The Table

BEING

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IN COMMONWEALTH PARLIAMENTS

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USUAL PARLIAMENTARY SESSION MONTHS

	Parliament	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
	United Kingdom	●	●	●	●	●	●	●			●	●	●
	Northern Ireland						Suspended						
	Jersey	●	●	●	●	●	●			●	●	●	●
	Isle of Man	●	●	●	●	●	●	●			●	●	●
Canada	Federal Parliament	●	●	●	●	●	●			●	●	●	●
	Ontario		●	●	●	●	●				●	●	●
	Quebec		●	●	●	●	●				●	●	●
	Nova Scotia		●	●	●	●							
	New Brunswick			●	●	●	●						
	British Columbia	●	●	●	●	●	●	●	●				●
	Prince Edward Island		●	●	●						●	●	
	Saskatchewan		●	●	●	●						●	●
	Alberta		●	●	●						●	●	
	Newfoundland			●	●	●	●						
	Northwest Territories	●	●			●					●		
	Yukon			●	●						●	●	
Australian Commonwealth	Commonwealth Parliament		●	●	●	●	●		●	●	●	●	●
	New South Wales		●	●	●				●	●	●	●	●
	Queensland			●	●				●	●	●	●	●
	South Australia		●	●			●	●	●	●	●	●	
	Tasmania			●	●		●	●		●	●	●	●
	Victoria		●	●	●	●			●	●	●	●	●
	Western Australia			●	●	●		●	●	●	●	●	●
	Northern Territory		●		●	●	●	●	●			●	
	Papua New Guinea		●	●		●	●		●	●		●	●
	New Zealand					●	●	●	●	●	●	●	
	Western Samoa						●	●	●		●	●	●
	Sri Lanka	●	●	●	●	●	●	●	●	●	●	●	●
India	Central Legislature		●	●	●	●			●	●		●	●
	Andhra Pradesh		●	●			●	●				●	●
	Gujarat		●	●	●				●	●		●	●
	Haryana					No settled practice							
	Kerala			●	●			●	●		●	●	●
	Madhya Pradesh		●	●	●			●	●			●	
	Tamil Nadu	●	●	●	●			●	●	●			●
	Maharashtra		●	●	●			●	●	●		●	●
	Karnataka		●	●	●	●						●	
	Orissa		●	●	●				●	●			
	Punjab			●	●	●	●					●	●
	Rajasthan		●	●	●				●	●	●		
	Uttar Pradesh			●	●	●			●	●			●
	West Bengal		●	●	●			●		●		●	●
	Ghana			●			●			●			●
	Malaysia	●		●	●		●	●			●	●	●
	Sarawak					No settled practice							
	Sabah			●			●			●			●
	Singapore					No settled practice							
	Sierra Leone			●	●			●				●	
	Tanzania		●		●		●	●			●		
	Jamaica			●	●	●						●	●
	Trinidad and Tobago	●	●	●	●	●	●	●			●	●	
	Barbados	●	●	●	●	●	●	●			●	●	●
	Kenya		●			●	●			●	●	●	
	Malawi					No settled practice							
	Zambia	●	●	●	●			●	●			●	●
	Bermuda					No settled practice							
	Guyana					No settled practice							
	Solomon Islands			●				●				●	
	Gibraltar	●	●	●	●	●	●	●			●	●	●
	Malta, G.C.					No settled practice							
	Mauritius			●	●	●	●			●	●	●	●
	St. Vincent	●	●	●	●	●	●	●	●	●	●	●	●
	Belize		●	●		●	●	●		●	●	●	●
	Cayman Islands												
	Lesotho					No settled practice							
	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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IN COMMONWEALTH PARLIAMENTS

1. EDITORIAL

The Journal is not as full as the Editors would have liked, but they remain dependent on members of the Society for material. Although notes about Standing Orders and minor procedural matters are very important and must be included, the bulk of the Journal relies on longer articles which can go into a subject more fully. Next year will be the Golden Jubilee of The Table and the Editors sincerely hope that all Houses will make a special effort to contribute an article, however short, for the Journal.

This year we have been able to break new ground in including an article about the working of industrial relations at Westminster. We also include an article about the designing of the new Parliament House in Australia, with particular reference to the needs of those who will work in it. It is salutary to remember that parliaments across the world depend on the loyal, and often unsung, service given by staff at all levels, most of whom will never become members of this Society but whose needs must be looked after.

The Editors offer their congratulations to **Mrs Gwenn Ronyk**, Assistant Clerk of the Saskatchewan Legislative Assembly, who gave birth to a baby boy at the end of November last year. We believe this to be a "first" for the Society of Clerks-at-the-Table.

R. E. Bullock, O.B.E., B.A., B.Comm. – On 29th October 1980, Mr Roy Edward Bullock ceased to hold the Office of Clerk of the Australian Senate, pending his retirement.

Roy Bullock commenced his working life as a school teacher, before transferring to the Australian Public Service with the Department of Treasury. He joined the Senate in 1946, as Clerk of Papers and Accountant, and became a Chamber Officer in 1954 when he was promoted to the position of Usher of the Black Rod. From 1965 he served

as Deputy Clerk and was promoted to be the ninth Clerk of the Senate on 9th August 1979.

During his years with the Senate, Roy Bullock served on a number of delegations to the Inter-Parliamentary Union and acted as Secretary to the Senate Select Committee on the Development of Canberra, the Parliamentary Joint Committee on Foreign Affairs, and the Senate Regulations and Ordinances Committee.

In 1969 he was awarded the Order of the British Empire.

On 26th November 1980, the President of the Senate, Sir Condor Laucke, in drawing the Senate's attention to Mr Bullock's retirement, paid the following tribute:

> He has been a dedicated Senate Officer and has always been available and ready to advise when needed. The many articles that he wrote for publication in overseas parliamentary journals on the activities of the Senate and its committees are testimony to his expert knowledge and dedication ... I am sure that all honourable senators join with me in the hope that time will restore his health and enable him to enjoy a long and happy retirement with his wife and family.

In recognition of his services to Parliament, the following motion, moved by the Minister for Social Security, Senator Chaney, was carried:

> That, on the occasion of Roy Edward Bullock, O.B.E., ceasing to hold the office of Clerk of the Senate, the Senate places on record its appreciation of the long and valuable service rendered by him to the Commonwealth Parliament and conveys to him good wishes for many happy years of retirement.

In moving the motion, Senator Chaney said in part:

> Roy Bullock made his contribution to the Senate in a quiet and modest manner. Nevertheless we were always conscious of his presence and availability to advise on Senate procedures. In his own quiet and courteous way he left his mark on this place, having guided many senators through the labyrinth of the Standing Orders during the 24 years he served as a table officer. His advice was always clear and concise, based as it was on a thorough understanding of and affection for the Senate.

The Leader of the Opposition in the Senate, Senator Button, followed Senator Chaney, and said, in part:–

> I may say that I always found him to be a very friendly and courteous member of the Senate staff. If I may use an old-fashioned expression, Roy Bullock truly was one of nature's gentlemen. I think we all felt that. Roy Bullock was a Clerk of the Senate in whom we on the Labor side always had the utmost confidence, and that is something which we enjoyed very much. In spite of our enjoyment of that confidence, I am sure all senators were in the same position.

Many other Senators from Government, Opposition and cross benches also paid tribute to his great experience, his store of knowledge and service to the Parliament, and all wished him good health and happiness in his retirement.

Ronald Edward Alexander Ward. – On 18th February, 1981, Mr Ronald Ward retired from the Clerkship of the Legislative Assembly of New

South Wales, having served the House for forty years, of which almost twenty five were as a Chamber Officer, with the last seven as Clerk.

Ronald Ward began his career with the Legislative Assembly staff on 13th May, 1940 and served in most positions gaining a firsthand knowledge of the ramifications of parliamentary work. He was appointed Second Clerk Assistant on 1st July, 1956; Clerk Assistant on 1st January, 1967 and Clerk on 1st February, 1974. Mr Ward is the author of the parliamentary publication, *New South Wales Legislative Assembly: A Short Guide to Rules and Practice.*

During World War II, Ronald Ward served as a pilot with the Royal Australian Air Force and saw active service in the Pacific theatre.

Mr Ward had a close association with the Commonwealth Parliamentary Association and was for many years Honorary Secretary of the New South Wales Branch. He represented the New South Wales Parliament at a number of Commonwealth Parliamentary Association Conferences and Conferences of Presiding Offices and Clerks. Mr Ward was also attached to the staff of the House of Commons for three months in 1971.

On 24th February, 1981, the Speaker of the Legislative Assembly, the Honourable Lawrence Kelly, formally notified the House of Mr Ward's retirement. Mr Speaker said, in part, that Mr Ward's forty years of service to the Parliament must rank him with the vanguard of those senior staff whose service to the Parliament entitles them to tribute from the House.

The Premier of New South Wales, the Honourable Neville Wran, Q.C., then moved that Mr Speaker's remarks be recorded in the *Votes and Proceedings* and said, in part—

"I am sure all members of the House will join with me in expressing our appreciation of Mr Ward's distinguished career of more than forty years as an officer of the Legislative Assembly. During his period of service to the Parliament, Mr Ward has been most helpful and co-operative to members on both sides of the House. I am certain there can be few members who have not benefited in some way from his assistance .....".

In supporting the Premier's remarks, Mr J. M. Mason, Leader of the Opposition, said, in part —

"Mr Ward has been an outstanding and loyal servant of this Parliament. He has upheld the highest traditions of officers of this Parliament .....".

Mr Punch, Leader of the Country Party, supported the Premier's remarks by saying in part —

"I join in paying a tribute to Mr Ward for the tremendous assistance he gave all members of the Parliament and in expressing our sincere thanks to him. Members of the Country Party in particular, on whose behalf I speak, found Mr Ward's unbiased assistance and personal attention of inestimable benefit whenever they sought his advice .....".

Arthur Sydney Roy Dodwell, M.C. – Mr. Dodwell, Serjeant-at-Arms of the Queensland Parliament, retired on 14th June 1981 after just over three years service.

II. THE BROADCASTING OF THE UNITED KINGDOM PARLIAMENT

BY ROBERT ROGERS

A Senior Clerk in the House of Commons

Introduction

"Order, Order!" The stern cry from Mr Speaker Thomas with which each day's public proceedings of the House of Commons begin is now familiar to millions of radio listeners who have come to regard the sound of Westminster as a permanent – even a routine – part of their day.

Permanent live broadcasting of the United Kingdom Parliament began on 3rd April 1978, over fifty years after the broadcasters first sought permission to bring microphones into the Chambers of the two Houses. After more than three years during which the proceedings of the Lords and the Commons have been heard over the air, this may be a good moment to take stock of some of the problems involved – parliamentary as well as technical and editorial – and to look ahead.

However, the broadcasting of proceedings was argued so fiercely and for so long that one must begin with a look at the events which led to its introduction. Broadcasting's protagonists quite fairly point to fears that have proved groundless and difficulties which experience has shown do not exist; but it is important also to bear in mind the areas in which improvements can be made – as well as the problems which are for practical purposes insoluble.

The first approaches

The first application to broadcast Parliamentary proceedings was in 1923, when the infant BBC asked permission to broadcast the King's Speech in the House of Lords at the State Opening in that year. Permission was smartly refused, and it was not until 1926, when the BBC wanted permission to broadcast Winston Churchill's Budget Speech, that another approach was made. This too was refused, and Churchill's 'sombre' Budget – with an enthusiastic interruption from Nancy Astor as the Chancellor told the House of a fall in the consumption of spirits – went unheard by wireless listeners. Thus matters remained, and for some thirty-five years no more than desultory attempts were made to broadcast the proceedings of Parliament.

The modern debate

In the 1960s, however, there was a sudden resurgence of enthusiasm, soon to be matched by equally forceful scepticism from the opponents of Parliamentary broadcasting. In the Debate on the Address in November 1959, Aneurin Bevan had suggested that a technical investigation of the possibility of televising proceedings should be carried out. The *Hansard* of the debate records an anguished "Oh, no, Nye" from the Government benches, and this rather set the pattern for the strong feelings, for and

against, aroused by the suggestion of television and by the less revolutionary proposal for sound broadcasting. "We should seriously consider re-establishing intelligent communication between the House of Commons and the electorate as a whole" said Mr Bevan. "That, surely, is a democratic process."

In 1965 and 1966 the House of Commons Select Committee on Publications and Debates Reports (later the Select Committee on Broadcasting, &c., of Proceedings) examined the possibility of broadcasting proceedings, and in August 1966 they reported three main conclusions: that continuous live broadcasting in sound and vision was impracticable and undesirable; that the 'feed' could be supplied to the broadcasting organisations, for recording and editing, by a House of Commons Broadcasting Unit under the control of the House; and that a closed-circuit experiment should be made, on the basis of which the House could decide on the permanent arrangements (The Table, Vol 35, pp 69-73). The main thrust of the Committee's recommendations was towards television, however, and, with hindsight, this now looks like an attempt to go too far too fast. This was the view of the House, although by the narrowest of margins. After the first ever major debate on the subject, on 24th November 1966, the proposal by Richard Crossman, then Leader of the House, to conduct a closed circuit experiment in sound and vision, was defeated by 131 votes to 130. It had been the particular character of television, not the principle of broadcasting as such, that had most worried the opponents of the Motion. The then Quintin Hogg said in the debate, "... the thing is different in its character after the television camera is brought in. That is what I am afraid of ..." He said that the presence of 'reaction cameras' would alter the behaviour of Members, and particularly "the relationship between the Chair and the House; it will not be the same ever again". While in the Committee's Report and in the debate the point had been strongly made that it would be for the House to determine the terms on which proceedings should be broadcast, and that 'cutaway' or reaction shots could be barred entirely if the House so decided, the fear that broadcasting, whether in sound or vision, would change the character of the House and its proceedings remained a major part of the case against it.

The 1968 experiment

Nothing daunted, Mr Crossman brought the subject to the House again in December 1967, this time sensibly limiting his Motion to sound only, again for an experimental period, and only for the private consumption of Members: there was to be no public transmission. This proposal met with little opposition, and indeed was approved without a Division. A feature of the debate was a typically prescient speech by Sir Harry Legge-Bourke, the Conservative Member for the Isle of Ely. He pointed out the danger of sound coverage concentrating on the Chamber and giving a distorted impression of the amount and scope of the work of the House and of individual Members. He argued that particular attention should be

paid to Standing and Select Committees, and especially to the newly appointed 'investigative' Select Committees such as those on Agriculture and on Science and Technology. "Some of our best debates will be the hardest to record," he went on "because when a debate is showing a certain amount of vigour and hon. Members are perhaps more rowdy than we would think entirely desirable, it will virtually make it impossible for anyone to pick up with a clarity which would be desirable the principal speaker at the time." On the other hand, "there are occasions when asides become the principal observation because a microphone happens to have picked them up, and occasionally it would have been much better if those asides had not been uttered". He was also quite clear about the relationship between the broadcasters and the House in the production of programmes. "I am certain that hon. Members, be they a Sub-Committee of the Services Committee, or any other *ad hoc* Select Committee, are not the right people to edit a Parliamentary programme. That is essentially a matter for those experienced in editing. Hon. Members may have other things they do better, but they certainly could not do editing. I hope that we shall be quite clear about that." It would be impossible now or then, to find a broadcaster who would dissent.

In May 1968 the closed circuit experiment took place, and for the first time programmes were made, using recordings of proceedings (The Table Vol 37, pp 73-74). The Services Committee published the Report of their Broadcasting Sub-Committee on the experiment in October 1968. The Sub-Committee were strongly in favour of edited summaries and reports, together with the use of recordings, in news bulletins and current affairs and documentary programmes. They rejected continuous live broadcasting virtually out of hand (even at that stage it had few adherents); but it is interesting to see that they were not enthusiastic about any live broadcasts. "It is in the conditions of live coverage that the dangers often thought to be inherent in any form of Parliamentary broadcasting would be the greatest", they remarked somewhat delphically.

Nevertheless, in several respects the May 1968 Report tackled several of the main areas of concern, and foreshadowed the conditions under which the House was eventually to authorise the broadcasting of proceedings. The Sub-Committee considered that editorial control should rest with the BBC (this was before the setting up of the Independent Broadcasting Authority), implying that the House's ultimate sanction of discontinuing broadcasting altogether was adequate. They suggested an undertaking by the broadcasters not to use material in a satirical or light entertainment context. They urged full use of the proceedings in the Scottish Grand Committee and the Welsh Grand Committee, recognising that much of broadcast proceedings would have a particular regional interest; and in the process they grappled with the appalling acoustics in Committee Rooms. A complete archive tape should be kept, and Members should be allowed their own individual recordings of proceedings – but at a fee. The Sub-Committee drew

attention to the 'urgent' necessity of sorting out the law of Parliamentary privilege to allow it to accommodate live broadcasts. They ended on a high note "Provided that the House agrees with this recommendation (for sound broadcasting) not later than the early Autumn, broadcasting could probably begin at the opening of the 1969-70 Session."

The supporters of broadcasting may not have been greatly surprised when at the beginning of the next Session, in December 1968, the Services Committee, gloomily reviewing the earlier Report in "present financial circumstances", recommended that further consultations with the BBC should be held to see whether a cheaper way of broadcasting the House's proceedings in sound could be worked out. The capital costs had been estimated at £164,000; the consultations came to nothing, and the broadcasting of proceedings was effectively shelved for another seven years.

The House of Lords

It is fair to say that the Upper House have throughout taken a rather more relaxed attitude to the broadcasting of their proceedings than have the Lower; and certainly, while the Commons were rejecting television and then agonising over sound, considerable progress had been made in the Lords. In June 1966 the House of Lords agreed by 56 votes to 31 to televise some of their proceedings for an experimental period. A Select Committee was appointed to supervise the experiment, which took place in February 1968, on closed circuits, using both continuous coverage and edited programmes (The Table Vol 35, pp 58-68 & Vol 37, pp 60-74). They reported on the experiment in June 1968, and although they were of course concentrating on the televising of proceedings, which had by then been rejected by the Commons, the Lords Committee agreed on many points with the earlier and later Commons Committees. Thus they concluded that the editorial function was one for the broadcasters alone; and although they considered the idea of a Broadcasting Unit, staffed by employees of the House of Lords, which would carry out the televising and recording and make edited programmes available to the broadcasters, they found against it. They went further than the Commons Services Committee, which had suggested that a Select Committee should have the job of criticising and advising on programme content and coverage, by saying that "the right to broadcast any part of the proceedings ought ... to be as clear as is that ... of the Press to report and comment on those proceedings ... no attempt should be made on the part of the House to exercise detailed control over the content or duration of what is broadcast". As did the Services Committee in the Commons, they urged a comprehensive review of parliamentary privilege in relation to broadcasting, particularly as it affected the law of defamation.

The House of Lords Committee concluded that since television broadcasting would before long be done mainly in colour, they could not recommend permanent installations which would be difficult and expensive to adapt from black and white. Nor could they recommend a further, longer experiment, since the capital cost of the necessary works

and equipment would be some £360,000 at 1967 prices. Sound broadcasting on an occasional, 'drive-in' basis could be achieved at negligible cost, and they suggested that if the House of Lords wished to authorise an experiment in public sound broadcasting, it should be carried out on this basis for one year. However, their Report was not debated until March 1969, and the House of Lords failed to come to a decision either on television or on the suggested public sound experiment.

By the summer of 1969, the 'official' consideration in both Houses of possible sound and vision broadcasting had come to a halt, and there, as far as the Front Benches in both the Commons and the Lords were concerned, matters remained. As had been recommended by Committees in both Houses, a Joint Committee on the Publication of Proceedings in Parliament was set up in 1969, which, under the chairmanship of the late Lord Donovan, examined the extent to which broadcasts of proceedings were already privileged, or might need to be, and which suggested a legal definition of the concept of 'proceedings in Parliament'. No action was taken on these Reports; the difficulties which still exist are described below.

