hans.*, p. 3275)
"falsehoods" (*Can. Com. Hans.* 14.11.77)
"If you had a hand in it you would jam it in the till" (*N.S.W.L.A. Hans.* 1976/77/78, p. 8641)
"murky" (*H.C. Hans.*, Vol. 924, c. 1721)
"nonsense" (*Bermuda H.A. Hans*)
"pig" (*Can. Com. Hans.* 7.12.77)
"pitiful" (*Bermuda H.A. Hans.*)
"poochandi" (hobgoblin) (of a book written by the Leader of the Opposition) (*T.N.L.A. Procs.*, Vol. IX (No. 2) p. 160)
"rubbish" (*Bermuda H.A. Hans.*)
"untrue" (*Can. Com. Hans.* 21.6.77)

Disallowed

"All the member . . . is concerned about is growing opium poppies and from the look of him sometimes it seems he has tried a few samples," (*N.S.W.L.A., Hans.*, 1976/77/78, p. 9981)
"An envious Casca or a dangerous Brutus" (*N.Z. Hans.* Vol. 412, p. 2028)
"arrogant" (*A.P.L.C. Procs.*, 20.7.77)
"autocratic" (of a Deputy Chairman) (*R.S. Deb.*, 1.3.77)
"beasts of burden" (*Punjab V.S. Procs.*, 1.4.77)
"bloody" (*A.P.C.L. Procs.*, 27.12.77)
"bullfrog" (*N.Z. Hans.*, Vol. 412, p. 1785)
"bullshit" (*W.A.L.A. Hans.*, 1976/77/78 p. 7250)
"cheat" (*N.S.W.L.A., Hans.*, 1976/77/78, p. 8209)
"cheating" (of government) (*Punjab V.S. Procs.*, 1.4.77)
"Christ" (*H.C. Hans.*, Vol. 931, c. 1565)

"corrupt" (*M.P.V.S. Procs.*, 2.8.77)
"coward" (*H.C.Hans.*, Vol. 922, c. 377)
"deceit" (*Can. Com. Hans.*, 23.3.77)
"deceive" (*H.C. Hans.*, Vol. 922, c. 23)
"decency, the Minister would not understand anything about" (*W.A.L.A. Hans.*, 1976/77/78, p. 9645)
"deliberate lie" (*N.S.W.L.A. Hans.*, 1976/77/78. p. 4121 and 5854)
"deliberately misleading" (*Can. Com. Hans.*, 2.12.77)
"devil" (*M.P.V.S. Procs.*, 5.4.77)
"disgusting drunken performance" (*Aust. Sen. Hans.*, 2.11.77, p. 1965)
"dishonest" (*H.C. Hans.*, Vol. 932, c. 1316)
"fool" (*Bermuda H.A. Hans.*)
"foolish" (of legislation) (*M.P.V.S. Procs.*, 30.3.77)
"garbage" (*Bermuda H.A. Hans.*)
"great dishonesty and corruption" (*U.P.L.A. Procs.*, 29.7.77)
"if he shuts up" (*Q'ld. Hans.*, 1976–77, p. 2856)
"illegal" (*Can. Com. Hans.*, 14.11.77)
"it looks as though the former Minister has been growing it (marijuana)" (*N.S.W.L.A. Hans.*, 1976/77/78, p. 7591)
"madman" (*U.P.L.A. Procs.*, 1.11.77)
"master of the slur and slander" (*N.S.W.L.A. Hans.*, 1976/77/78, p. 7293)
"misrepresentation" (used in an amendment to Budget) (*Ontario Journal* 4th Session 30th Parliament, p. 53)
"mongrel" (*N.S.W.L.S. Hans.*, 1976/77/78, p. 7134)
"mortified" (of a Minister) (*Punjab V.S. Procs.*, 30.3.77)
"nitwit from Vasse" (*W.A.L.A. Parl. Deb.*, p. 2978)
"once a ratbag, always a ratbag" (*N.Z. Hans.*, Vol. 412, p. 1689)
"pimps" (*L.S.Deb.*, 4.8.77, c. 386)
"protector of blackmarketeers" (of the House) (*L.S. Deb.*, 9.12.77, c. 26)
"racist" (*Bermuda H.A. Hans.*)
"rigging the books" (*N.Z. Hans.*, Vol. 412, p. 1783)
"rotten scoundrel" (*W.A.L.A. Parl. Deb.*, p. 2991)
"scuffle" (*M.P.V.S. Procs.*, 21.7.77)
"sewer rat" (*Q'ld. Hans.*, 1977, p. 242)
"sitting on a dungheap" (*N.Z. Hans.*, Vol. 416, p. 4937)
"smear tactics" (*N.Z. Hans.*, Vol. 411, p. 1282)
"sober up" (*N.Z. Hans.*, Vol. 411. p. 1282)
"Swakuchamardanamu" (handling one's own breast) (*A.P.L.C. Procs.*, 28.12.77)
"the Minister . . . made a serious attempt to coerce the bread price inquiry . . ." (*N.S.W.L.A. Hans.*, 1976/77/78, p. 4975)
"they had to throw him out for drinking" (*N.S.W.L.A. Hans.*, 1976/77/78, p. 7791)
"they ought to ask the Premier with whom he lunched a few weeks ago" (*N.S.W.L.A. Hans.*, 1976/77/78, p. 10644)
"thug" (*W.A.L.A.P.D.*, p. 3190)

"too cowardly" (*H.C. Hans.*, Vol. 925, c. 1558)
"traitors" (*L.S.Deb.*, 8.7.77, c. 302)
"unmitigated, filthy, rotten teller of untruths" (*N.S.W.L.A. Hans.*, 1976/77/78, p. 7791)
"unscrupulous men" (*Aust. Sen Hans.*, 9.3.77, p. 49)
"when they created a mess" (of a political party) (*Punjab V.S. Procs.*, 6.4.77)
"you have given a false report, and made a false statement" (*R.S. Deb.*, 25.7.77)

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 £15, 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 £3.50 a copy, post free.