The public experiment

Broadcasting of proceedings might have been officially shelved, but in the Commons at least, the matter was regularly raised by back-benchers; twice, by Michael English in 1971 and by Phillip Whitehead in 1974, on the basis of a parliamentary broadcasting unit which could handle both sound and vision; and twice in 1972 and 1974, on the basis of an audio and television experiment. There were suggestions that the debates on joining the European Economic Community should, because of their immense importance be broadcast, and this idea was considered by the Services Committee, which recommended against it. In 1972 the Expenditure Committee, at that time the largest Select Committee in the House, sought the House's permission for the broadcasting of its proceedings. These efforts were in vain, however, and it was not until October 1974 that the events which led eventually to the permanent live broadcasting of proceedings were set in train. The Queen's Speech opening the first Session of the new Parliament in 1974 promised that both Houses should have an early opportunity to decide whether their proceedings should be broadcast, and on 24th February 1975 the House of Commons considered two Motions, authorising experiments in sound and television. The then Leader of the House, Edward Short, had learnt from Mr Crossman's tactical error nine years before, and he brought to the House two Motions, allowing separate decisions on television and radio broadcasting (The Table, Vol 44, pp 191-193).

It was proposed that there should be an experiment in both media to be supervised by the Services Committee. The financial arrangements agreed by the broadcasters were that the cameras, videotape recorders and the staff needed to make a sort of audio-visual *Hansard* should be funded by the House. The broadcasters would, for a fee, use the material,

and the editing of it and making up into programmes would be entirely matters for them.

A fascinating debate followed. Many Members who took part seemed to accept that the House would be voting on far more than the experiments. Once the cameras or the microphones came in – even if only for the three or five weeks necessary for the trial – television or radio broadcasting of proceedings would be a permanent feature of the House of Commons.

Many of the arguments of the previous fifteen years were redeployed, but most heavily against television. It would make actors of Members; cameras would move around the Chamber looking for unflattering – or near-libellous – shots; constituents unable to see their Member of Parliament would conclude that he had not been there. The standard of debate was too low, and television would make it worse by pandering to the *prima donna*, and selecting sensational extracts; it would entertain, not educate. Parliamentary procedure was too complicated for the ordinary viewer to understand, and the timetable of the House's working day would be altered to fit in with broadcasting schedules and to capture 'prime time'.

Bryant Godman Irvine, now one of the Deputy Speakers, wondered what the price would be of an experiment which worked, and gave Australia and New Zealand as examples of legislature which, he said, had had their procedures and working days dictated by the broadcasting of their proceedings. Members had to read out their Questions, and because prime time was around 7 o'clock in the evening, Ministerial speeches – and, indeed statements – were usually made around them, so that all-day debates had "no beginning and no end." The main lesson he drew from the Australian and New Zealand experience of sound broadcasting was that there was now no demand in either country for the televising of proceedings.

Many of the arguments for broadcasting were summed up by Edward du Cann, a senior Conservative back-bencher. "Parliament needs broadcasting", he said, "because democracy needs constant exposure. It is not enough for us to praise it and to speak our pride in it. It must be seen to work. The prestige of Parliament depends absolutely on the confidence of the electorate". He, and others, hoped that broadcasting would give a real picture of the work of the House by showing its full scope, and not being limited to events in the Chamber. John Peyton, speaking from the Opposition front bench and supporting an experiment in both sound and vision, wondered whether, if the House were to say 'no' to the experiment, "might not people conclude that so nervous an institution is lacking in the robustness which is needed in its task?"

The fundamental elements of the case for broadcasting, which are no less relevant now that the House is broadcast, were strongly made. On 28th March 1642 the House had resolved that anyone who printed reports of the House's proceedings without the authority of the House was "a high contemner and breaker of the privilege of Parliament". (This

Resolution, and some eleven similar ones that followed it, was not formally rescinded until 16th July 1971.) One Member quoted what had been said in a debate on unlicensed reporting in 1771, "that the practice of letting the constituents know the parliamentary behaviour of their truest representatives was founded on the truest principles of the constitution". This view found a ready acceptance and echo from the supporters of broadcasting, many of whom felt that sound broadcasting, at least, was only journalism through another medium, and that the House had long since grown used to problems of balance, interpretation and criticism when it came to the printed word in a newspaper.

The second point was the desire on the part of many Members to see the process of political reporting brought closer to Parliament. Without the availability of the *ipsissima verba* of Members in the House, it was argued, the media tended to set their own political stages, selecting subject, protagonists, time and chairmen. The counterfeiting of the processes of Parliament in a television studio could hardly be accepted as a substitute for the real debate in the High Court of Parliament. One Member – formerly a television producer himself – recalled Aneurin Bevan saying of the broadcasting of proceedings in 1959, "It is a humiliating state of affairs in which Members are picked out to take part in broadcasting on the *ipse dixit* of the bureaucracy of Broadcasting House."

Throughout the debate, there seemed to be an increasing acceptance of sound broadcasting. Opponents of broadcasting concentrated their criticism on television, and those who argued for broadcasting took the introduction of the microphones almost as a *fait accompli*. So it proved. At the end of the debate the experiment in sound was approved by 354 votes to 182, while that in sound and vision was rejected by the relatively narrow margin of 275 votes to 263.

The experiment in public sound broadcasting took place during a four week period in June and July 1975. The Services Committee, reporting to the House on the experiment, said, "The experiment was a national event which attracted wide interest throughout the United Kingdom, and was not one about which views tended to be neutral. On the contrary, it was felt either that the unique character of the House of Commons suffered by being broadcast, or alternatively that the attempt to put the people more closely in touch with Parliament was welcomed. Your Committee are in no doubt that the latter view predominates; they also feel that a large majority in the House itself is satisfied with the experiment and that many Members having reservations about sound broadcasting found their fears to be without foundation. Your Committee therefore find that the experiment in public sound broadcasting was successful and that broadcasting could be arranged satisfactorily on a permanent basis."

The Services Committee were more enthusiastic than any previous Committee about the creation of a parliamentary broadcasting unit to be responsible for the origination of the signal (microphone selection, mixing and so on) and for the supplying of sound feeds to the

broadcasters. However, pressure from the broadcasting authorities had moved them away from the idea of a parliamentary unit which would supply edited programmes, and which would itself be responsible for balance in presentation.

The Committee felt that a full tape record of the House's proceedings should be kept by the House, but that to do so also for Standing and Select Committees would be unnecessary and probably impracticable. They urged the formal definition of the copyright which would rest in the signal or in edited programmes, and of the degree of privilege which would attach to live broadcasts – matters now still unresolved. They turned down the suggestion which in retrospect, it is rather a pity was not investigated further; the possibility of broadcasting in stereo. The Independent Broadcasting Authority, the independent counterpart of the BBC, urged this on the Committee, saying that the organisation of the Chambers both of the Commons and the Lords, and of their proceedings, made them particularly suitable for stereo broadcasting. "Stereo is to radio what colour is to television"; but the BBC were unenthusiastic, and the Department of the Environment, who are responsible for the fabric of the Palace of Westminster and much of its services and installations, thought that it could not be done. Stereo was heard of no more.

Despite the endorsement of the experiment by the Services Committee, the House of Commons was a long way from permanent sound broadcasting being a reality. On 8th and 16th March 1976, the House debated the Motion "That this House supports the proposal that the public sound broadcasting of its proceedings should be arranged on a permanent basis."

The decision in principle

Members were perhaps a little too optimistic in the debate as to the extent to which an experiment of only four weeks could indicate problems of presentation, editing, balance and so on, but there was no doubt that after fifteen years' debate on the theory, the discussion of practical experience made an enormous difference. There had been a favourable public response to the broadcasts, and both the BBC and the IBA companies made even more use of extracts than they had planned. The question of a parliamentary broadcasting unit arose once again, although the arguments for and against it were more financial than organisational or technical. The BBC were prepared to meet the capital cost of permanent broadcasting from Westminster from the revenue raised through the user's annual licence, with the House meeting accommodation, power and maintenance costs. The independent companies, on the other hand, considered that any additional capital equipment which was attributable to the broadcasting of Parliament should be provided by the House. This undoubtedly contributed to their wish to see the feed produced by House staff using equipment funded by the House – a wish echoed by a number of Members in the debate.

Throughout the debate, the question asked was not so much "whether?" but "how?". There was still opposition, of course. One

Member still saw broadcasting as making of the House "a sort of public hustings with the whole of the United Kingdom as audience. It will also make the House of Commons part of the huge and growing news and entertainment industry, and I purposely and regretfully bracket the two together." Nevertheless, the House agreed to the Motion by 299 votes to 124.

The Joint Committee

On the same day the House of Lords had agreed to a similar Motion authorising the permanent public sound broadcasting of proceedings in that House, and a Joint Committee of both Houses, appointed to thrash out the practical details of how broadcasting would be organised, met for the first time on 4th May 1976 (The Table, Vol 45, pp 61-67).

While the Joint Committee took considerable pains over their investigation, they were inevitably hampered by the shortness of the experiment which was at the time the only experience of Parliamentary broadcasting.

In areas such as the relationship between *Hansard* and the tape, legal privilege and the sound archives (which are discussed below), their conclusions have perhaps not been borne out by the three years of broadcasting of proceedings.

The Joint Committee were also constrained by strong pressure to produce a Report quickly ("rail-roaded by the Government" said one Member in the subsequent debate on the Report); after fifteen years of debate and committee investigation, there was little enthusiasm for a lengthy inquiry, and the Report which they produced in March 1977 broadly reflected the arrangements which the Services Committee had made for the experiment in 1975.

On the vexed question of a Parliamentary Broadcasting Unit, the Joint Committee were clear. If the broadcasters were to have editorial control, they said, the only function of such a Unit would be to process the signal and pass it on, employing a number of staff in order to do so. If they were to process the signal any further, this would involve taking on an editorial function and probably delaying the release of newsworthy material. As far as the other rôles of a Unit were concerned, providing a tape for the archives, and installing and operating the necessary equipment could be carried out by the broadcasters directly; controlling any misuse of recorded proceedings could be the task of a permanent Joint Committee, and the holding of copyright in the recorded signal was unnecessary.

The founding Resolutions

The Joint Committee ended their Report with the optimistic recommendation "That broadcasting commence in the autumn of 1977". In July 1977, four months after their Report, the House debated a Government Motion setting out the terms on which broadcasting should take place; by then it was clear that the lead time needed by the BBC and IBA meant that broadcasting could not begin until the following year. It was perhaps unfortunate that the timetable was such that the Resolutions of

the House of Commons which set out the ground rules for broadcasting were come to after a debate which began at 2.28 in the morning and finished at four minutes to four o'clock, but a lively debate ensued nevertheless. The total costs of broadcasting both Houses were estimated to be: for the BBC (which the Joint Committee had, with the agreement of the Corporation, recommended should be responsible for the signal origination, resupplying it to the IBA), capital £400,000 and current £275,000; for the IBA, capital £70,000 and current £60,000; and on public funds, £310,000. No estimate was then made of the continuing cost to public funds, although, as was pointed out, this was likely to be considerably less than the cost of a Parliamentary broadcasting unit. Nevertheless, several Members who had been some of the most enthusiastic supporters of sound broadcasting strongly opposed the Government's suggestion that the Joint Committee on Sound Broadcasting should continue to supervise the arrangements, and this Motion fell. The ground-rules were agreed to, in a Division which only just achieved a quorum, and were as follows:–

Resolved, That, pursuant to the Resolution of the House of 16th March 1976 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 directions ('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.

A Broadcasting Unit?

It seems extraordinary that even after the agreement of the Resolutions the House of Commons should still have been two days' debate away from giving the final authorisation for broadcasting, but that was the case. Work had meanwhile gone ahead on the studio

accommodation for the broadcasters, and on 26th January 1978, the House debated the orders of reference for a Select Committee which would "give directions and perform other duties" in accordance with the founding Resolutions of 1977. However, an amendment proposing, once again, the creation of a Parliamentary Broadcasting Unit (described by the amendment's mover, Michael English, as "what every Committee of this House, bar one, has recommended, and what at least one broadcasting authority recommends") was not selected by the Chair for debate or decision. Nevertheless, the question of the type of control the House wished to exercise, and whether this could better be done by a Unit, dominated the debate. It was clear that the many supporters of broadcasting would vote even against the appointment of a Select Committee unless a separate decision were possible on a broadcasting unit, and the debate was adjourned. When the House considered the matter again, some ten days later, two amendments were selected, one seeking to appoint a Manager of Broadcasting Operations, responsible to the House, and one seeking to set up a House of Commons Broadcasting Unit. The Government's Motion was slightly different, as well: this time, it gave the proposed Committee the job of making recommendations to the House, but reduced its term of appointment to the end of the next Session of Parliament.

The case for the House-controlled origination of the signal was strongly argued. It was suggested that a Parliamentary unit would be less prone to disruption by an industrial dispute (the previous State Opening of Parliament had not been televised for that reason). It was suggested that the clean feed would be highly saleable. "I believe," said one Member, "that the Joint Committee and the Government have underestimated the demand, the use and the financial value of the commodity of which they are ready to dispose simply for the cost of signal origination". "Control of broadcasting should be vested in Parliament, and ... the exercise of that control should be before rather than after transmission." The supporters of a Unit, and of the appointment of a Manager of Broadcasting Operations, were careful to point out that far from suggesting a method whereby the House could censor the output, they were trying to distance the professional decisions taken on broadcasting grounds from the political judgements to which a Select Committee would be prone, and they cited Canadian experience as a highly successful method of supervising parliamentary broadcasting. Neither amendment was successful, however; that seeking the appointment of a Manager of Broadcasting Operations was defeated by 64 votes to 53, and that instructing the Select Committee to set up a broadcasting unit was defeated by 68 votes to 49.

The House agreed, without a Division, to appoint a Select Committee to "give directions and perform other duties" in accordance with the 1977 Resolution, and to make recommendations to the House. The Committee, which was given the usual powers to send for persons, papers and records, and to appoint specialist advisers, was to consist of six

Members and to have the power to join the equivalent Committee in the House of Lords.

Although the Committee was appointed on 6th February 1978, no Members were nominated until 20th March, a little over a fortnight before permanent sound broadcasting began. It was thus impossible for the Committee to take the decisions on matters such as privilege, copyright and selection of material for archival presentation which the Joint Committee had recommended should be taken before broadcasting began on a permanent basis.

The first broadcasts

Broadcasting of the proceedings of both Houses began on 3rd April 1978, and from the Commons listeners heard Mr Speaker first announce the death of a Member, and then call the first Question to the Secretary of State for Wales, on the numbers of people able to speak Welsh, and the steps being taken to promote the Welsh language. The presence of live microphones seemed to pass unnoticed, although it is perhaps fair to wonder whether the Secretary of State would have been asked what action he was going to take on a report entitled "A gawn ni farn yr YS grifennydd Gwladol yn faun ar yr adroddiad yma" if the proceedings had not been reaching a wider immediate audience than before.

Commons proceedings on the first day of broadcasting were in a somewhat lower key than on many days: Welsh Questions were followed by those to the Lord President of the Council, and a statement on a printing dispute affecting parliamentary papers was followed by an all-day debate on the Royal Air Force. There were comments in the Press (and from Members) the next day to the effect that it was unfortunate that the first day's broadcasting could not have been more dramatic and contentious. Those who had opposed broadcasting on the grounds that Parliament's ways would become regulated by the programme controllers feared that their worst forebodings would be realised.

The effect of broadcasting

In fact, three years' sound broadcasting of both Houses has had an astonishingly small – almost negligible – impact on the shape and style of proceedings. In the Commons there was an increase of 30% in the number of Members seeking to ask an oral Question of the Prime Minister in the first six months of broadcasting compared with the six months before April 1978. However, although this may have been attributable to the fact that Prime Minister's Question Time was broadcast live on the BBC's main national network, the numbers of Questions tabled to the Prime Minister showed no decline after the BBC stopped broadcasting Prime Minister's Question Time live; indeed, the average number increased slightly. The character of the Budget Speech is often thought to have changed substantially with the coming of broadcasting: in fact the Chancellor of the Exchequer spoke for an hour and eight minutes in opening his 1978 Budget, only fifteen minutes less than in 1977, and every Budget since has been longer. Whether there

have been efforts to relieve the opacity of economic judgements remains a matter of opinion.

There was, in the first few months of broadcasting, criticism that Members were tailoring their speeches to the needs of the hard-pressed radio editor; that particularly forceful or vivid passages were being encapsulated in a sentence or two to make their inclusion on 'Today in Parliament' more likely. Perhaps so in some cases: but on the other hand trying to make a speech more forceful or vivid could by no stretch of the imagination be called a new phenomenon.

The major change in proceedings in the Commons has not been to the proceedings themselves in the House, but to the way in which they are heard over the air. It is technically impossible to reproduce in broadcast sound the exact atmosphere, sound – and above all, spatiality – of the Chamber. Broadcast sound is taken from the microphones which were already used for the internal voice-amplification system, and which hang some seven feet over the benches, or are on a stand at the Dispatch Boxes. Once a microphone is switched on, it gives the voice or voices within its range dominance over the other sounds in the Chamber. Of course, when one is in the Chamber oneself, binaural hearing combined with vision gives a great deal of selectivity – just as it is possible to pick out a conversation at a cocktail party even though the level of background noise may be very high. Most Members who speak from the Dispatch Box are aware of this, and know that if, during the last few minutes of a contentious and noisy debate, they just keep going, their broadcast words will be heard clearly even though the level of noise and interruption in the Chamber would otherwise have made them adapt their delivery considerably. While this can only be an impressionistic judgement, many Members (and most Ministers) must be aware of the assistance the microphones can give them.

Paradoxically, there is pressure to adopt the sound system so that it gives a yet more selective broadcast. This has come about in two ways. First, Members, when in the Chamber, are used to being able to discount extraneous sounds (the 'cocktail party' technique). Second, there has been very strong reaction, amongst those of the broadcast audience whose only knowledge of the House has been acquired over the air, at the level of background noise. There cannot be a Member who has not received outraged letters about what the Press and broadcasters have come to call 'the zoo-noises problem'. The sound of an excited and noisy House of Commons during an important and contentious debate is so much part of Westminster that those who are used to it and who understand the reasons for it are hard put to explain matters to constituents who are used to the comparatively decorous stage-management of such programmes as "Any Questions". It is in vain to say that, as far as can be determined, the House one hundred years ago was much noisier, much more often, than the House of today. Mr Speaker Thomas, when tackled on this subject recently by an interviewer,

responded robustly. "There *are* quiet Parliaments in the world", he said. "One of them is in Moscow".

Balance and presentation

The problem of noise in the Chamber is closely associated with the problem of presenting a balanced view of the House and its work – which is far more of a problem in the Commons than in the Lords. The measured, courteous tones of proceedings in the Chamber of the House of Lords, together with a growing amount of select committee activity, are a fair representation of the character and scope of that House's work. In the Commons, not only is there a much larger Committee system, but there are also the Standing Committees, dealing with a majority of Committee stages of Bills. In addition, there is the enormously wide spectrum of proceedings in the Chamber, from the noisy, theatrical final minutes of a major debate on, say, unemployment, through expert contributions to tranquil and meticulous proceedings on the Report stage of a Companies Bill, to an Adjournment debate, perhaps on the pension entitlement of an individual constituent, when there may be no more than three or four Members in the Chamber. In addition, there is the unique problem of Question Time.

From well before broadcasting began, there has been a suspicion in some quarters that all the broadcasters wanted was rowdy, gladiatorial combat. This was true to a certain extent, because a current affairs broadcaster is, like any other journalist, looking for news. However, the application of the standard of newsworthiness to the use of parliamentary material is no bad thing for Parliament. Extracts from proceedings are used in news and current affairs programmes not simply because they can compete on their merits with any alternative way of treating the subject. One result of this is that there is far less tendency for Ministers to make major policy statements outside the House, with the panoply of a press conference, than there was before Parliamentary broadcasting.

Nor should one forget the immense difficulties facing the broadcasters in planning and scheduling Parliamentary broadcasts. One of the reasons the BBC began broadcasting Prime Minister's Question Time live was that it was the only regular item of business whose timing could be predicted more than ten days ahead. Ordinary Ministerial Questions recur to the same Department once a month, and so could not occupy a regular weekly slot, and all other items of business are dependent on the Leader of the House's announcements on a Thursday of the business for the next week and for the Monday after that. Nevertheless, the live broadcasts of Prime Minister's Questions were very heavily criticised (perhaps because they were broadcast for their character rather than for the merit of their content) and after eighteen months the BBC gave up broadcasting them live; some of the independent companies continued with occasional live broadcasts, but these still posed the same problems, together with the presentational problem of live as against recorded broadcasting (of which more later).

How proceedings are broadcast

When a Member rises to speak, an employee of Tannoy Ltd. (who have operated the voice amplification system since it was installed), tucked away in a glass-fronted box discreetly placed in the shadows below the Strangers' Gallery, presses a button to activate the nearest microphone. Because Members have no fixed seats in the House, spotting the Member who has been called and then selecting the microphone nearest to him is no easy matter, particularly in the quick-fire exchanges of Question Time, when a Member's first few words are sometimes lost.

From the microphones in the Chamber the sound is fed through a 'sound origination area' near the Chamber, in which broadcasting personnel make minor technical adjustments to the sound quality, and then on to the BBC and Independent Radio News Studios, which are some 300 yards from the Chamber, outside the Palace of Westminster altogether. Before reaching the sound origination area, however, the feed passes through a control room below the Chamber, where, by means of a switch under the control of the Serjeant at Arms, it may be cut off altogether if by some chance the House resolves to sit in private.

Select and Standing Committees of both Houses may be broadcast, as may Committees on Private Bills, provided that they meet in public. However, the number of Committee meetings (on a Wednesday in the Commons, twenty or more may meet in public) has meant that only a small proportion of meetings are recorded for broadcasting. To obtain a feed of broadcastable quality the microphones in the Committee Room have to be switched as Members speak. To provide this facility for every Committee would require a level of staff and resources which neither the broadcasters nor the two Houses are prepared to fund. The BBC and IBA are understandably unwilling to pay for recording material which they do not want to use, and in the absence of a decision from either House on the matter, no public funds are available. In practice, the broadcasters pick out meetings which are likely to be interesting, and provide their own staff. A complete recording of any such meeting has to be supplied to the Parliamentary Sound Archives.

It is important to note that Committees do not have the power to exclude the microphones; if they meet in public, the Resolutions of the two Houses provide that they may be broadcast, and their only recourse is to meet in private.

How proceedings are used

The BBC use proceedings in two main ways. For the national networks, their studios at Westminster provide news items combining spoken reports and recordings of proceedings of the two Houses (the latter known by the dreadful word 'actuality'). In addition they compile and contribute to political and current affairs programmes, principally on radio, but also on television (when a still photograph of the Member speaking is shown or, occasionally a cartoon of the Chamber). For regional television and local radio they prepare edited 'packages' of actuality which are sent to their local stations.

The Independent Broadcasting Authority have, in practice, no networked radio broadcasts, and therefore a rather different style of operation. Independent Radio News, one of the IBA's programme contractors, handles parliamentary material for all the independent local radio stations, as well as supplying it to Independent Television News and the independent television companies. Some twenty independent local radio stations receive daily or weekly 'wraps' or packages summarising proceedings in the two Houses.

The relationship between Westminster and the individual local stations, whether BBC or independent, leads to fuller coverage of parliamentary proceedings than would be possible with three or four nationally networked channels alone. Local Members are heard in their own constituencies, and there is considerable coverage of local issues, from those aspects of major debates which touch on particular local industries or employers, to the daily half-hour Adjournment debate, which might have as its subject a particular road scheme or the problems of a particular constituency.

Who listens?

The twin tyrants of broadcasting, audience research and listening figures, do not deal so kindly with parliamentary broadcasting. Measured against the appeal of popular music programmes, long-running serials and the like, programmes devoted to political reporting and analysis must have something of a minority appeal. In the first two years of broadcasting, the BBC's 'Yesterday in Parliament' programme (which has now been on the air for more than 50 years) had a daily audience of between 650,000 and 1,100,000 listeners (between 1.2% and 2.1% of the U.K. listening population), with the average at about 1.7%. The estimated average audience for this year is slightly higher, at around 1,000,000. However, this is easily the highest audience figure for any exclusively parliamentary programme. The BBC's weekly magazine programme 'The Week in Westminster' has an average audience of 400,000 (0.7%), while their programme 'Inside Parliament' which concentrates on Committee work in the two Houses, admittedly broadcasting late on a Sunday night, has an audience of only 100,000, or 0.2% of the listening population.

Local radio listening figures are much higher, both for the BBC and the IBA and vary enormously between different parts of the country (from 16% in Stoke-on-Trent to 1% in Birmingham). However, since in local broadcasting parliamentary items are usually included in magazine-type programmes, their audiences cannot easily be measured.

Live v. recorded sound

The proportion of live to recorded broadcasting, never very high, has fallen throughout the three years of broadcasting. The major problem of live broadcasting is the scheduling difficulty already mentioned; and now that the novelty of live sound from Westminster has worn off, coverage has been overwhelmingly in the much more manageable form of recorded

summaries. Extensive live coverage is now rare; Budget Day is an obvious candidate, but other proceedings must satisfy exacting criteria of public interest and importance to be broadcast live; examples so far include the confidence debate in March 1979, as a result of which Mr. Callaghan's Administration fell, the occasion on which the House decided against the reintroduction of capital punishment, and the Prime Minister's statement in which she confirmed that Anthony Blunt had been a Soviet agent. The broadcasters have been imaginative in including other items, such as the debate on the Windscale nuclear facility, a three-hour debate of very high quality on the fundamental issues of nuclear power, followed by a free vote, which fascinated a radio audience somewhat disillusioned with the rowdy knockabout of Prime Minister's Question Time.

As well as the insuperable scheduling problem, the two major operational drawbacks of live broadcasting are commentary and procedure. The first is particularly in evidence in Question Time. The commentator sits in a glass-fronted box below the Strangers' Gallery, from which he has a good, but not complete view of the Chamber, and as well as identifying Members (no easy matter in a House of 635) he has, since Questions are not read out in the Commons, to convey to listeners the substance of a Question on the Order Paper in the time between a Member saying "Number Four, Sir" and the Minister beginning to read out his prepared answer to Question No. 4. One habit into which commentators fell, perhaps naturally, and which aroused a good deal of opposition, was the use of shorthand descriptions of Members, such as "Labour left-winger", "Conservative anti-Common Market" and so on. Members resented such over-simplified descriptions, and the Commons Select Committee on Sound Broadcasting put successful pressure on the broadcasters to make their descriptions more objective. The procedural difficulties faced by commentators are very great. Explaining to a lay audience that Oral Questions in the Commons are never read out, and that an Order Paper is necessary in order to be able fully to follow Question Time is one thing, but to explain the flurry of formal or semi-formal proceedings, for example, at the commencement of public business, is quite another. An application under Standing Order No. 9, followed by a ballot for Notices of Motions, followed by the presentation of a Bill, the passing of an exemption Motion in respect of business to be taken later in the day and the calling of a Member to move for leave to bring in a Bill under the ten minute rule procedure might take only four or five minutes, but the job of the commentator in explaining what was happening would be formidable, if not impossible.

The practical result of this is that since most proceedings are heard in recorded form, which can include procedural explanation, there has been negligible pressure on the House to simplify procedures or to reorganise its daily timetable, as many of the opponents of broadcasting had feared.

The sound archives

Every day the BBC's master tape of the previous day's proceedings in

both Houses is lodged with the Parliamentary Sound Archives. These archives, which serve both Houses, operate under the directions of the Sound Broadcasting Committees of the Lords and of the Commons. The three full-time staff, in addition to storing and indexing the master-tape of proceedings in both chambers and such Committees as may have been recorded by the broadcasters, also supply to Members on request taped copies of particular proceedings. A small charge is made to cover the cost of the blank cassettes, and, on the instruction of the two Select Committees, a condition of issue is that recordings shall be only for the private use of the Member concerned. If the tapes are to be used at a public meeting, for example, then the permission of the relevant Committee has to be obtained. In fact little use is made by Members of this facility; on average, only fifty or so tapes a year are issued to Members of the Commons, and a similar number to the Lords. When the Joint Committee on Sound Broadcasting reported in 1977, they envisaged that a selection of material should be made for permanent preservation, and this was reflected in the July 1977 Resolutions of the two Houses. However, even after three years' broadcasting, no pressure on space has yet been experienced, and as a result the weeding process has not started. The archives also provide listening facilities and these have proved most useful from a procedural point of view. For example, when several Members alleged, on a point of order, that the Chair had denied them an opportunity to divide the House, it was an easy matter to listen to the recording of the incident (and, as it happened, to hear that the Members concerned had not persisted in challenging the Chair's collecting of the voices).

Use and misuse

The formal controls over the use of recorded proceedings are strict. As we have seen, no-one, not even a Member, may make unauthorised public use of the recordings, and although the Select Committees of the two Houses have the power to make the 'clean feed' (the sound without any added commentary) available to other broadcasting authorities or organisations, the Resolutions of the two Houses apply to its use. In addition, the Commons Committee have imposed the additional requirement that the recipients must be prepared to make available to the Committee full details of how the material has been used. Of course, all these rules are effective as long as they apply to people who are prepared to play the game. It is easy enough to monitor nationally networked use within the United Kingdom; and while misuse by a local station might not be complained of immediately, both the BBC and IBA have given to local stations instructions and guidance for use which are in some ways stricter than the rules imposed by Parliament. What cannot easily be monitored, of course, is use abroad by overseas broadcasting authorities, and unauthorised use by individuals and organisations at home. In practice, a *de minimis* rule applies; if the use were responsible and recorded proceedings were used in ignorance it might well be that no action would follow. If an overseas authority authorised to receive proceedings

misused them, for example in a satirical way, their access to the clean feed would be ended. No control can easily be exercised over a private individual who records 'off-air', and to take action against such people might be a little undignified. No loss of revenue to the two Houses would be involved, since licence to use proceedings is not sold.

However, false, distorted or partial use is another matter. In the Services Committee's review of the 1975 experiment, the then Attorney General was of opinion that such use could constitute a contempt, as could any improper conduct reflecting adversely on the House. The Joint Committee recommended in 1977 that rather than try to formulate specific rules governing use, the two Houses should judge each case as it arose. This course was followed; it seems to have been eminently satisfactory – perhaps principally because no case involving contemptuous use of material has so far arisen.

An associated problem that has not yet been solved, however, is that of commercial use of proceedings. In practical terms, it is at the moment not allowed. While both Committees have taken a relaxed view of copying tapes, even on a large scale, for educational purposes, this has been on the understanding that any charge made is only to cover costs. Sale for profit is not permitted, and on at least one occasion the Commons Committee has made an Order prohibiting a particular company from selling tapes for profit. There is no doubt that there is a market, perhaps a considerable one, for highlights of proceedings. There is a strong argument for the sale of such recordings to be managed by the two Houses themselves.

The major difficulty here is that it is, perhaps surprisingly, not clear who owns the copyright in proceedings. Both the broadcasters and the Houses themselves have seemed to shy away from a resolution of the difficulty. The Joint Committee said in 1977 "The broadcasting authorities and the Government should consider this matter and bring definite proposals to the two Houses before the first of the material for permanent preservation is placed in the archives". For whatever reason, this did not happen, and the fact that the Commons Committee was not appointed until a fortnight before broadcasting began meant that it was too late to take precautionary action.

Supporters of a House of Commons Broadcasting Unit point out that if such a body were charged with signal origination, there would be no doubt but that the House would hold the copyright. Since the BBC and the IBA are authorised by the July 1977 Resolutions to operate the sound signal origination equipment, there must be a presumption that an element of copyright is theirs – or rather the BBC's, since by agreement with the IBA they have the responsibility for operating the equipment whose output they both use. But the microphones in the Chamber are switched on and off by the employees of Tannoy, the commercial firm which is under contract to the House to provide and operate the voice amplification equipment. It would seem that any vesting of the copyright in Commons proceedings would have to be by legislation. There is

undoubtedly a strong argument for making such legislation retrospective to cover all the proceedings so far recorded, but there would be understandable objections to this.

Broadcasting and privilege

The fact that there is no Broadcasting Unit, that the tapes are made with the permission of, rather than under the authority of, the two Houses leads to a somewhat strange situation over the degree to which they are privileged. Once again, it seems likely that this can be changed only by means of legislation. The ancient privilege of freedom of speech, asserted by the House of Commons and confirmed in a number of cases from the fourteenth century onwards, received statutory confirmation under Article 9 of the Bill of Rights after the 'Glorious Revolution' of 1688, by which it was declared 'That the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place outside Parliament". It is undoubted that Members have absolute protection in respect of words spoken or things done as part of a proceeding in Parliament. The situation with respect to reports of such things was not finally determined until after the case of *Stockdale v. Hansard* in 1837. The Parliamentary Papers Act 1840 conferred absolute privilege in respect of "any ..... report, paper, votes, or proceedings ..... by or under the authority of either House of Parliament".

The introduction of broadcasting has of course introduced a new element: absolute privilege clearly does not apply to the broadcasting or re-broadcasting of words spoken in the Chamber. The learned Joint Committee on the Publication of Proceedings in Parliament investigated the matter at some length in 1969 and 1970. They concluded that the BBC's request for absolute privilege to be applied to broadcasts of proceedings should not be granted, for the principal reason that "the policy of Parliament seems always to have been to restrict absolute privilege to publication of a complete parliamentary proceeding and to grant qualified privilege only to the publication of extracts". Section 3 of the 1840 Act confirmed qualified protection in respect of extracts published "*bona fide* and without malice" – such protection as is accorded to a full and fair newspaper account of proceedings – or, indeed, to a Member who circulates an offprint of his own speech. (By the Defamation Act 1952 this qualified privilege was extended to the publication of such extracts (not actual recorded proceedings) by means of broadcasting.) If the broadcasters were transmitting proceedings live, said the Committee, "there could hardly be more convincing evidence of the absence of malice". Finally, they felt that it would be wrong to invest all broadcast use of proceedings with absolute privilege, not only because it would represent a substantial change in the practice of Parliament, but also because it would protect an employee of the broadcasters who "maliciously selected for publication and caused to be broadcast matter defamatory of some individual which he knew to be untrue,".

So far, so good: however, the Joint Committee considered the

application of privilege chiefly as it affected the law of defamation. With the introduction of broadcasting, however, experience has shown two further areas where practical difficulties might arise.

Qualified privilege affords protection in criminal cases only in the case of defamation. Consider a case where the anonymity of a witness is protected by a Court order, and in the House a Member names the witness concerned. This seemed a far-fetched set of circumstances until 20th April 1978, a little more than a fortnight after broadcasting began, when no fewer than four Members named in the House a principal witness in a secrets trial in the High Court. This witness, engaged on intelligence work of some sensitivity, had, following a Court order, remained anonymous during the trial, and was known only as 'Colonel B'. His identity was then published in two magazines, which were proceeded against by the Attorney General for contempt of court. At the time these latter proceedings were still under way, and so the four Members had, as Mr. Speaker ruled and the Committee of Privileges found, offended against the *sub judice* rule. But the broadcasters were placed in a considerable dilemma. The words had been spoken in the House, and in that sense no action could be taken against those who spoke them. However, it was certain that re-broadcasting those words would nevertheless be just as much in contempt of court as had been the magazines which had originally published the Colonel's name; and in an unusual step, the Director of Public Prosecutions immediately informed the broadcasters that this would indeed be so. Although at first the name of the officer was read out by announcers that evening on news bulletins, this was rapidly replaced by a recording of the words spoken in the House, and announcers avoided naming the officer themselves. In the event, no action was taken against the broadcasters, and the Committee of Privileges recommended that fair and accurate reports of proceedings in Parliament should be qualifiedly protected for all purposes, not simply as far as the qualified protection which was afforded against actions for defamation.

The second problem area is that of differences between the Official Report (*Hansard*) and recordings of proceedings. Following a Select Committee recommendation in 1907 Commons Hansard has been a full report "which, although not strictly verbatim, is substantially the verbatim report, with repetitions and redundancies omitted and with obvious mistakes corrected, but which on the other hand leaves out nothing which adds to the meaning of the speech or illustrates the argument." The Official Report is taken down by shorthand writers, who hear through an earpiece the same feed that is available to the broadcasters. However, the text is then extensively sub-edited. A random sample of *Hansard*, compared with the tape, showed that for a quiet passage of Agriculture Questions, no fewer than 27 corrections were made to half an octavo page of type (some two minutes' worth). In the rowdier circumstances of Prime Minister's Questions, the same length of time produced 51 corrections. Of course, such editing, in

conformity with the 1907 recommendation, does produce a more lucid and easily comprehensible record, but it also takes *Hansard* (which, being published under the authority of the House, is absolutely privileged under the 1840 Act) further and further from the actual sound of proceedings.

This would not matter until actionable words were spoken in the Chamber, perhaps when there was a good deal of noise in the House, which then did not appear in *Hansard* and yet were broadcast in live or recorded form. In one of the random samples referred to above, one Member audibly (and identifiably) calls another "You little git" but, perhaps understandably, no record appears in *Hansard*. While in a live broadcast the broadcasters, as the Joint Committee on the Publication of Proceedings in Parliament foresaw, could not be said to have had malicious intention, the re-broadcasting of similar or more defamatory remarks might be a different matter. An interesting use might even arise from action taken against a Member for such words. The simplest defence, that the words were in *Hansard*, a publication absolutely privileged by the 1840 Act, would not be open to him. If the Member had not been called by the Chair, to what extent would an insult hurled across the floor of the House be privileged? Indeed, in a Select Committee, what would happen if a Member leaned towards a colleague, said *sotto voce* of a witness "This chap's lying" and his words were broadcast? To be realistic, it is difficult to see an action succeeding in such circumstances, but some interesting questions would be raised if one were brought. What might follow would be a statutory definition of proceedings in Parliament, with perhaps greater pressure for legislation on the Australian model (Parliamentary Proceedings Broadcasting Act, 1946).

The Select Committees on Sound Broadcasting

The day-to-day supervision of broadcasting of proceedings is carried out by the two Select Committees on Sound Broadcasting, one in the Lords and one in the Commons. Each has the services of one Clerk and one secretary, and they both have the power to appoint specialist advisers. Only the Commons Committee has so far done this, as part of a lengthy technical investigation of ways of improving the quality of the sound by audio and acoustic means. The two Committees have the power to combine as a formal Joint Committee of the two Houses; in fact they have done so on only one occasion, principally because broadcasting of proceedings is an infinitely more sensitive and contentious matter in the Commons than in the Lords. Like the Lords Committee, the Commons Committee has a very wide remit: simply "to give directions and make recommendations". It meets perhaps six or seven times in a Session; much routine business is dealt with by the Chairman. Their everyday role has been of three main types; overseeing technical arrangements within the precincts, including the sound archives; acting as a channel for complaints from Members; and considering general principles of editorial treatment and presentation, and of uses to which recordings may be put.

Relatively few complaints have been brought to the Committee, largely because Members recognise that it has no editorial control, and so complain direct to the broadcasters. However, the Committee does keep a close eye on the perennial problem of balance – not only as between parties, but also as between front-bench and back-bench speakers, and between different sides of a cross-party division, for example, on British membership of the European Community. There is also the problem of balancing liveliness and informativeness and proceedings in the Chamber and in Committees. Without editorial control being in Parliamentary hands, however, the Committee can only be an advocate with the broadcasters – although frequently an effective one.

General principles of presentation have included the difficulties of live broadcasts already referred to, and are well exemplified by the problem of interruptions from the public galleries. A number of women took part in a concerted demonstration during a debate on a private Member's Bill to impose stricter controls on abortion, and recordings of the interruption were widely used in news and current affairs programmes. A Member of the House complained to the Committee that the use of proceedings in this way was sensationalist and that it would encourage others to follow the example of the demonstrators. The Committee's view was that since interruptions were not proceedings, they were not authorised by the original Resolution of the House to be broadcast, and, for the avoidance of doubt, they made an Order saying so. While the broadcasters appreciated the technical force of the Committee's ruling they protested very strongly that it impugned their responsibility as broadcasters, that it was unworkable for live broadcasting, and that it might mean that a protester could effectively prevent a particular Member's words from being broadcast. The Committee amended their Order to include the proviso "so far as is practicable", but the general prohibition stood.