Administration

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.

Blain, Douglas J., C.D.—Clerk Assistant, Legislative Assembly of Alberta; *b.* 22nd December 1917, Rugby, England; *Ed.* grammar school, Rugby; high schools, Toronto and Vancouver, University of Toronto (extension); *m.* 2*d*; member Royal Canadian Air Force 1939–1969, Clerk Assistant, Council of the Northwest Territories 1969–1975; Executive Assistant Commissioner of the Northwest Territories 1975; Appointed Clerk Assistant, Legislative Assembly of Alberta, September, 1975.

Chin, Raymond.—Deputy Clerk Legislative Assembly for the Northern Territory; *b.* 11th June 1923; widower; 1*s* 2*d*; *ed.* Darwin Public School; Pui Ching Academy, Canton, China; joined Commonwealth Public Service 1953; Clerk of Records and Accounts 1968; Clerk of Committees 1970; Clerk Assistant 1974; Deputy Clerk since February 1978.

Deo, Bal Gangadhar, B.A.,LL.B.—Additional Secretary, Maharashtra Legislature; *b.* 27.12.1927; Soon after Law Graduation, joined the Judicial Service of the erstwhile state of Madhya Pradesh in 1953; then joined the Judicial Service of Maharashtra State on re-organisation in 1956; served in various districts as Assistant Judge; Additional Sessions Judge, District and Sessions Judge; Member Motor Accidents Claims Tribunal, Greater Bombay, and Presiding Officer, State Transport Appellate Tribunal, Maharashtra State; Joined Maharashtra Legislature Secretariat as Additional Secretary on 7th July, 1977.

Elly, A. F.—Clerk of the National Parliament P.N.G.; *b.* 1945; *m*; two children; *ed.* St. Patrick's College, Goulburn, NSW, Australia, Sogeri Secondary School, Port Moresby and the University of Papua New Guinea; Joined Papua New Guinea Administration as Despatch Clerk of the Department of Law 1964; seconded to the House of Assembly as Acting Sergeant-at-Arms, September 1964 to March 1966; appointed Clerk-Assistant of the House of Assembly 1973; Clerk of the House of Assembly since 1974.

Gleeson, Norman James.—Clerk Assistant Legislative Assembly for the Northern Territory; *b.* 1929; *m.* 3*s*, 1*d*; *ed.* Dimboola High School, Melbourne Technical College, Adelaide High School; joined Common-

wealth Public Service Darwin 1957, Sub-Editor *Hansard* 1964, Editor *Hansard* 1966–68; Commonwealth Public Service Adelaide 1969–75, Serjeant-at-Arms 1975, Clerk Assistant since February 1978.

House, Lt-Gen. Sir David, GCB, CBE, MC.—Gentleman Usher of the Black Rod, Secretary to the Lord Great Chamberlain and Serjeant at Arms, House of Lords; *b.* 8th August 1922, *ed.* Regents Park School, London; *m.*; 2*d*; King's Royal Rifle Corps August 1940; commissioned into the Regiment in August 1941; war service in Italy with the 1st Battlion KRRC; C.O. 1st Battalion the Royal Green Jackets in Penang, Borneo and Berlin 1964–65; Commander 51 Gurkha Infantry Brigade Group in Borneo 1965–67; Chief of British C-in-C's Mission to the Soviet Forces in East Germany 1967–69; Deputy Military Secretary 1970—71; Chief of Staff BAOR 1971–73; Director of Infantry 1973–75 and General Officer Commanding Northern Ireland 1975–77; Gentleman Usher of the Black Rod, etc. since January 1978.

Pentanu, S. G.—Acting Deputy Clerk P.N.G.; *b.* 21st October 1949; joined House of Assembly in 1969 as interpreter; then Principal Clerk Committees, Table Office and Bills and Papers Office 1975–July 1977; *ed.* High Schools in Bougainville and Rabaul; Adminstrative College; University of Papua New Guinea; Acting Deputy Clerk since 12th August 1977.

Stefaniuk, Bohdan J. D.—Clerk of Legislative Assembly of Alberta; *b.* 15th August 1937, Montreal, Canada. *Ed.* Montreal elementary and high schools, University of Western Ontario. *m.* 22nd October 1966, 2*s.*, Managerial appointments, Canadian Chamber of Commerce, Ontario Hotel and Motel Association, Canadian Bar Association 1960–1976; Appointed Clerk of Legislative Assembly of Alberta, September, 1976.

Tola, G.—Acting Sergeant-at-Arms of the Parliament P.N.G.; *b.* 16th April 1952; *m.* 1976; 1*d*; *ed.* Kwikila High School; PNG Forestry College, Bulolo; Employee of Government Public Service as Forest Officer 1976; Deputy Sergeant-at-Arms 1st July 1977; Acting Sergeant-at-Arms since 22nd September 1977.

Webb, J. V. D.—Fourth Clerk at the Table (Judicial), House of Lords; *b.* 8th November, 1930; *m*; *ed.* Tonbridge School and Wadham College, Oxford; called to the Bar 1955; joined House of Lords 1958; Clerk in Public Bill Office 1958–61; Clerk in Judicial Office 1961–62; Clerk of Printed Papers 1962–63; Chief Clerk in Committee and Private Bill Office 1963–71; Chief Clerk in Public Bill Office 1971-77; Principal Clerk, Judicial Office and Fourth Clerk-at-the-Table (Judicial) since July 1977.

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(Art) = Article in which information relating to several territories is collated.
(Com.) = House of Commons.

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