This incident epitomises the status of broadcasting at Westminster, and the relationship between the Houses (particularly the Commons) and the broadcasters. Partly as a result of the extraordinarily long debate leading up to its introduction and of the speed with which the final arrangements were made, parliamentary involvement in the broadcasting of Parliament is largely passive. Apart from the physical medium, the broadcasters are in an editorial position not so very different from that of the newspapers. There is no compendium of strict rules, as in Australia; and there is no broadcasting unit carrying out many of the functions of the broadcasters, as in Canada. It must in fairness be said of the broadcasters that on the whole their use of proceedings has been highly professional and responsible; but while many of the fears expressed in the early debates have been allayed, the present arrangements are not immutable. The Commons Committee is at present preparing a comprehensive report on the first three years of broadcasting. It is possible, for example, that they may after all recommend the establishment of a broadcasting unit, as was debated in 1978; while such a suggestion would probably be anathema to the broadcasters, there is undoubtedly a certain amount of support for it amongst Members.

The future: television?

No consideration of parliamentary broadcasting would be complete without a glance at the possibility of television. The Lords have in the past had a more relaxed attitude to this than have the Commons (they conducted a closed-circuit experiment in 1968) but the latest consideration of the matter by the Commons on 30th January 1980 resulted in a tied vote, 201 Ayes and 201 Noes, on a Motion for a ten-minute rule Bill. The Deputy Speaker cast his vote with the Ayes, to allow further discussion, but although the Bill proceeded no further, the occasion was indicative of increased support for the televising of proceedings, particularly amongst the Members who entered the House for the first time after the May 1979 General Election. The terms on which television cameras may be allowed into the Chamber will no doubt again be the subject of fierce argument some day; however, the nature of the medium makes insistence on a broadcasting unit controlled by the House likely, and the organisation of the Chamber, with Members having no fixed seats, will pose formidable technical problems. Cynics say that the attitude of broadcasters towards radio has been conditioned by their hope that television would follow in due course; but whatever truth there may be in that, it will be some while before a future Broadcasting Committee has to cope with such problems as 'the raccoon effect' (hollow-eyed Members after a late sitting) or 'the Parliament Hill shuffle' (moving round behind a Member who is speaking in order to get oneself into shot) that are experienced elsewhere in the world.

It would be presumptuous at this (or perhaps any) stage to attempt to judge whether sound broadcasting of proceedings has achieved Aneurin Bevan's aim of re-establishing intelligent communication with the electorate as a whole. Undoubtedly, awareness of Parliament and of its work has increased enormously, and political reporting on radio and television has refocused on what happens in the Chambers and Committees rather than what is stage-managed in a studio. However, if the two Houses come to consider television, it will then be salutary to remember that a decision to let cameras in may be as irrevocable as the decision to be broadcast in sound. In the debate on setting up the Commons Select Committee on Sound Broadcasting, the Government spokesman said "the House is its own master in this matter as in others and it could stop broadcasting as easily as it approves it". This is tantamount to saying that one can get divorced as easily as one can get married; and in practical terms, about as true. It would almost certainly take serious or prolonged misuse of proceedings to goad either House into rescinding their decisions to be broadcast; and it is likely that the cry of "Order, Order!" will be heard over the air for a long time to come.

III. AUSTRALIA'S NEW PARLIAMENT HOUSE

BY D. M. BLAKE

Deputy Clerk of the House of Representatives

'It is an outstandingly successful design in every respect, brilliantly blending together the equirements of architectural quality, sensitivity to location, symbolic identity, functional :fficiency, building feasibility and relative economy which the new Parliament House uilding must satisfy."

These were the words used by the Assessors, in June 1980, to describe the winning entry in the architectural competition for the design of Australia's new Parliament House.

What manner of design deserves such comment? What were the processes which resulted in the choice of this design? What contribution did Parliament make to those processes and what influence will it have during development of the final design? This article attempts to answer those questions and to record the more significant details of the project, particularly those of interest to Clerks and other officers of Parliament.

Background

The history of this project began in 1913 when an international competition was announced for the design of a permanent Parliament House in the then new national capital of Canberra. This was first deferred, and then cancelled, due to the World War. Following the war, a decision was taken to construct the present provisional building which was designed to last for 50 years. The building was completed in 1927 at which time Parliament moved to Canberra from Melbourne where it had met since 1901. During its life the provisional building has required numerous extensions and alterations to fulfil the objective of housing the Federal Parliament.

In 1965 a Joint Select Committee of Parliament was appointed to consider the need for a new Parliament House. When it reported in 1970 the Committee recommended that the project should proceed and that a "client" Committee be established to represent the Parliament in all matters concerned with the planning, design and construction of the building.

Although the Committee's report was never debated in Parliament the need for a new building was continuously raised by Members and Senators, as was the question of a site for the House. Articles covering these aspects of the project have appeared in earlier issues of *The Table*. Suffice it to say here that in 1974 Parliament passed legislation determining Capital Hill as the site, and in the following year established the client Committee which was known as the Joint Standing Committee on the New and Permanent Parliament House. That Committee has been re-established in successive Parliaments and has played a significant role in all aspects of the project.

In its first report to Parliament in March 1977 the Joint Standing Committee recommended that the building should be completed for occupation by 1988 – the Bicentenary of European settlement in Australia.

On 22 November 1978, the Prime Minister, the Rt Hon J. M. Fraser, C.H., M.P., announced in Parliament that the project would proceed. He made, among others, the following points:

The new Parliament House which is now to be built will take its place amongst the other great buildings which symbolise our culture, learning and system of justice

It will be the centrepoint of modern Canberra, the peak of the Parliamentary triangle, the hub of the Government of the Commonwealth of Australia, a place in which the affairs of the nation can be conducted in a more efficient way.

It is fitting that both Government and Opposition should concur in their views on the construction of a House which symbolises our unity as a nation, which is an expression of our joint pride, faith and confidence in Australia.

Parliament House Construction Authority

To ensure that the project would go ahead efficiently, a new statutory body was created known as the Parliament House Construction Authority. The Authority's principal function is to control the design and construction of Parliament House.

It must have regard to advice furnished to it by the Joint Standing Committee and comply with any resolutions passed by both Houses of the Parliament relevant to design and construction of the building.

The Authority's first action was to set in train the design competition recommended by the Joint Standing Committee and approved by the Government.

The Competition

The competitive selection process was conducted in two stages and was open to any person or association of persons, any one of whom was registered or had applied for registration as an architect in Australia.

The first stage submission period closed on 31 August 1979 with 379 entries being received. From these the Assessors chose 10 prize-winners, 5 of whom were selected to proceed to the second stage of the competition.

The 5 finalists were issued with a Stage 2 Brief, brought to Canberra for oral briefings and were required to submit their designs by 23 May 1980.

(A more detailed description of the competition process appeared in *The Table*, Vol. XLVIII).

The Assessors expressed the view that this was probably the most significant architectural competition to have been held anywhere in the world in recent times. That view was supported by comments from the architectural profession (Australian and non-Australian) and by many of the competitors.

At the end of Stage 1 the 10 prizewinners were paid $A20,000. The 5 finalists each received an additional honorarium of $A80,000 at the conclusion of Stage 2. The competition winner was engaged to design the new Parliament House.

The Competition Documents

Following more than 2 years of extensive and detailed consideration in conjunction with Parliamentary officers and officers of the National Capital Development Commission, the Joint Standing Committee on the New and Permanent Parliament House approved a comprehensive statement of client requirements to form the basis of the competition documents.

During this period the Clerks of each House and the permanent heads of the other parliamentary departments assisted in preparation of the documents and provided advice to the Committee.

The completed Briefs contained not only detailed accommodation requirements in terms of area and location but also descriptive material to help competitors understand the complexities of the parliamentary operation in Australia. The Briefs continuously stressed the need for flexibility and expansion.

A passage from the introduction to the Stage 1 Brief sets out the problem faced by the designers.

"Parliament House is big. It is also complex. It is not merely a huge office building based around 2 Chambers: it contains suites for Ministers, Senators and Members, meeting rooms large and small, a library as big as a town library, food services comparable with those in a major hospital and circulation spaces of the size found in theatres to cater for the many visitors.

In its lifetime, the building will grow to accommodate more Senators and Members. But change and growth of an unpredictable kind will also occur. The key to the success of the functional design for Parliament House is likely to largely depend on the building's capacity to take account of changes which are difficult to predict accurately. Different political structures, or changes to Parliamentary or Government processes, may radically alter future accommodation requirements."

The Brief also discussed 8 specific design issues which were considered to be crucial to achieving a successful and functionally efficient building design. These issues were:

Context – the influences of site factors in designing the building
Symbolism – the imageability of the building and its symbolic role
Functional Needs – the critical functional requirements for the building
Construction Feasibility – methods to facilitate construction in a short program
Access and Security – the arrangements for public and private areas of the building
Circulation – the needs of complex movement patterns in the building
Flexibility – the demands created by growth and change factors
Building Use – the effect of varied working patterns on the building design

In describing user requirements it was found convenient to divide the building into 24 distinct elements. The elements and total net area requirements in square metres were set out in the Stage 1 Brief as follows:

Elements	*Area*
Foyer	992
Public Facilities	884
Reception Hall	1755
Senate Chamber	1200

House of Representatives Chamber	1650
Circulation Spaces	1386
Senate Office Holders	874
House of Representatives Office Holders	881
Senators	3869
Members	6904
Senate Chamber Support	965
House of Representatives Chamber Support	947
Senate Department Administration	300
House of Representatives Department Administration	407
Committees	5483
Refreshment Rooms	4336
Parliamentary Library	4786
Joint House Department	1298
Hansard	1076
Executive Government	7387
Opposition Executive	3318
Media	3022
Amenities	1456
Miscellaneous	4464
TOTAL	59640

The provisional Parliament House provides 16.830 square metres and Parliament occupies in excess of 3,000 square metres in other buildings. The new building will therefore be more than 3 times the size of the present building.

Compilation of the competition documents was a long and difficult task which could not have been completed without the active participation of the Joint Standing Committee. Indeed it was essential that Parliament as the client should be author of the design briefs. This role was admirably fulfilled by members of the Committee supported by officers of the Parliament and the National Capital Development Commission. The professional and technical advice from the Commission's officers was invaluable.

The competition Briefs received high praise from assessors and competitors alike for their quality, accuracy and completeness of detail.

The Assessment

An assessment panel consisting of 3 architects (2 Australian, 1 American), an engineer and 1 Senator and 1 Member of the House of Representatives had the task of judging the competition.

The task of the Assessors in the second stage was to select a particular design which could be presented to Parliament, the Government and the Australian people as the building which, subject to refinement and development, would become the new Parliament House for the Commonwealth of Australia. The winner's design will be refined and developed as the design process proceeds to the working drawings stage, under the supervision of the Parliament House Construction Authority and in consultation both with technical advisers and the Parliamentary users.

Early in the assessment process, the Assessors determined that the building selected to house the Australian Parliament on the Capital Hill

site would need to satisfy four general criteria. These related to environment and siting, symbolic and architectural identity, functional efficiency, and engineering feasibility and cost.

An essential step in the assessment process was the functional check carried out on designs submitted by the 5 finalists. The Competition Steering Committee (which consisted of the President of the Senate, Speaker of the House of Representatives, 1 Senator, 1 Member, 2 Ministers and 2 members of the Parliament House Construction Authority), supported by advisers from parliamentary and government departments and the parliamentary press gallery, made a detailed asessment of the functional efficiency of each design and reported its conclusions to the Assessors. Responsibility for selecting the winning design remained with the Assessors.

The Assessors were unanimous in choosing the design submitted by the American firm of Mitchell/Giurgola Architects in partnership with Richard Thorp, an Australian born architect. In the words of the Assessors the winner's design "represents a total design accomplishment quite beyond that achieved by any other entry in the competition".

It will be seen that during preparation of the competition documents, the briefing of finalists, the functional check and the final assessment, Parliament itself was always an active participant, either in the form of the Joint Standing Committee or in representation on the Competition Steering Committee and assessment panel. These arrangements ensured that Parliament's requirements were properly identified and explained during the competition process.

The Design

To paint a word picture of the design is no easy task. However, the following quotes will perhaps give some feeling for the scheme. The first extract is from the winning architect's report submitted during the competition; the second is from the Assessors' report.

"Our concept of the building is not as a monumental structure imposed on the landscape, but rather one which is closer in spirit to the Greek monumentalization of the acropolis, in which there is a continuity from the most minute elements of the architectural order to the massive forms of the building itself, yet all of which is congruent with the landscape."

"Like Griffin's plan [of the city of Canberra], the winning design is a building of firm, clear geometry, not rigidly imposed on the terrain but sensitively adjusted to it. This design is not a monumental structure superimposed on the Hill. It derives its strong presence by merging built form with landform. The successful synthesis of these two essential elements has resulted in a design that is at once natural and monumental."

The design is clearly and simply organised into 3 zones across the site. The 2 outer zones contain Senate Chamber and Senators on one side, House of Representatives Chamber and Members on the other. The central zone is divided into 2 parts by the Members' Hall. The zone accommodates ceremonial and public functions on the first and second levels and refreshment rooms for Members on the third level. The Library, committees and Executive Government are on the other side of the Members' Hall.

Accommodation is on 3 levels resulting in long horizontal travel. However, with the exception of housekeeping facilities, vertical travel never exceeds 2 floors. The scheme makes satisfactory provision for the various elements specified in the brief with the main elements – Chambers, Senators' and Members' suites, committee rooms, Executive Government, Opposition executive and the media – rationally arranged in clearly defined areas. The critical functional requirements of the building have been well resolved in the design.

The scheme encourages public access and involvement in the building and yet provides a clear separation of public and general circulation systems. Visitors will be able to penetrate into the heart of the new Parliament House without entering restricted areas or intruding upon private circulation areas of Members, Senators and other user groups.

The requirement for flexibility and expansion has been satisfactorily allowed for in the design. It should be possible for the building to cater for demands created by future growth and change. The architect has been able to identify and handle in a sensible way the complex design issues involved. The scheme is simple yet sound. Its functional arrangement will allow all users to operate efficiently.

The foregoing paragraphs attempt to give an overall impression of the design. A brief description of some of the more significant elements follows.

A Vestibule conceived in scale with the entire complex will precede the entrance. A terrace open to visitors will overlook this space. Once inside the building, the visitor will enter a high-ceilinged Foyer from which he may gain access to the upper floors.

The Reception Hall, despite its position deep within the building, will receive natural light from a central dome. Galleries for the public will extend along the Hall.

The Members' Hall will be an extended space linking the 2 Chambers, the Executive Government element and the Reception Hall. It will constitute the very centre of the complex and in all respects be the hub of the Parliament.

The Senate Chamber will be given structure by corner piers supporting the balconies at different levels. Its roof will have an oval configuration to allow discrete daylight through a multi-faceted glass monitor and skylights.

In the House of Representatives Chamber, 4 pairs of columns will rise through the full height of the space to support the roof. As in the Senate, daylight entering through the glazed roof will be filtered through glass monitors visible in the profile of the building.

There will be 2 primary circulation systems; the public circulation system to serve the open access zone and generously scaled to accommodate the large number of tourists expected, and the general circulation system to serve the controlled access zone and connect all parts of the building. In addition there will be particular circulation provisions for the Executive Government, the media, Committee

Rooms, Library and Refreshment Rooms.

Offices of Senators and Members surround the respective Chambers, and will be designed to provide optimum working conditions in an arrangement as non-institutional as possible. The office spaces will be separated from the central public areas of the complex by landscaped open spaces.

Accommodation for Parliamentary Office Holders, that is the Presiding Officers, their Deputies and the Whips, has been located in close proximity to their respective Chambers. In each case the offices are grouped together facing private courtyards.

Offices for the Clerk of the House, the Deputy Clerk and 2 Clerks Assistant are together in one component on Chamber floor level adjacent to the Speaker and close to the Chamber and Whips. The Serjeant-at-Arms and his Deputy are well located next to the Chamber, Speaker and Clerks. Other components of the Chamber support element – Table Office and Procedure Office – have also been placed on Chamber floor level near the Clerks. Similar arrangements apply for the Clerk of the Senate and his officers.

In the Westminster context the new Parliament House will be unusual in that it will provide accommodation in one complex for Parliament, the Executive Government and the media. (Similar arrangements exist in the present building). The Executive Government element, consisting of the Prime Minister, Ministers and their staffs, together with the Cabinet Room, has a clearly designated area in the central zone separated from other elements but closely integrated with the rest of the building.

The media element, covering newspaper, radio and television reporting organisations, is located on the third floor level.

The winner's design will now be refined and developed as the project proceeds to the working drawing stage. During this process the Joint Standing Committee on the New Parliament House will have an important role in representing the Parliament and acting as client for the building. Already regular consultations have taken place between the designer and user representatives including the Clerks and their officers.

Parliamentary Approval

The Parliament Act 1974 provides that no building or other work shall be erected within the Parliamentary Zone unless such a proposal has been approved by both Houses of Parliament. The Parliament House Construction Authority Act 1979 provides for Parliament to authorise certain stages in the design and construction of the building.

Resolutions approving the proposal in terms of the Parliament Act 1974 and authorising preparation of the detailed design and specifications and site preparation and excavation in the terms of the Parliament House Construction Authority Act 1979 were passed by the Senate and House of Representatives in August 1980. Site preparation commenced in January 1981.

Motions concerning the next stage of the project – approval of the final design and commencement of construction – are expected to be

submitted to Parliament in August 1981.

Apart from these formal approvals Parliament has had a strong involvement in the project from its conception. Through a Joint Select Committee from 1965 to 1970, the current Joint Standing Committee since 1975 and through individual Members and Senators Parliament has either made the key decisions or influenced the direction in which the project has moved.

Among the more important areas of Parliament's involvement were selection of the site, preparation of the design brief, choice of the type of architectural competition and finally the assessment decision including the functional check. In addition, the Joint Standing Committee has established strong links with the Parliament House Construction Authority. These links will be important, firstly during design development and later during the construction program. Parliamentary officers have also had the opportunity to examine the design, discuss requirements with the architects and provide ongoing advice to the Committee.

It is intended that through these various arrangements the completed building will not only have architectural merit but also be functionally efficient. It should provide Parliament with accommodation appropriate to its current and forseeable requirements with sufficient flexibility and capacity for expansion to cater for future growth and change in the institution.

Conclusion

Reaction to the design indicates that it has strong support within the Parliament, user groups, the architectural profession and the public. The Australian Parliament is indeed fortunate to have a building concept of such outstanding quality in terms of architectural design and functional efficiency.

In reporting to Parliament on the winning design the Joint Standing Committee strongly supported the Assessors' decision and recorded its belief "that the scheme will provide Australia with a fine Parliament House which will serve for centuries – a building which all Australians should be able to share with national pride."

IV. NEW PRIVILEGE RULES IN NEW ZEALAND

BY C. P. LITTLEJOHN

Clerk of the House of Representatives

The Standing Orders Committee of the New Zealand Parliament, reporting in 1979, included the following section on privilege:

"In the light of criticism that the privilege jurisdiction of the House had been used too readily for trivial matters, the Committee examined the recently-adopted procedures of the House of Commons, and considered changes to the rules to provide that a matter of privilege must be raised by written notice to Mr Speaker. Under our present rules members usually consult Mr Speaker before raising a matter in the House, but S.O. 430 provides for a discussion before Mr Speaker rules whether or not there has been a *prima facie* breach.

The Committee considers that it would be preferable for the nature of the complaint to be considered outside the House, in the privacy of the Speaker's office, so that the matter would not be brought to the House under the rules of privilege unless it is clear that a matter of privilege is involved. It is also suggested that Mr Speaker should be required to determine whether a question of privilege is involved, rather than, as at present, to rule whether *prima facie* a breach of privilege has been made out. Though the expression is well enough understood, its use has at times given an impression that a breach of privilege has occurred whereas that question has merely been referred to the Committee of Privileges for inquiry. Provision is retained for a debate on the motion to refer a matter to the Committee, if its ventilation in the House is desired.

No changes to the procedure whereby matters of privilege are heard by the Committee of Privileges are proposed, but the view is expressed by the Committee that as far as possible those members deliberating on the matter of privilege should be those who heard the evidence.".

Accordingly the following new Standing Orders were adopted:

"426. Appointment of Privileges Committee – At the commencement of each Parliament the House shall appoint a select committee of five members to consider and report upon any matters which may be referred to it by the House relating to or concerning the privileges of the House or the members thereof.

427. Raising a matter of privilege – Any member wishing to raise a matter of privilege shall refer the matter to Mr Speaker in writing before the next sitting of the House, or, if the matter occurs in the House, it may be referred to Mr Speaker forthwith. Mr Speaker shall consider the nature of the complaint or alleged breach and determine whether a question of privilege is involved.

428. Procedure when Mr Speaker's ruling given – (1) If Mr Speaker rules that any matter referred to him by a member involves a question of privilege he shall report accordingly to the House at the first opportunity. The Leader of the House shall thereupon move that the matter be referred to the Committee of Privileges.

(2) If Mr Speaker rules that any such matter does not involve a question of privilege, no motion in relation thereto shall be accorded precedence as a matter of privilege.

429. Precedence to matter of privilege – If a matter of privilege is raised at any time in the House, until it is disposed of or the debate on a motion thereon is adjourned, the consideration and decision of every other question shall be suspended:

Provided that precedence over other business shall not be given to any motion if the matter has not been raised at the earliest opportunity.

430. Complaint founded on a document – Any member complaining to the House of a statement in a newspaper, book, or other publication as a breach of privilege shall produce a

copy of the newspaper, book, or other publication containing the statement in question, and shall be prepared to give the name of the printer or publisher.".

A major test of the new provisions occurred in 1980. The matter of privilege related to a statement made by the Right Hon. Duncan MacIntyre in the House on 26 June 1980 in the course of an adjournment debate on a controversy surrounding an application to the Marginal Lands Board for a loan by the son-in-law and daughter of the Minister. The relevant part of the statement was –

"I do not know all the details of the case, because, knowing that these two children were applying to the Rural Bank or the Marginal Lands Board, I divorced myself from the case. Even though they live in my house I have not discussed any of the details. I paraded the Director-General of Lands, the Director-General of Agriculture and the head man at the Rural Bank as soon as the Fitzgeralds bought the land. I told them that they were my daughter and my son-in-law and that I would not discuss anything about them in the future.". *

* Hansard Vol. 430, pp. 1061-2.

The matter was raised by the Leader of the Opposition, Right Hon. W. E. Rowling, when on 19 September he wrote to Mr Speaker claiming that it appeared from evidence given on oath to the Commission of Inquiry that had been set up to inquire into the affair that the Minister in his statement of 26 June had either –

"(a) made a deliberately misleading statement to the House which amounts to a grave contempt, or
(b) misled the House.".

In his reply the Speaker gave detailed consideration to the points raised and reached the conclusion that up to that point no question of privilege had arisen. The Leader of the Opposition and the Deputy Leader, Mr Lange, called on Mr Speaker after receiving his reply and made further submissions on the issue. As a result Mr Speaker reviewed his decision and gave a lengthy and carefully considered ruling which is set out in full because it sets out the basis of his consideration of the issue, and gives a good picture of the way the new rules were applied:

"I have received from the Leader of the Opposition a letter in which he raises a matter of privilege relating to words spoken in the House by the Minister of Agriculture on 26 June, and to matters that arose at the commission of inquiry into the Marginal Lands Board application last week, as reported in the *Dominion* and the *New Zealand Herald* last Friday. The matter is one that has required very careful consideration, and as we now have a new procedure for the consideration of matters of privilege I must have regard to the application of the new rules.

Under the old rules a matter of privilege was raised in the House by a member, and in cases involving the conduct of another member he was expected to have informed that other member. The Speaker then heard sufficient discussion in the House, including any explanation from the member whose conduct was complained of, before giving his ruling. Recognising that the very fact of raising a matter of privilege in the House could be seen to imply some sort of misconduct, and to prevent this sort of issue being raised unfairly, the House adopted a new procedure. The matter must now be raised in writing either in the House or in chambers with the Speaker. The Speaker then decides, not in the old

terminology, whether a *prima facie* case of breach of privilege is established, but whether a question of privilege is involved. This is to avoid the possible appearance that the Speaker has decided the issue. There is no provision in the new Standing Orders for a member whose conduct is the subject of a complaint to be notified, or to be given an opportunity to explain before the Speaker comes to his conclusion.

Although our own Standing Orders are silent, the procedure in the House of Commons is that if the Speaker finds that no question of privilege is involved he notifies the member who raised the matter, and that is the end of it as a matter of privilege with precedence over other matters before the House. The member may still lodge a motion drawing the matter to the attention of the House. This is simply a notice of motion, not a matter of privilege. So under our own rules, if, after consideration, the Speaker finds that no question of privilege is involved, he should similarly notify the member who raised the matter. That also would be the end of it as a matter of privilege.

On the other hand, if the Speaker finds that a question of privilege is involved, he should inform the member making the complaint, and draw the matter to the attention of the House. The announcement in the House should be the first public notification. It is then incumbent on the Leader of the House to move that the matter be referred to the Privileges Committee. He is required to do so by Standing Order 428. That motion is debatable, and the House can divide on it. That also is the first opportunity for the member whose conduct is the subject of complaint to make an explanation. Accordingly, I think he should be notified that the matter is to be raised.

The order would then, as I see it, be for the Speaker to tell the member who raised the matter that he proposed to report it to the House. That member should then inform the member whose conduct is complained of, and the Speaker would notify the Leader of the House. In accordance with the procedure set out on page 170 of *Erskine May*, I would see it as fair to both members involved – the complainant and the member whose conduct is the subject of complaint – that they should have the opportunity to be in the House when the Speaker reports his decision on the possible question of privilege. It is then for the House to decide whether it wishes the Privileges Committee to proceed any further. If the matter goes to the committee, the committee's report is open to debate and division in the usual way.

This new procedure was adopted after careful consideration by the Standing Orders Committee in the light of criticism that the privilege jurisdiction of the House has been used too readily for trivial matters. The essence of it is that a matter of privilege may be raised only by written notice to the Speaker, who considers it, and has an opportunity to discuss it with the member raising it before deciding whether or not to allow it. There is no longer a time limit, although, of course, the Speaker is expected to give his consideration of the matter the urgency always accorded to questions of privilege. But once it has been placed in the hands of the Speaker, the matter must not be referred to publicly.

The next step is not the announcement in the House; there is a requirement for notification. The member raising the matter, any other member affected, and the Leader of the House, all ought to be made aware of the intention of the Speaker to make the report. It was highly improper for the Leader of the Opposition to raise the matter in the House on Tuesday, even in an oblique way. The whole case has given me and the House an opportunity to determine the course we should now follow on these occasions.

I turn now to the letter I have received. There are three grounds on which the Leader of the Opposition claimed that the statement made by the Minister of Agriculture on 26 June cannot be reconciled with the evidence given before the commission of inquiry and reported in the newspapers. I have taken the opportunity given me under the new procedure to discuss these issues with the Leader of the Opposition and the Deputy Leader of the Opposition. I shall deal first with the submission that the Minister's statement to the House that he had not taken any action to obtain favours was not correct. On this point there is no direct evidence. The chairman of the commission is reported as saying that the statement that the Minister had sought favourable treatment could not be given weight until witnesses to the alleged incident were called to give evidence. I understand that it is intended to call direct evidence. The chairman of the commission has described the matter in terms that it may be only gossip, but it had to be investigated. I do not believe that gossip or hearsay should be a foundation for a breach of privilege, and on that issue I rule that there is no question of privilege.

The second issue is that the Minister did discuss details of the application with his daughter and son-in-law. On that matter there is no evidence one way or the other, so I rule that there is no question of privilege. The third issue is that the Minister, while he was Acting Minister of Lands, did discuss the question of budgets for the Fitzgerald's application with the Director-General of Lands towards the end of March 1980. The Director-General, Mr Coad, is reported as having said that while he was in the Minister's office the Minister asked him if it was lands board policy to make budgets on the viability of applicants' farms available to the applicants. Mr Coad replied that this would be done if the applicants wished. The Minister said that the Fitzgeralds did not have a copy of the budget on their farm. Mr Coad said he would look into it, and the Fitzgeralds were sent copies of the budget.

On the face of it, that appears to be incompatible with a statement of the Minister in the House when he said – and I quote the relevant parts – "I divorced myself from the case ... I have not discussed any of the details ... I told (the Director-General of Lands) that they were my daughter and son-in-law, and that I would not discuss anything about them in the future.". In the light of the fact that this statement was made on 26 June, while the request for budgets was made about the end of March, and the statement to the permanent heads was made last year, it could be said that the statement misled the House. Does that constitute a matter of privilege? To amount to a breach the misleading must be deliberate, but I must be careful not to step into the area of deciding the merits of the issue. I must confine myself to the possibility – not, I think, a remote possibility, but, if it is a reasonable interpretation of the available evidence that a member could have intended to mislead the House by the giving or the withholding of relevant information, I believe I should allow the matter to go to the committee.

The rules of privilege are necessary, first, for the protection of the House, and only secondly for the protection of individual members. The committee is the proper place to consider the facts, and to obtain all the available evidence. It is not proper for me to call for additional evidence; that would be to usurp the functions of the committee. So in the present case it seems to me that it is a possibility that the Minister, in omitting to refer to the request for the budget while claiming to have divorced himself from the case, and claiming that he had not discussed any details, had intended the omission, and so had misled the House. The magnitude of the misstatement is not a matter of my concern. That was made clear in the Standing Orders Committee when the proposed change was being considered. So I rule that in respect of this issue a matter of privilege is involved.". **

Further similar issues arose a few days later in the hearing before the Commission of Inquiry, causing the Leader of the Opposition to write another letter to the Speaker. It was treated similarly, and in due course the Committee of Privileges considered the whole matter. It was treated with great care and with attention to the principles of natural justice. The Minister was represented by Counsel. Relevant witnesses were required to give their evidence on oath. The standard of proof to be required was considered by the Committee in some detail. They reached the conclusion that within the context of the accepted civil standard a high measure of proof should be required. The conduct of proceedings in the Committee followed those principles meticulously. After applying these criteria the Committee found that there had been no breach of privilege by the Minister.

The case demonstrated the appropriateness of the new procedure in that it ensured that careful consideration was given by the Speaker to the matter proposed to be raised before any publicity was given to it. Similarly, the conduct of the proceedings before the Committee followed the accepted judicial principles more closely than had usually been the case in Privilege Committee hearings in the past.

** Hansard Vol. 433, pp. 3672-4.

V. DEVELOPMENT OF THE COMMITTEE SYSTEM IN ZAMBIA FOR LEGISLATIVE PROCESS, SCRUTINY OF POLICY AND ADMINISTRATION

BY N. M. CHIBESAKUNDA

Clerk of the National Assembly

Many Parliaments recognise a Committee System as an important integral part of the democratic Parliamentary process. In the Zambian Parliament, the Committee System is regarded as indispensable for its legislative role and for overseeing the policy and administration of the affairs of the Government. This notion was underlined by His Excellency the President of the Republic of Zambia, Dr K. D. Kaunda, when he emphasised the need for the establishment and development of a Committee System in a speech at a dinner in honour of the One Party Parliament on 16 February, 1973. The President said:

"In future, under a One-Party Parliament, the scope of participation influencing the formulation of policy must go far beyond the confines of the Chamber. The House will have responsibilities beyond those of legislative and budgetary policy. Parliamentary Committees will be introduced as part of the programme of Parliamentary Reform under a One-Party Participatory Democracy. Members of Parliament must be able to conduct hearings on a more regular basis where Ministers and other Party and Government officials will be expected to account for policies under their portfolios. This will increase the chance of making leaders in all sectors more responsible to the people through the people's Parliament."

This sums up the role of Committees in any democratic Parliamentary system in the legislative process and in the scrutiny of policy and administration.

Prior to this important policy directive, Committee activity in the Zambian Parliament was minimal and the Chamber held the monopoly in the legislative process and scrutiny of administration. Over subsequent years, a Committee System has developed which has significantly eased the burden of the House.

A Committee in the Zambian context may be liberally defined as a miniature Parliament. This definition is based on Erskine May's description of Committees in the British Parliament as small bodies of Members, regarded as representing the House itself, to which the House delegates some of its functions, such as the consideration of questions, which, as they involve points of detail or questions of a technical nature, are unsuitable for the House as a whole.

In line with the foregoing consideration, therefore, Committees in the Zambian Parliament are organs of the House with the same powers, immunities and privileges as the House itself. The powers of these Committees are specified in the National Assembly (Powers and Privileges) Act, Cap. 17. This Act gives Committees the mandate to request any person to give evidence or to produce any paper, book,

record or document in the possession or under the control of such person. The exclusive powers and privileges bestowed upon Committees equip them fully to deal with any issue delegated to them by the House. Whereas the House is still the hub of the activity of all Parliamentary work, matters which are considered inappropriate for consideration by the House itself are passed on to one of its Committees.

The advent of the One-Party Participatory Democracy in 1973 saw an increase in the activities of the House. The need arose for the establishment of more Committees to deal with those matters considered unsuitable for the whole House. By the end of 1974, there were seven Sessional Committees. There are now, in 1980, ten Committees namely: the Standing Orders Committee; the Parliamentary Procedure, Customs and Traditions Committee; the House Committee; the Library Committee; the Committee on Absence of Members from Sittings of the House; the Committee on Parastatal Bodies; the Committee on Delegated Legislation; the Committee on Government Assurances; the Committee on Foreign Affairs; and the Public Accounts Committee.

These Committees of the House can be classified into two groups. The first group consists of those committees concerned with matters of the House *per se*. Such Committees are chaired by the Hon. Mr Speaker. The only exception is the Committee on Absence of Members from sittings of the House, a self-explanatory Committee, which is chaired by the Chief Whip. The other group consists of Committees whose membership is solely composed of back-benchers and have the mandate to elect their own Chairmen. In the Zambian Parliament, these Committees are as follows: Public Accounts Committee; Committee on Parastatal Bodies; Committee on Government Assurances; Committee on Delegated Legislation; and Committee on Foreign Affairs.

It is this category of Committees which, on behalf of the House, performs the role of watchdog over the management and administration of the affairs of the Executive. These watchdog Committees have the liberty of operating independently within the framework of their terms of reference and established practices and procedures of Parliamentary Committees. Each Committee is empowered by the House to carry out investigations and to report its findings to the House within its own terms of reference.

The Committee on Delegated Legislation for instance, reviews the enforcement and administration of existing laws. The Executive is by law obliged to present to Parliament for scrutiny all orders, regulations, rules, sub-rules and by-laws which are issued from time to time by way of Statutory Instruments. The House has appropriately delegated the responsibility of scrutinising Statutory Instruments to the Committee on Delegated Legislation.

In scrutinising Statutory Instruments, Standing Orders provide that that Committee should satisfy itself that the Instruments are in accordance with the Constitution or statute under which they are made and do not make the rights and liberties of citizens dependent upon administrative decisions. The Committee also has to satisfy itself that the

Instruments are concerned only with administrative detail and not amount to substantive legislation which is a matter for Parliamentary enactment. It is through the work of the Committee on Delegated Legislation that Parliament exercises control on the Executive's use of delegated powers and functions. If the Committee is of the opinion that a Statutory Instrument should be revoked wholly or in part, or should be amended in any respect, it reports that opinion and the grounds thereof to the House and any such report is subject to a motion in the House which, if carried, would have the effect of the opinion of the House.

Two Committees, namely the Public Accounts Committee and the Committee on Parastatal Bodies, carry out investigations on the management and disbursement of public funds that it appropriates to Government Ministries and, through them, to parastatal organisations. Parliament is the sole authority empowered to grant sums of money to meet public expenditure through the approval of Estimates of Expenditure.

The Public Accounts Committee exists to examine the accounts showing the appropriation of the sums granted by the National Assembly to meet the public expenditure. In practice, the Public Accounts Committee considers chiefly those matters which are drawn to its attention by the Auditor-General in his Annual Report. If the Auditor-General's Report shows that a Ministry or Department has shown more than the amount granted by Parliament on any head of expenditure, the Committee enquires into the causes which led to this expenditure being incurred and to report whether it is or was justifiable for the excess to be met from public funds.

Generally, therefore, the main function of the Public Accounts Committee is to find out whether any department has spent more money than Parliament granted or has spent more on objects other than those for which money was granted, and to recommend what remedial measures are appropriate if required.

The Committee on Parastatal Bodies is a new Committee which functions basically on the same lines as the Public Accounts Committee. While the latter is concerned with the accounts of Government Ministries and Departments, the Committee on Parastatal Bodies investigates in parastatal companies, statutory boards and corporations which receive Government subventions. Established in 1978, this Committee is charged with the responsibility of examining the reports and accounts of parastatal bodies. Its investigations are aimed at satisfying itself that the affairs of the parastatal bodies are being managed in accordance with sound business principles and prudent commercial practices.

For control purposes, the powers of administration of policy for parastatal bodies are vested in the Minister under whom such parastatal bodies fall. The Minister or his Ministry is required by law to inform Parliament of the activities of the parastatal bodies concerned through annual reports which are required to be laid on the Table of the House within a specified period after the end of the financial year of each body as

stipulated in the statutes under which the bodies concerned were established. Such annual reports contain the annual audited accounts of the organisations which form the basis of investigation by the Committee into the affairs of the organisations concerned.

In its deliberations on the scrutiny of the annual audited accounts, the Committee relies on the expert advice of the Auditor-General. Recently, the Public Audit Act was passed by the House. This Act makes all parastatal bodies legally bound to supply information to the Auditor-General on their operations for the purpose of the Committee. Before its enactment, there were no specific provisions in any Act of Parliament empowering the Auditor-General to inspect the books of accounts of parastatal bodies. Thus, the Committee had no sure way of obtaining authoritative inside information on the operations of such organisations. The Auditor-General's Report on Parastatal Bodies will, therefore, form the basis of the Committee's own investigations.

The creation of the Committee on Government Assurances in 1979 was an important development in the Committee System of the Zambian Parliament. Previously, the scrutiny of policy and administration was achieved as a by-product of the Committees actually charged with the responsibility of examining the accounts of Government Ministries and parastatal organisations. The functions of the Committee on Government Assurances are specifically to scrutinise the assurances, promises and undertakings given by Ministers on the Floor of the House from time to time and to comment on delays in implementation and also the adequacy of the action taken. The Committee goes further by reporting on the extent to which assurances, promises or undertakings are implemented, and where implemented, whether such implementation has taken place within the minimum time necessary for the purpose.

The establishment of this Committee was as a result of a public outcry over lack of efficiency, general maladministration and failure to immediately implement decisions of the Party, the Government and the House. The aim was that the Committee would ensure that holders of Ministerial offices, in short, policy and decision makers, exercised great care in giving assurances, undertakings and promises to the House and ensured that their Ministries and Departments were prompt in taking action on those decisions. Like all other Committees of the House, this Committee frequently is empowered to send for persons, papers and records in order to obtain information useful to its investigations. In particular, Ministries and Departments are often required to submit facts pertaining to the measures taken towards the implementation of assurances or promises or undertakings made in the House.

The most recent innovation in the Committee System in the Zambian Parliament was the creation of the Committee on Foreign Affairs in July, 1980. Prior to the establishment of the Committee on Foreign Affairs, the House had no direct means of scrutinising Zambia's foreign policy. Admittedly, a general policy debate takes place on the main floor of the House when considering the Estimates of Expenditure of the Ministry of

Foreign Affairs. But the time set aside for this is far from being adequate. Additionally, the Public Accounts Committee, in its examination of the accounts of the Republic, with specific reference to Zambia's missions abroad, makes its views known with regard to the policy and administration of the country's foreign affairs. Similarly, the Committee on Government Assurances follows up any assurances made by any Minister on the floor of the House pertaining to foreign policy. The scrutiny of foreign policy by the two Committees, therefore, is limited to specific areas. This is achieved within the broad spectrum of the Committees' terms of reference. The Committee on Foreign Affairs should be looked at, therefore, as a specialist Committee charged with the specific responsibilities of examining in detail all aspects of Zambia's foreign policy on behalf of the House. As a "departmental" Committee, it relies heavily on the cooperation it receives from the Ministry of Foreign Affairs, more or less on the lines of the "departmental" Committees set up recently in the British Parliament.

Whereas the Committee on Foreign Affairs, through its observations and recommendations, is able to influence Government foreign policy, there is no legal provision binding Government to accept *in toto* any views expressed by the Committee. However, the Government is bound by established Parliamentary Practice and Procedure to react to the Committee's views within a stipulated period of time.

With the exception of the Committee on Delegated Legislation, this requirement applies to the other three Committees whose annual reports are tabled in the House and debated following a motion moved by the Chairman. Sixty days after the Report of a Committee has been adopted by Parliament, the Government is required to furnish the House with an Action-Taken Report on the recommendations contained in the Report. In the case of the Public Accounts Committee, this comes in the form of a Treasury Minute issued by the Ministry of Finance. The Action-Taken Report or the Treasury Minute contains the Government's reaction to the views of the Committee, indicating whether the recommendations are acceptable or not. Where the Government disagrees with the recommendations, it must give reasons. For instance, a Committee may call for the amendment of a particular Act of Parliament. The Executive, through its Action-Taken Report, must satisfy Parliament that the amendment would not be in the best interests of the state, failing which, Parliament, through the recommending Committee, will insist that such an amendment be introduced.

Finally, the Committee System in the Zambian Parliament plays a key role in the checks-and-balances system within the Legislative process. Committees take no responsibility more seriously than that of surveying the operations of Government Departments and parastatal organisations. The Committees want to know if laws are being enforced and if money is being used as intended by the House. The inquiries sometimes lead to evidence of careless administration or questionable conduct, misconduct or corruption on the part of administration officials. Yet Committees do

not actually set out to prove that the administration of the Government and its parastatal organisations are not well managed by highlighting areas of maladministration, examples of inefficiency and misuse of public funds. Ultimately, Committees seek to find ways and means by which the administration and operations can be improved.

VI. ADMINISTRATION — A THREAT OR A CHALLENGE?

BY G. L. BARNHART

Clerk of the Legislative Assembly, Saskatchewan

In the 1960 issue of *The Table*, S. L. Shakdher, Clerk of the Lok Sabha of India outlined what he believed to be the characteristics of the ideal parliamentary officer.[1] According to Shakdher, the ideal parliamentary officer has to be objective, able to serve both Opposition and Government Members alike, tolerant, able to determine fact from fiction, exercise self-control when all others seem to lose theirs, perform tasks with great speed and yet with precise accuracy, and be an advisor, guide and friend to the Members of Parliament. While this is not an easy role to fill, Shakdher has clearly outlined the many characteristics to which a Clerk should aspire. His article has been an inspiration to me, as I am sure it has been for Clerks throughout the Commonwealth, during troubled times in the Legislative Assembly.

Has the role of Clerk changed in the last two decades? Are there new attributes that a Clerk must strive for? It is interesting to note that Shakdher's article does not mention an administrative-financial-personnel role for the Clerk or the attributes that must accompany an ideal administrator. I believe the Shakdher article did not mention the administrator's role simply because this is a new role that has been "forced," in many cases, upon the Clerk within the last two decades.

The traditional view of a Clerk of Parliament was that he was a proceduralist through and through – a specialist within his field. In many of the larger Parliaments, one could not become the Chief Clerk without many years of training within the various branches of Parliament, such as the Public Bills Office and the Committees Branch. Gradually this role for the Chief Clerk is changing. Recently published articles on administrative reform in the British Parliament illustrate a radical change and new approach to the organization of the departments that are entrusted with the essential services for Parliament.[2] The Compton study and the resulting Bottomley report led to a centralized and reorganized administration for the British Parliament, the establishment of a House of Commons Commission and a greater administrative responsibility for the Clerk.

As Parliament's work becomes more complex in response to the expanding role of Government, Members are now requiring new and varied services. In Saskatchewan for example, which has a relatively small Assembly of sixty-one Members, the services to Members have increased one hundred fold over the last decade. In 1970, the Legislative Assembly Office paid each Member his indemnity and expense allowance once a year at prorogation of an approximate 40-day Session. Ten years later, a core accounting staff processes four to five individual payments per Member per month. Members are now provided with individual office space within the Legislative Building, grants for constituency

offices, postage, travel and telephone allowances, as well as research and secretarial staff, printers, photocopiers and a range of electronic equipment to assist Members in their role as parliamentarians and constituency representatives. Within the last decade, the budget for Members' services has increased by approximately 628 per cent, the parliamentary staff has grown from eighteen persons to nearly one hundred persons, yet the size of the Legislative Assembly has increased by only two Members and the Sessions have increased in length by a further forty sitting days per year. The difference is in the public expectation of the elected Member and in his view of his own role.

In Saskatchewan, it is the Clerk who has been expected to supervise these ever expanding administrative demands with efficiency, economy and good service always in mind. We are presently involved in providing television equipment for the House, complete verbatim transcripts of the Assembly and its Committees within a fifteen-hour time span by means of optical character readers, word processors and phototypesetters. A good grasp of the newest technology in the field of word processors, typesetting, and television is necessary. All of these changes within the administration of the Saskatchewan Legislative Assembly are not unique but I am sure are being experienced in nearly all elected parliaments within the Commonwealth. How then is the Clerk of Parliament to maintain his expertise within the procedural field and react to this technological explosion and administrative maze? There is no doubt that the demands of the administrative field are there. Will the demands of administration serve as a challenge or a threat to the chief parliamentary officer?

Another trend has accompanied the growth in administrative services. The Members of Parliament in many jurisdictions are demanding a greater role in the decision-making process that affects the provision of services to Members and to Parliament itself. The creation of the House of Commons Commission in Great Britain and the Boards of Internal Economy in many of the jurisdictions in Canada can all be seen as an attempt to involve the Members in their own administration. The Camp Commission in Ontario, formerly known as the Ontario Commission on the Legislature, outlined very clearly the changes facing the Legislative Assemblies in Canada and prescribed some solutions, such as the creation of a permanent professional administrative core and a Board of Internal Economy.

What happens, then, if a central core of administrators is not established as the needs of Parliament expand? Mismanagement, waste and inefficiency are potential results which will often lead to the intervention by Government into parliamentary administration. Neither option is desirable. Members of Parliament and their parliamentary officers must be responsible for the provision of the services. It is equally important that the Clerk serves as the head of this department, not only as the head of procedural services but responsible for all of the services to be provided to Parliament. His knowledge of the needs of Members, his

appreciation of their role and frustrations make the Clerk the logical choice for the head of the department. The Clerk personifies continuity and impartiality which is necessary within the political-procedural realm. These same attributes are necessary for the parliamentary administrator. Opposition Members particularly are more content knowing that impartial and independent servants of Parliament are working with their personnel and administrative details rather than a servant of the Government. It is therefore logical that the Clerk should be both the administrator as well as procedural head of a centralized department which provides procedural advice and administrative services to Members.

To create a parallel administrative arm or to leave the administration to a Government department would not be desirable. It is the Clerk's responsibility to ensure that all parliamentary staff serve all Members equally and impartially and therefore he must be responsible for the staff who provide the Assembly with administrative services. If the Clerk and Chief Administrator are two separate positions, problems will occur; Members will be confused as to who to turn to for solutions to their problems. In order to have clear administrative and procedural advice for Members, the buck must stop at one person. Saskatchewan Members are eligible for a great variety of allowances and grants which often involves technical interpretation of the Legislative Assembly Act. Members turn to the Clerk's department for such advice. Improper advice from the Clerk could lead to unwise or even illegal expenditures and claims by Members, which could in turn affect the Member's right to hold his seat. Often procedural and administrative advice cannot be separated.

Confidentiality in the Member's administrative affairs is also vital. Opposition Members may be reluctant to raise a question on an expense claim if he has to raise it with a Government employee for fear that the case could be used by the Government in a partisan way. Even though actual transactions are eventually published in the Public Accounts, and are thus public, Members can feel reluctant to discuss such details with anyone other than an impartial parliamentary servant. This is not to argue that the Clerk must "do" all of the administering or in fact give all administrative advice, as well as fulfill his procedural duties, but he must be ultimately responsible for both of these roles. The concept of a single and centralized head of a department is similar to the recognized organization of a line department within government. It reduces the chance as well of unnecessary competition between two equal heads.

Increasing complexity in Parliament can be viewed as a consequence of the expanded role of government. The competition for dollars and for programs within the governmental budget process has become highly specialized. New equipment purchases or requests for additional personnel positions all must be studied, recommended and approved by either a Board of Internal Economy or the Treasury Board within Government. This competition with Government departments for dollars and posts requires great research and selling skills on behalf of

legislative administrators. Even though parliamentary staff are not part of Government, they must learn to play bureaucratic games even better than the bureaucrats within Government.

Another consequence of the increasing complexity and cost of parliamentary administration is the need for modern management practices and adquate financial controls. If Parliament is to maintain its independence from the Executive, it must not fall behind the executive arm of Government in applying proper management methods in its stewardship of public funds. The Clerk thus must be responsible for administration, conversant with many of the administrative policies and details and be able to delegate the actual administrative tasks to strong and capable colleagues within his department. Even though the Clerk's first love and training is in the field of procedure, he cannot ignore the new administrative duties and responsibilities that face him.

We have now entered a new era in the profession of parliamentary officers. The characteristics and attributes of a parliamentary officer as described in 1960 will still apply but now must be expanded. The Clerk must now not only be a friend and counsellor to Members but must be a wise leader in personnel, skilled in the complex field of budgeting and financial control, and familiar with the everchanging field of computers and electronics. The days of a strictly procedural specialist are over. A Clerk must be a generalist with the ability to rely on many types of specialists and advisers within his department. The Clerk cannot do it all by himself but instead must be a leader, a coordinator, a friend and a guide to Members and parliamentary servants alike. It is a fact that the Clerk is now an administrator as well as a proceduralist — whether he views this new role as a threat or a challenge is the choice of each Clerk as we enter the 1980's.

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1. S. L. Shakdher, "An Ideal Parliamentary Official," *The Table*, vol. 29, 1960, p.23.
2. Richard D. Barlas, "The Role and Qualifications of a Clerk in the 1970's," *The Parliamentarian*, vol. IL, no. 4, October 1968, p. 223.
   Michael Ryle, "Review of the Administrative Services of the British House of Commons," *The Table*, vol. XLIV, 1975.
   Michael Lawrence, "The Administrative Organization of the House of Commons," *The Table*, vol. XLVIII, 1980.

VII. ELECTION OF A PRISONER: FERMANAGH AND SOUTH TYRONE BY-ELECTION

BY PAUL SILK

A Senior Clerk, House of Commons

The death on 4 March 1981 of the sitting Member for Fermanagh and South Tyrone, a sprawling rural constituency in Northern Ireland with a lengthy border with the Republic of Ireland, precipitated one of the few by-elections we have seen in the current Parliament, but one which, because of the circumstances of the successful candidate, has created considerable controversy on the question of who should have the right to be a parliamentary candidate.

After several earlier nominations were withdrawn, the electors of Fermanagh were faced with just two candidates on April 9th – Harry West, the Official Unionist candidate (who represented the constituency between the two 1974 elections) and Bobby Sands, who used the maximum of the six words which the Representation of the People Act allowed him, to describe himself on the ballot paper as 'Anti-H Block/ Armagh Political Prisoner'. Mr Sands was in fact a member of the Provisional Irish Republican Army (the IRA), an organisation proscribed under the Prevention of Terrorism Act, which is committed to re-unification of Ireland and the overthrow of the present constitutional arrangements whereby the six counties of Northern Ireland are an integral part of the United Kingdom, and the remaining 26 counties in Ireland make up the entirely separate Republic of Ireland – a foreign country which has no greater constitutional links with the United Kingdom than any other Member State of the European Community. The IRA is committed to violent means to achieve its ends and Mr Sands was convicted in the High Court in Northern Ireland of possession of firearms and ammunition with intent and of possession of firearms and ammunition in suspicious circumstances, for which he received sentences of 14 years and 10 years to run concurrently. With maximum remission, he could not expect to be freed from prison until 1984. Despite this, Mr Sands was elected 'to serve the said constituency'. He received 30,492 votes; Mr West had 29,046; 3280 ballot papers were spoiled, and turnout was 82.3%.

The Preamble to the Forfeiture Act 1870 stated that it was expedient to abolish the forfeiture of lands and goods for treason and felony. But this liberalising measure of the Gladstone Administration did not give convicted felons all their civil rights. Section 2 of the Act states that 'any person convicted of treason or felony for which he shall be sentenced to death or penal servitude or any term of imprisonment with hard labour, or exceeding twelve months ... shall become and (until he shall have suffered the punishment ... or shall have received a free pardon) shall continue thenceforth incapable of holding any military or naval office or any civil office under the Crown or other public employment, or any

ecclesiastical benefice, or of being elected or sitting, or voting as a member of either House of Parliament, or of exercising any right of suffrage'.

This part of the Act was invoked by the Commons in 1875, 1882, 1895 and 1955 as the basis of Resolutions that certain individuals serving terms of imprisonment for felony and whose sentences had not been discharged, but who nevertheless received the majority of votes at parliamentary elections, were incapable of being elected or returned as Members. Thereafter the House agreed to the issue of new writs for elections. However, in 1967, the Criminal Law Act was passed which removed the distinction between felonies and misdemeanours, and incidentally removed the disability for election to Parliament imposed upon persons convicted of felony by the 1870 Act. It was undoubtedly the case, in the wider criminal law application, that the distinction between felonies and misdemeanours was 'absurd and archaic'[1] as the Minister described it in the Second Reading Committee on the Bill (a type of Committee which, incidentally, was an innovation of that Session).

There were also anomalies in the application of the statutory felony disqualification to Members of Parliament. The disqualification had never existed in respect of Scotland – the relevant part of the Bill was commended by the Minister as 'learning from the Scottish experience'.[2] This had been pointed out by the Report of the Criminal Law Revision Committee, on which the 1967 Act was based, which also highlighted a further anomaly of the 1870 Act, 'The disqualification from office, membership of Parliament and voting ceases when the offender has served his sentence ... It seems to us unnecessary to preserve any of these consequences in relation to any offences'.[3] It was also the case that persons could be disqualified by virtue of committing what was historically a felony but would not be so disqualified by committing a misdemeanour when the misdemeanour might appear more heinous – and indeed be more severely sentenced. Thus stealing a hawk was a felony while fraudulent conversion of £500,000 would have been a misdemeanour. The state of the law before the 1967 Act was clearly unsatisfactory.

In France and many other countries a person who does not enjoy his civil rights is not eligible for election to the National Assembly. In the United Kingdom 'a convicted person during the time that he is detained in a penal institution ... shall be legally incapable of voting in any ... election'.[4] A whole host of holders of public office, clergy of the Church of England, bankrupts and persons of unsound mind are disqualified from membership of the Commons. It would not seem surprising, therefore, if United Kingdom laws provided that sentenced prisoners should be disqualified. Why was the opportunity to do this not taken in 1967 when the 1870 Act provision was done away with?

An examination of the 1967 debates shows that the election of a prisoner under sentence was not regarded as within the realms of realistic politics. In the Second Reading Committee, the Home Office Minister

rather facetiously commented 'now we can have felons galore'[5] and in the Standing Committee he said 'it would be impossible for someone now to be in the Smoking Room while he was serving a sentence, because, presumably, he could not be in the Smoking Room while serving his sentence'.[6] In the settled conditions of England it seems rather an absurd idea for a political party with any chance of having its candidate elected to choose a sentenced prisoner as its candidate – and if someone were sentenced after he had been elected he would either resign (as Mr Stonehouse did in 1976) or could be expelled (as Mr Baker, convicted of fraudulent conversion, was in 1954).

The Criminal Law Act 1967 was a Bill which extended only to England and Wales, except in so far as it affected Parliamentary and other disqualifications. No-one spoke on the clause (now section 11 of the Act) which extended it to Northern Ireland for disqualification purposes. Members of Parliament as well as Home Office Officials had forgotten the history of Members returned by Irish constituencies while sentenced prisoners. The election to Westminster of a sentenced prisoner has always been within realistic politics in the Republican Irish community and the election of Mr Sands is a continuation of a tradition. All the persons whose elections had been disallowed under the 1870 Act for being convicted felons when elected represented Irish seats – Mitchel in 1875 was elected for Tipperary, Davitt in 1882 for Meath, Daly in 1895 for Limerick, Lynch in 1903 for Galway and Mitchell in 1955 for Mid-Ulster. There are few better methods for separatists to show contempt for a Parliament than to elect someone who cannot legally attend. In 1955 Mitchell was elected while serving 10 years for treason-felony. In the rest of the United Kingdom his election was little noticed. So far as it was, Mr Sydney Silverman commented 'one detects in newspaper comment and sometimes in comment in this House a sense of fun creeping in. It is a situation that appeals to the sense of humour of some honourable Members'.[7] Even the august 'Times' treats Mitchell's expulsion with comparative levity in the third of a column on page 8 which it devoted to the issue: headlined 'Truly Irish', the writer says 'only in Ireland could such a thing as this take place'.

What has happened since 1955 and since 1967 has, of course, been the well-documented campaign of terror and violence in Northern Ireland. There was no sense of fun about Mr Sands' election. In the case of Mr Sands, there has been a deeper sense of horrible fascination. When he was nominated as a candidate in the election, Mr Sands had already been on hunger strike for several weeks. He persisted in the hunger strike until he died on May 5th. In announcing his death to the House, Mr Speaker omitted the expressions of sympathy in the customary formula.

Mr Sands could, of course, have been expelled by Resolution of the House. It could have been argued that, as a serving prisoner, he fell into the category described in Erskine May[8]: 'the purpose of expulsion is no so much disciplinary as remedial, not so much to punish Members as to rid the House of persons who are unfit for membership'. However, the remedy of expulsion of a Member has only in recent history been used to

remove persons whose discreditable actions have become apparent after their election, and the case of John Wilkes in the eighteenth century, who was expelled twice in respect of the same seditious libel despite being re-elected between expulsions, is not regarded as a happy precedent. Furthermore, expulsion does not create a disability, and if Mr Sands had been expelled, he would have been perfectly at liberty to stand again for election. No action to expel was taken in the case of Mr Cahir Healy who was elected for Fermanagh and Tyrone in 1922 while interned. He remained interned during the whole of the Parliament, and was re-elected in 1924.

It is very unlikely that the alternative course of an election petition would have been successful against Mr Sands' return. In 1955 the unsuccessful candidate in the same seat did succeed in ousting Mr Philip Clarke, who had received a majority of the votes in the election, on the grounds that Mr Clarke was statutorily disqualified as a felon who was serving a 10 year prison sentence at the time of his election. There would have been no such grounds in statute law for a petition against Mr Sands. In any case, election petitions are now made to an Election Court (two judges of the High Court in Northern Ireland) and the House takes no cognizance of them until they have been determined, and action for a petition cannot be initiated except by electors or candidates in the constituency where the dispute has arisen.

It could be argued that the electorate should be free to choose a candidate who is in prison if they wish to do so. Bankrupts, holders of public office and persons of unsound mind are debarred because of the harm they may cause. This does not apply to prisoners, the fact of whose imprisonment only results in the constituency being unrepresented. There is no modern tradition of requiring elected Members to attend the House, and, especially in Ireland, there has been a tradition of absentee separatist Members. Whether a Member elected while a prisoner should have any special privileges as a prisoner is a separate issue. Mr Speaker Whitley ruled 'A Member of this House is, with regard to the criminal law, in exactly the same position as any other person'[9], and *a fortiori* a Member is bound by the Prison Acts and Prison Rules made under them.[10] But to say a Member does not have any special privileges as a prisoner does not alter his status as a Member. Indeed, the claim to remain Members of those committed to prison after election could be regarded as weaker than the claim of Members elected while prisoners. In the former case the electorate could be said to have been deceived: they elected a person who subsequently betrayed their trust. This argument would not apply in the second case where few electors would be unaware through media coverage (especially in a by-election) that one candidate was a prisoner.[11] The 'constitutional' arguments against a sentenced prisoner being elected a Member could be said only to rely upon rather dubious concepts such as the 'impropriety' of an elected criminal, or the fact that his constituents are unrepresented (and in this case (a) the only relevant constituents are those who did not vote for him, and (b) we must assume that Members once elected have a duty to *all* their constituents).

This is not to suggest that 'political' considerations may not enter a particular case, nor to suggest in the case of Mr Sands that he and his supporters were at all concerned with high-minded questions of constitutional principle.

In many countries of the world people are in prison who would be regarded by most democrats in Commonwealth countries as unjustly imprisoned because of their political views. Repressive governments can use repressive devices like 'emergency powers' to put political enemies behind bars. The majority of people in the United Kingdom find abhorrent the methods used by Mr Sands and the IRA, but many people would be able to find a political hero who had been in trouble with the criminal law – whether John Wilkes or Lord Shinwell. What has not been done in the United Kingdom has been for careful consideration to be given to all the issues involved in the election of a prisoner to the Commons.

Fortunately this may soon be remedied. On 27 April[12] Mr Murphy asked the Secretary of State for the Home Department if he would take steps to amend the Criminal Law Act 1967 to provide that criminals convicted of serious offences are disqualified from membership of the House. The Home Office Minister replied:

> "My right hon. Friend is considering whether the present grounds of incapacity for membership of the House of Commons should be extended in this way and how best this might be achieved"

and on 1st May Mr. Molyneaux presented a Bill to amend the House of Commons Disqualification Act 1975 to provide for the disqualification of those convicted on indictment of arrestable offences. As a Private Member's Bill, Mr Molyneaux's measure was unlikely to proceed far without Government support, but it seemed at least that there was sufficient pressure as a result of the case of Mr. Sands for the House to consider the whole question more seriously than it had in the past.

In fact, the Government did move speedily. The Representation of the People Act 1981 (which disqualifies persons sentenced to more than one year's imprisonment from standing for election to the Commons) received Royal Assent on 2nd July.

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1. Report of Second Reading Committee, 8 March 1967, col 3.
2. ibid. col 6.
3. Seventh Report from the Criminal Law Revision Committee (Cmnd. 2659) para. 79.
4. Representation of the People Act 1969 s.4. – a change in the law made was a consequence of the recommendations of the Speaker's Conference on Electoral Law 1968 (cmnd. 3550): previously *de facto* prisoners had not been able to vote.
5. col 6.
6. Standing Committee F, 4 May 1967, col 16.
7. HC Deb 18 July 1955 c 44.
8. page 132, Nineteenth Edition.
9. HC Deb 1926 c 603.
10. The issue is examined in Rights of honourable Members detained in prison, a Report from the Committee of Privileges, HC 185 (1970 – 71).
11. There might be argument for a serving prisoner to identify himself as such on the ballot paper.
12. HC Deb, 1981 col 306 (see also col 304).

VIII. THE WHITLEY SYSTEM IN THE HOUSE OF COMMONS

BY PRISCILLA BAINES

Secretary, Trade Union Side, House of Commons Whitley Committee, 1977-81

(a) *Introduction*

The Whitley system in the House of Commons is of recent origin compared with that in the civil service. In the civil service, staff associations of various kinds were in existence during the nineteenth century and the Whitley system owes its existence indirectly to a report made in 1917 by Mr. Speaker Whitley's Reconstruction sub-committee on the relations of employers and employed.(1) The Whitley principle of Joint Industrial Councils representing employers and employed was adopted in government industrial establishments in 1918, while the National Whitley Council, which covered non-industrial government establishments, was first set up in 1919. By contrast, the system which bears Mr Speaker Whitley's name was not extended at the same time to the House of Commons. The first trade union branches in the House were established only in 1961 and a formal Whitley system was created as recently as 1970, retaining even after eleven years certain peculiarities not found in government departments.

(b) *Trade unionism in the House of Commons*

As in the civil service, the growth of formal joint consultation procedures between representatives of management and staff has arisen out of the growth of organised trade unions in the House, but the initial steps to form trade union branches were hesitant. The establishment of branches of the Civil Service Clerical Association (now the Civil and Public Services Association – CPSA) and the Institution of Professional Civil Servants (IPCS) followed a ballot conducted at the request of Mr. Speaker Hylton-Foster on 13th July 1960. The ballot was held after two meetings of staff had been addressed by the Chief Conciliation Officer of the Ministry of Labour, at the invitation of the Speaker. The purpose of the ballot was to determine the wishes of the staff of the House about union representation and it followed pressure both from some staff and from Members of the House. The results of the ballot were announced by Mr. Speaker Hylton-Foster in a statement to the House on 3rd November 1960.(2)

The staff had voted in nine groups and there were clear majorities among those voting either for or against union representation in all groups. Seven of the nine were in favour of retaining the existing system of dealing with their pay and conditions of service. The remaining two groups (the attendants and the staff of the Official Report) were in favour of representation by a staff association and Mr. Speaker Hylton-Foster said:

"If the organisations which have membership amongst the staff in these two groups apply to me for recognition I will consider their applications and, where recognition is conceded,

will make arrangements whereby members of the staff in these two groups can have their claims put forward by a representative organisation to which they belong when questions affecting their pay and conditions of work arise.

There is one exceptional case. Those shorthand-typists who work with Hansard have asked to be allowed to fall in with any arrangements made for other members of Hansard staff and I propose that that should be so."

It took until August 1961 for the negotiations about recognition to be completed for the Hansard staff; the IPCS was then recognised as representing the Reporters and the CSCA (now the CPSA) the typists in the Official Report (the other group which had voted in favour of trade union representation – the attendants – did not achieve recognition until 1968).

From this small beginning – in 1961 the Official Report was not a separate Department of the House and there were only twenty-two Reporters eligible to vote in Mr. Speaker's ballot – trade union membership in the House has grown steadily, albeit slowly, with a significant increase in recognition in the later 1960s and early 1970s. By May 1981 about 80% of the staff of the House were members of trade unions, although membership levels were not in all cases sufficient to ensure that all union members were formally represented by the union to which they belonged. The two significant groups of staff not covered by formal union arrangements were the senior staff in Departments other than the Library and the Official Report; and the secretarial grades throughout the House. By 1980, a total of six unions was recognised as representing various grades in the House. In addition to the IPCS and the CPSA, the Civil Service Union (CSU) was first recognised in 1968; the First Division Association (FDA) in 1972; the Hotel and Catering Workers' Union (General and Municipal Workers' Union) in 1980; and the Society of Civil and Public Servants (SCPS) in 1980.

Part of the slow growth in formal union representation may be attributed to the conditions which have been laid down for recognition of trade unions in the House. Following the precedent held to have been laid down in Mr. Speaker Hylton-Foster's ballot, a pre-requisite for an application for recognition has been that the union concerned must already have in membership at least half the eligible members of staff in the grade in question. That requirement is appreciably more demanding than that which is normally used in the civil service, where union membership is normally at high enough levels for recognition not to be at issue but where membership levels of around 40% would secure recognition. The development of a Whitley system in the House covering all staff in all grades in the House, on civil service lines, has been appreciably inhibited by the patchy trade union representation, particularly among senior staff in some Departments of the House.

(c) *The Whitley system*

In 1968, the three union branches which were by then recognised (the IPCS, CPSA and CSU) requested that Whitley machinery on civil service lines should be set up so that unions could discuss with management such

matters as conditions of service which were covered by their recognition agreements. It was agreed that a joint Committee should be formed with representatives of management and the three recognised unions. That Committee met twice on an informal basis in December 1968 and December 1969. At the first meeting it was agreed that a formal Whitley constitution should be drawn up, in consultation with the Civil Service Department.

The constitution formally adopted in April 1970 was based on the one then in use in government departments. It contained the standard basic aims of "Provision of the best means for utilising the ability, experience, ideas and initiative of the staff concerned." It had, however, some important differences. The equivalent of the Official Side was to be the Staff Board, which had previously attended the two informal meetings and was the body responsible, subject to the approval of the Accounting Officer, for examining proposals for additional staff and for upgrading existing staff. It did not have any of the establishment functions or powers normally exercised by the Principal Establishment Officer in a government department. It could not even collectively be regarded as having the status of a PEO, and its members could not commit their Departmental Heads. The equivalent of the Staff Side was to be known as the Trade Unions' Coordinating Committee (TUCC) and consisted of representatives only of the trade unions which were then recognised as representing certain grades of staff, but did not cover all the staff in the House. The Chairman of the Committee was to be the Chairman of the Staff Board, at that time the Clerk Assistant, and not the Permanent Secretary or his equivalent as in government departments. The powers of the Committee were also limited by the proviso that any decisions about the principles governing the conditions of service of staff must not affect the privileges of the House; and that responsibility for implementing the decisions of the Committee on the part of the Accounting Officer, the Speaker and the Heads of Department should be without prejudice to the "responsibility of each of those authorities as such and the over-riding authority of Parliament."

From the start, the Whitley Committee faced problems in operating within the constraints imposed by its constitution. The Staff Board maintained that as the trade unions represented on the Committee did not cover all the staff of the House, the unions could not act as though they were a genuine Staff Side as in a normal Whitley Council – hence the insistence on a different name. The Board claimed formally to represent the interests of those staff not represented by unions, thus having a somewhat unusual "dual role" which precluded them from being fully equated with the Official Side in a government department. Furthermore, it claimed to be the only body with which the unions, individually and collectively, could negotiate on any subject. The lack of delegated powers, combined with the rigidly-compartmentalised structure of the Departments of the House, created further difficulties. Despite the Board's responsibilities for grading and staffing, its role was

only advisory. It had no formal coordinating functions over what could broadly be described as the conditions of service of the staff and could not require Departments to act on decisions taken by the Whitley Committee. That created difficulties for the unions in knowing when to approach Heads of Department direct and when to raise matters through the Whitley Committee.

These problems, combined with the inexperience of the unions, meant that in its early years the Committee devoted much of its time to what may loosely be described as staff welfare matters where there was common ground both within and between the two sides. Thus accommodation, refreshment facilities, first aid facilities, car parking, fire drills and security loomed large in the discussions which took place at both the two informal meetings and the first four or five meetings (which took place only once a year) of the formally constituted Committee. These tended to be the areas where it was possible to achieve some progress through the Whitley system, despite the obstacles created by the way in which the House was organised and the control of many aspects of such facilities by the Services Committee. Discussion of more fundamental matters such as the provision of a code of conditions of service, agreed promotion procedures and recruitment policies was limited and tended to founder on the need to achieve agreement between all the five Departments which then existed in the House.

This unsatisfactory state of affairs was commented on in 1974 by Sir Edmund Compton in his Review of the Administrative Services of the House of Commons.(4) Sir Edmund's terms of reference included considering and making recommendations (if necessary involving legislation) on the organisation and staffing of the House of Commons; most of the subsequent development of the Whitley system in the House owes its origins, directly or indirectly, to his Report. He was clearly not impressed by what he saw of the Whitley machinery:

> "Again, the creation of a satisfactory system of relationships between management and staff associations will be of great importance, particularly during the period of change that may follow my Review. At present, only about half the staff are represented by the recognised staff associations in negotiation with management. Consequently the joint management/staff committee (Whitley Committee) is unable to function effectively, and the two Sides of the Committee cannot negotiate properly on matters of substance ..[It would be necessary to] consider how far [a Principal Establishment Officer] can properly encourage membership of the staff associations and unions, and promote a new Whitley set-up in which the Official Side has adequate delegated power to negotiate on behalf of management and the Staff Side is representative of all staff." (para. 6.22)

Sir Edmund's main recommendations did not find favour with any of those at whom they were directed and the detailed proposals in his Report therefore mostly came to nothing. The Report and reactions to it led to the setting-up of a Committee of Members of the House under the Chairmanship of the Rt. Hon. Arthur Bottomley, M.P. That Committee reviewed the Compton proposals but rejected most of them and produced some rather different ones. As far as the Whitley machinery

was concerned, however, the Bottomley Committee more or less endorsed Sir Edmund's views, although in less strong terms:

"*Good staff relations* will be critical to the development of a unified service. We regard it as a most important feature of the re-organisation proposed that it would, in our view, provide the framework for closer and more systematic discussion and consultation between the management of the House and staff representatives. We have noted evidence of feeling among staff representatives that on some occasions the Staff Board has lacked sufficient authority to deal with representations made by staff representatives without reference back to Heads of Departments. In consequence, they have, in effect, to make their representations to individual Heads of Departments without there being a single focal point on the official side to whom as in the normal structure of a Government Department, they could make their case. This has, in their view, tended to weaken the development of full Whitley consultative procedures in the House and the adoption of standard conditions of service. In this regard, we understand that meetings of the full Whitley Committee have been infrequent."(Para. 5.27)([5])

The Bottomley Report thus pin-pointed some of the major weaknesses in the Whitley system as it was then constituted, although it contained no specific proposals for the removal of those weaknesses. That was to be achieved indirectly though the implementation of the detailed proposals in the Report. What was important for future developments, however, was the implicit acceptance by the Bottomley Committee of the Whitley machinery as the basis of relations between management and staff of the House.

The "broad lines" of the Bottomley Report were accepted by the government in December 1975. Apart from the decision to reject the recommendations in the Compton Report, the main recommendations were the creation of a new House of Commons Commission which would consist of the Speaker as Chairman, plus five other senior Members. The Commission would be the statutory employer of the staff of the House and would have powers to oversee the development of the House of Commons Service, which would remain distinct from the civil service. There should be gradual progress towards a unified House of Commons Service. The Commission should approve the House of Commons Estimates, rather than the government, so that the House would acquire an important degree of financial independence. And new legislation would be required, but in the form of a "framework" Bill with the detailed arrangements to be filled in by subsequent administrative action.

The detailed arrangements which were of some relevance to the Whitley system included, apart from the progress towards a unified service, a new House of Commons Board of Management which would consist of Heads of Department. It would advise the Speaker and the Commission on all matters affecting the work of more than one Department of the House and on staffing policy, as well as being collectively responsible for the administration of matters referred to it by the Commission and for implementing decisions of the Commission; for the formulation of policy on issues relating to the services of the House which involved more than one Department; and for carrying out a coordinated House staffing policy. On staff matters, the Board would be

advised by the Staff Board.(6) In the statement to the House in December 1975, it was stated that the government hoped that it would be possible to make progress "fairly rapidly" on the introduction of the Report.

The "framework Bill" envisaged by the Report was not finally enacted until the summer of 1978 and then only after considerable pressure had been brought to bear on the government by both the authorities of the House and the four unions by then in the TUCC. The Bill went through after consultation with the TUCC and amid general agreement, although the only division in the House on the Report stage was one on party lines on a government amendment to write into the Bill a provision that the House of Commons Commission should retain ultimate responsibility for relations with the trade unions. During the debate on that amendment, the Leader of the House said clearly that it was one of the principal aims of the legislation, as of the Bottomley Report, to foster the development of full consultative procedures among the staff of the House, and of the working of the Whitley system.(7)

(d) *The Whitley system since the Bottomley Report*

The formal acceptance of the Bottomley Report by the government and the passage of the House of Commons (Administration) Act led to major constitutional changes in the Whitley system. There were, however, considerable delays in making those changes, largely because of the long delay in the introduction of the legislation. The decision to implement the Bottomley Report nevertheless provided a considerable incentive to both sides to improve the joint consultative procedures in the House because many of the proposed changes had far-reaching implications for the staff of the House. On the initiative of the TUCC, the advice of the Advisory, Conciliation and Arbitration Service (ACAS) was sought on this point.

The changes in the constitution of the Whitley Committee itself were the result of long negotiations between the two sides and resulted in a Committee rather closer to those normally found in government departments than had been the case before, although still with some peculiar features. The new constitution went some way towards meeting the particular weaknesses which had been identified in the Bottomley Report, including the lack of adequate powers for the Staff Board and the Board's "dual role" as management and staff representative. The "dual role" was formally abandoned, leaving non-union members of staff unrepresented in the Whitley machinery. The new Official Side was to consist of the Board of Management and the Staff Board (to be renamed the Staff Committee and, subsequently, the Administration Committee but still to consist of the Deputy Heads of Department and chaired by the Head of the Administration Department) with the Clerk of the House as the Chairman of the Committee. The TUCC was to be re-named the Staff Side (subsequently changed, in conformity with national practice, to the Trade Union Side). An important functional change was the appointment of a General Purposes Sub-Committee with the task of considering detailed matters referred to it by the main Committee, which

had become too large a forum for the type of discussion which was often needed.

The new constitution came into operation in July 1979, over six months after the new House of Commons Commission first took office, but it had already been in existence on a "shadow" basis for nearly a year before that. It is clearly an improvement on its predecessor but it would be wrong to suggest that constitutional change has had the immediate result of the creation of a perfect Whitley system. That is not the case. With hindsight, it is evident that the Compton and Bottomley inquiries, followed by the decision to implement the Bottomley Report, forced both sides to consider much more closely than they might otherwise have done what sort of Whitley machinery was required in the House. It would nevertheless probably be unrealistic to expect a system which had been in existence for only just over ten years to function as smoothly as those in government departments, most of which have existed since soon after the First World War. Despite the creation of the Board of Management, the functional independence of the Departments of the House (now totalling six) provides a considerable obstacle to the adoption throughout the House of agreed procedures on matters such as recruitment, promotion and so on. Equally, for the Trade Union Side there are often difficulties in reconciling the interests of disparate groups of staff as well as in finding the time for all the detailed work involved. But there have been perceptible changes: more time is now spent at Whitley Committee meetings, and in the General Purposes Sub-Committee, in discussing matters of substance, even if the Bottomley goal of a unified service remains a long way off. But the Whitley system is now sufficiently well established to have been described by Mr. Bottomley himself, when answering questions in the House on behalf of the House of Commons Commission, as "the basis of industrial relations in the House."[8]

1. Cd. 8606
2. There had been earlier pressure from the Staff Side of the National Whitley Council which gave evidence in 1954 to the Select Committee on Accommodation – see HC 184 of 1953-54 pp.xvi, 165-7. There had also been exchanges on the floor of the House when Mrs. Castle, Mr. Gaitskell and others had questioned the Prime Minister (Mr. Macmillan) about the lack of trade union arrangements for the staff of the House – HC Deb. 24th May 1959 cc.213-4.
3. HC Deb. cc. 366-7
4. HC 254 of 1974
5. HC 624 of 1974-75
6. Ibid
7. 27th June 1978 HC Deb c. 1248
8. 11th February 1980, HC Deb c. 446W

IX. THE PARLIAMENT AND THE EXECUTIVE IN INDIA

BY SUBHASH C. KASHYAP

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Unlike the British, for better or for worse, we, in India have a written Constitution – one of the most comprehensive in the world – and the position, powers and inter-relationships of organs of State and of other institutions mentioned in the document are as defined and delimited therein. The Constitution of India provides for a Parliament of India consisting of an elected President[1] and the two Houses – the House of the People (Lok Sabha) and the Council of States (Rajya Sabha)[2]. The President appoints the Prime Minister and on his advice the other Ministers of the Council of Ministers. The Council of Ministers is responsible to the House of the People.[3] The President summons the two Houses of Parliament to meet from time to time. He can prorogue the two Houses and can dissolve the House of the People. The interval between two Sessions must not exceed six months. Parliament in India usually meets for about seven months in a year in three Sessions: the Budget Session (Feb-May), Monsoon Session (July-Aug.) and the Winter Session (Nov-Dec.). The first session after the General Elections and the first session each year begins with an Address by the President.[4]

The sweep and scope of the legislative jurisdiction and other powers of Parliament under the Constitution are vast. The constituent power also vests in Parliament and the sovereign will of the people may be said to find expression only through the collective decisions of their elected representatives in Parliament. Nevertheless, Parliament of India is neither sovereign nor supreme.[5] The authority and jurisdiction of Parliament are limited by the powers of the other organs, the distribution of legislative powers between the Union and the States[6], the incorporation of a code of justiciable fundamental rights[7], the general provision for judicial review and an independent judiciary. The Supreme Court can declare a law passed by Parliament null and void as violative of fundamental rights[8] or as contravening other provisions of the Constitution[9]. Also, under the latest rulings of the Supreme Court there are limits to the constituent power inasmuch as Parliament cannot alter what have been called the basic features of the Constitution.[10]

Under their traditional meanings, the terms 'legislature' and 'executive' respectively connote a body which legislates or makes laws and a body which executes them. Now, neither is law-making the only function of Parliament nor is Parliament the only actor in the drama of legislation. Similarly, the term 'Executive' is often used rather loosely to connote several different things. Under the Constitution of India, the head of the Executive is the President. All executive power is vested in him and all executive action taken in his name.[11] He is, however, only a constitutional head of State acting on the aid and advice of the Council of

Ministers and as such only the formal Executive. The real or the political Executive is the Council of Ministers.[12] Then, there is the permanent administration comprising the civil services – the huge staff of administrators, experts, technocrats and others forming the administrative apparatus which really helps the Ministers in the formulation and implementation of policies. For the sake of conceptual clarification, therefore, the term 'Executive' may be used to indicate the political Executive, i.e. the Council of Ministers, while the terms 'administration' or 'administrative' may refer to the permanent services or the administrative machinery.

In the United States of America, following the Watergate affair, the question of the relationship between the Executive (the U.S. President) and the Legislature (the U.S. Congress) has been exercising the minds of academics and statesmen. The Congress has lately become most reluctant to let the President have a free hand. In Britain also, in recent years, there has been an increasing argument that Parliament was becoming too subservient to the Executive and that the Prime Minister was becoming Presidential in his use of power.[13] The Indian system, however represents a real fusion of the highest executive and legislative authorities. In terms of the Constitution, as also in actual practice, the relationship between the Executive and the Legislature is one that is most intimate and ideally does not admit of any antagonism or dichotomy. The two are not visualized as competing centres of power but as inseparable partners or copartners in the business of Government. Parliament is a large body. It does not and cannot govern. The Council of Ministers is the grand executive committee of Parliament charged with the responsibility of governance on behalf of the parent body. In other words, the Executive is not a separate or outside body. It is *in* Parliament. Inasmuch as the Council of Ministers is drawn from and remains part of Parliament and responsible to the Lok Sabha, the relationship may be said to be that of a part to the whole and one of interdependence. There is, however a clear distinction between the functions of the Executive and the functions of Parliament.[14] Parliament is to legislate, advise, criticize and ventilate public grievances. The Executive is to govern. In the words of Shri M. N. Kaul, the illustrious first Secretary of the Indian Parliament:

> "Parliament should not at any time share in the executive responsibilities of the Government of the day because once it begins to do that, the parliamentary and the executive responsibilities get blurred, Parliament tends to weaken and does not exercise the full power of criticism."[15]

While the Executive has almost unlimited right to initiate and formulate legislative and financial proposals before Parliament and to give effect to approved policies, unfettered and unhindered by Parliament, Parliament has the unlimited power to call for information, to discuss, to scrutinize and to put the seal of popular approval on the proposals made by the Executive. The Executive (i.e. the political Executive – the Council of Ministers) remains responsible and the administration accountable to Parliament. It is the function of Parliament

to exercise political and financial control over the Executive and to ensure parliamentary surveillance of administration. Executive responsibility and administrative accountability, are two different functional concepts.

Parliament today has become more and more a multi-functional institution performing a variety of roles. This, however is often not appreciated and disproportionate emphasis is laid only on one or two aspects of the working of Parliament. Any attempt at a comprehensive identification of roles and analysis of functions of present day Parliament in the language of modern parliamentary Political Science may be quite misleading and may even amount to pettifogging – it may befog more and enlighten less. Nevertheless, with a view to further clarifying the concepts, some of the cardinal roles and functions of Parliament today may be described as follows:

- Administrative accountability to Parliament or Parliamentary surveillance of administration
- Executive responsibility to Parliament or the Political and financial control of Parliament
- Informational (Right to Information)
- Representational, grievance ventilation, educational and advisory
- Conflict-resolution and national integrational
- Law-making, developmental, social engineering and legitimatizational
- Constituent (Amending the Constitution)
- Leadership (recruitment and training)

Of these, the most important from the systems' angle are perhaps the first two which may be discussed here.

Administrative accountability means the accountability of the administration to Parliament. Parliament does not interfere with day-to-day administration nor does it control administration. Accountability to it is technical and indirect i.e. through the Ministers, and it is *ex post facto* i.e. after something is done, after action has ended. Also, it has to be based on specific grounds. Under the Indian system, after a policy is laid down, a law is passed or monies are sanctioned, it is administration which is required to execute and implement. Parliament cannot itself administer nor can the Ministers. It is, therefore, the officers – and not the ministers – who have to explain if things go wrong in the process of implementation.

In a parliamentary polity, Parliament embodies the will of the people and it must therefore be able to oversee the way in which public policy is carried out so as to ensure that it keeps in step with the objectives of socio-economic progress, efficient administration and the aspirations of the people as a whole. This, in a nutshell, is the *raison d'etre* of parliamentary surveillance of administration. Parliament has to keep a watch over the behaviour of administration. It can enquire and examine *ex post facto* whether the administration has acted in conformity with its obligations under the approved policies and utilized the powers conferred on it for purposes for which they were intended and whether the monies spent were in accordance with parliamentary sanction. This ensures that the officers function in the healthy awareness that they would be ultimately subject to parliamentary scrutiny and answerable for what

they do or fail to do. But in order to be able to conduct meaningful scrutiny and call the administration to account, Parliament must have the technical resources and information wherewithal.[16]

The various procedural devices like the system of parliamentary Committees, Questions, Calling Attention Notices, Half-an-Hour discussions etc. through which the Parliament gets informed, also constitute very potent instruments for effecting parliamentary surveillance over administrative action. Significant occasions for review of administration are provided by the discussions on the Motion of Thanks on the President's address, the Budget demands, and particular aspects of governmental policy or situations. These apart, specific matters may be discussed through motions on matters of urgent public importance, private Members' resolutions and other substantive motions. Members are free to express themselves and to say what is good for the country and what modifications of existing policy are required. Government is sensitive to parliamentary opinion; in most cases they anticipate it; in some cases they bow to it and in some others they may feel that they cannot make any change consistent with their commitments and obligations and political philosophy. Nevertheless, during discussions Members have full liberty to criticize the administration for their past performance and suggest how they should behave in the future or how a particular measure should be carried out or implemented. The discussions are important for they indicate parliamentary mood and bring the impact of public thinking on the administrative apparatus which may otherwise remain immune to public sentiments and feelings. It is as well that the parliamentary debates should serve to remind the administration of their duties and obligations. Parliamentary debates affect the administrative thinking and action in a variety of ways and the subtle influence which cannot be measured in terms of any visible units pervades through all the ranks of administration — high and low. Administrative accountability is thus laid down in these parliamentary discussions and after Parliament approves the policies, administration has complete freedom to implement them in the best manner possible but they are nevertheless haunted and guided by the various viewpoints expressed on the floor of the House.[17]

Executive or Ministerial responsibility to Parliament or what is often termed parliamentary control over the Executive or the Government is based on

(i) the constitutional provision of collective responsibility of the Council of Ministers to the popular House of Parliament, [18] and
(ii) the Parliament's control over the Budget.[19]

In both these matters, parliamentary control over the Executive is political in nature. The answerability of the Executive is direct, continuous, concurrent and day-to-day. When Parliament is sitting, the continuance of the Government in office depends from moment to moment on its retaining the confidence of the House of the People. The House may at any time decide to throw out the Government by a majority

vote i.e. if the ruling party loses the support of the majority of the Members of the House, its Government goes. No grounds, arguments, proofs or justification are necessary.[20] When the House clearly shows that it does not support the Government of the day, the Government must resign.[21] Want of parliamentary confidence in the Government may be expressed by the House of the People

(a) passing a substantive motion of no confidence in the Council of Ministers,[22]
(b) defeating the Government on a major issue of policy,
(c) passing an adjournment motion,[23] and
(d) refusing to vote supplies or defeating the Government on a financial measure.

The Executive enjoys the right to formulate the budget. The Constitution provides for an annual statement of the estimated receipts and expenditure to be placed before Parliament. The Executive is completely free to suggest what the level of its expenditure should be and specify the purposes for which various amounts may be acquired. It has also full freedom to suggest how revenue should be raised to meet the expenditure. Thus, the entire initiative in financial matters is with the Government. Nevertheless, Parliamentary control over public finance – the power to levy or modify taxes and the voting of supplies and grants – is one of the most important checks against the Executive assuming arbitrary powers. No taxes can be legally levied and no expenditure incurred from the public exchequer without specific parliamentary authorization by law.[24]

In fact, except in the theoretical sense of the budgetary control or the ultimate sanction of a vote of no-confidence, parliamentary control over the Government is a myth. The 19th century British concept of parliamentary control over the Executive is no more valid even in the 'Mother of Parliaments'. Parliament does not control the Government. In actual practice, it is the Government which controls Parliament through its majority in the House of the People and through its power to have the House dissolved and fresh elections ordered by the President. As has been said elsewhere:

"The operative reality of politics today is that the real power resides in the Prime Minister and his or her cabinet and not in Parliament. The Prime Minister is the leader of the majority in Lok Sabha and also the head of the Government. The Council of Ministers, with the Prime Minister at its head, controls both Government and legislature, not least because it has extensive patronage and the power to take and implement decisions."[25]

And this is as it should be.

There should not be repudiation of the authority of the Prime Minister because then the Cabinet Government does not function. After all the Prime Minister is the pivot. He may consult two or three colleagues and go ahead. That is why you have the system of Cabinet Committees. It is ultimately the Prime Minister who is responsible to the Parliament and the Nation for the policies which the Government pursues."[26]

1. Constitution of India, article 54.
2. Article 79.
3. Article 75.
4. Articles 85 and 87.
5. *In re* Delhi Laws Act (1912), A.I.R. 1951 S.C.332.
6. Articles 245-46 and the Seventh Schedule.
7. Articles 12-35 and 226.
8. Articles 13 and 32.
9. Excepting constitutional amendments, all legislation in India is subject to judicial review – K. G. Thomas *V.* Commissioner of Income Tax, Madras, A.I.R. 1958, Kerala 6. Also *see* Kania, C. J. in Gopalan *V.* State of Madras (1950) S.C.R 88.
10. Kesavanand Bharti *V.* State of Kerala, A.I.R. 1973 S. C. 1461.
11. Articles 52-53 and 77.
12. Articles 74 and 78. Also *see* Rai Sahib Ram Jawaya Kapur *V.* the State of Punjab, A.I.R. 1955 S. C. 549.
13. *See*, for instance, Derek Ingram, 'Parliament and the Executive' *Tribune*, September 21, 1978.
14. Article 75; Rai Sahib Ram Jawaya Kapur case, *op. cit.*
15. M. N. Kaul, *Parliamentary Institutions and Procedures*, National, New Delhi, 1978, p. 18.
16. *See* S. L. Shakdher, *Glimpses of the Working of Parliament*, Metropolitan, New Delhi, 1977, pp. 180-84.
17. *Ibid.*
18. Article 75.
19. Articles 114-116 and 265.
20. *See* Inter Parliamentary Union (Ed.), *Parliaments of the World*, London, 1976, pp. 801-802 and 825-27.
21. M. N. Kaul and S. L. Shakdher, *Practice and Procedure of Parliament*, Metropolitan, Delhi, 3rd. Ed., 1978-79, Vol. II, p. 586.
22. *Rules of Procedure and Conduct of Business in Lok Sabha*, Sixth Ed., 1980, Rule 198.
23. Rule 56.
24. Articles 114-116 and 265.
25. Subhash C. Kashyap, 'Committees in the Indian Lok Sabha' in John D. Lees and Malcolm Shaw, *Committees in Legislatures*, Duke University Press, Durham, 1979, p. 291.
26. Kaul, *op. cit.* p.14.

X. PROCEDURAL DIFFERENCES: QUEENSLAND AND TASMANIAN PARLIAMENTS

BY R. D. DOYLE

Clerk Assistant of the Queensland Parliament

After having served in a number of positions in the Tasmanian Parliament for over 17 years, in December 1979 I was appointed Clerk-Assistant of the Queensland Parliament. I looked forward to my new position with a keen interest, having worked in both Houses of the Tasmanian Parliament I was intrigued at the prospect of a senior position in a uni-cameral Parliament.

Queensland has one House only, a Legislative Assembly. The Legislative Council of Queensland was abolished in 1922. Section 3 of the Constitution Act of 1934 provides that in order for the restoration of an Upper House, a Bill providing for such must be approved by the electors qualified to vote for the election of members of the Legislative Assembly. Queensland is the only Australian State to have abolished its Upper House and this, of course is the first noticeable difference between the two Parliaments. As a consequence, in Queensland, all the procedure relating to an Upper House no longer exists. No Messages to and from the Legislative Council, no amendments by the Legislative Council to Bills. no Free or Managers conferences with the Upper House. Once a Bill has passed all three stages in the Queensland Legislative Assembly and the Title is agreed to, the Bill is ready for Royal Assent.

Lifetime of the Two Parliaments

In Tasmania the lower House, the House of Assembly and therefore the Parliament has a life span of four years. In Queensland the Legislative Assembly is restricted to a term of three years which is the period of time most favoured by Australian Parliaments. It is also interesting to note that in Tasmania the lower House is called the House of Assembly and in Queensland it is called the Legislative Assembly.

Committee System

The Tasmanian Parliament has made great use of the system of both Select and Joint/Select Committees. The Tasmanian Legislative Council has on average six Select Committees annually. This added to the occasional Joint Committee of both Houses plus active Joint Standing Committees on Public Works, Subordinate Legislation and of Public Accounts gives an indication of the large amount of Committee activity by the Tasmanian Parliament. The Committee system is not used as widely in Queensland, probably a direct result of the unicameral system. Another reason for this is that Queensland does not have Public Accounts or Public Works Committees. In recent years there have been only two major select committees, inquiries into the Queensland Education system and Punishment of Crimes of Violence.

Procedure in the House

Bills – In both Parliaments Bills are read three times before being finally agreed to: however, introductory procedure varies. In the Tasmanian House of Assembly a Public Bill (unless received from the Legislative Council) shall be initiated either by a motion on notice or by leave of the House without notice to bring in a Bill. In Queensland a Bill shall be brought in by motion, unless it has been directed to be brought in by Resolution of the House. If a Bill is brought in by Resolution, the House resolves itself into a Committee to consider the desirableness of introducing a Bill. This question is put without amendment or debate. Members are entitled to speak for twenty-five minutes in Committee to the motion introducing the Bill. Bills relating to finance or trade, or imposing taxes or authorizing the expenditure of money are brought in upon such a Resolution. This procedure has been used in Queensland over many years to introduce all public Bills, thus enabling members to speak for twenty-five minutes to a Bill they have not seen.

However during the 1980 Session of Parliament a Sessional Order was agreed to changing the introductory procedure to a motion on notice, which when agreed to, enabled a Bill to be read a first time, the Minister in charge to read his second reading speech and then a member to move the adjournment of the Debate. In the Tasmanian lower House the recent practice has been for Ministers to introduce their Bills by a motion without notice, leaving at least two days before the Bill can be read a second time.

Sittings and Adjournment

In Tasmania sitting times are normally from 7.30 p.m. on Tuesdays and 2.30 p.m. on Wednesdays and Thursdays, however these times are subject to variation depending on the progress of government business. In Queensland sitting times normally commence at 11 a.m. on Tuesdays, Wednesdays and Thursdays. Monday and Friday sittings are not common in either state.

In Tasmania Members are able to speak to the motion for the adjournment of the House at the end of a sitting day with a time limit of 40 minutes for each speaker. In Queensland Standing Order No. 34 prohibits debate on this motion. However in 1980 a new sessional order provided for an adjournment debate of 30 minutes, five minutes for each speaker, to take place on every sitting Tuesday. In addition to this debate, by a further sessional order, an hour is set aside on Wednesdays between 12 noon and 1 p.m. for a debate on "Matters of Public Interest". Each member is permitted to speak for up to 10 minutes on any matter.

Time Limits of Speeches

In general there is little difference in the time allowed for members to speak in most procedural situations. On the motion to adjourn the House to discuss a matter of urgent public importance there is no difference, the total debate not to exceed two and one half hours. Members in each Parliament may speak for up to forty minutes to any Motion or Question

before the House. For the Appropriation Bills in Tasmania, members may speak for up to one hour, and in Queensland, for the debate on the Financial Statement a similar time limit applies. The main difference is that in Queensland a member may speak for up to 25 minutes in committee on the introductory motion to seek leave to introduce a Bill.

Private Member's Time

In Queensland little time is made available for private members. By sessional order government business takes precedence on Tuesdays and Thursdays.

On Wednesdays a discussion on "Matters of Public Interest" takes place between 12 o'clock and one p.m., also by sessional order. In addition an adjournment debate is provided for by sessional order every Tuesday for 30 minutes. This gives a Parliament of 82 members 90 minutes each sitting week for private members to raise matters. In Tasmania, unless otherwise ordered, the Standing Orders provide for private members business until 4 p.m. on every sitting day. Therefore in a normal sitting week there is no opportunity on Tuesdays and usually very little on Wednesdays and Thursdays, depending on how long question time takes. However the Tasmanian Standing Orders do provide for an adjournment debate at the end of each day's sitting. Members may speak for up to 40 minutes to the motion that the House do now adjourn. Both Houses have provision for a motion to adjourn the House to discuss a matter of urgent public importance with a debate of 2½ hours. Therefore it can be seen that the Tasmanian Standing Orders do cater for the backbench and opposition members more generously than the Queensland Standing Orders.

Closure

In Tasmania there is no provision in the Standing Orders for a Closure motion, "That the Question be now put." In Queensland, Standing Order 142 provides for such a motion to be put if Mr. Speaker or the Chairman is of opinion that the Question has been sufficiently debated. but there must be at least thirty members in favour. This is most useful in terminating what could become a very long and drawn out debate and when used in conjunction with the motion of "Further claim on closure", can terminate discussion on both an amendment to and the main question, a very useful late night saver.

Annual Appropriation

In Tasmania, the Government's annual Budget is contained in Appropriation Bills, the main one being introduced in the Spring session of Parliament in August or September. The system of a Financial Statement and Committees of Supply and Ways and Means as applies in Queensland was replaced in Tasmania by using the main Appropriation Bill to discuss the Government's Budget. There is a second reading debate on which each member may speak for up to one hour and

amendments may be moved to the Second reading motion. In committee the Bill is proceeded with Division by Division, item by item in a long and laborious session in which opposition members may move that any item be reduced by one dollar or two dollars and so on. During 1980 the Tasmanian House of Assembly had its longest Budget session in its history, the Budget debate alone lasting a record number of hours.

In Queensland, this unfortunate train of events cannot occur. Granted, there is a Debate on the Financial Statement, to which each member may speak for up to one hour, Standing Order No. 307 sets out the procedure in which the business of Supply shall be dealt with. Certain days are alloted and time limits are imposed so that the business of supply can be put through with both opportunity for debate and strict adherence to a time table. This coupled with the usual annual Sessional Order providing for double days for supply and a limitation of not more than 17 days being alloted for consideration of the Estimates, the Queensland Government is able to pass its annual Budget through Parliament much more quickly than the Tasmanian Government.

The Use of Sessional Orders

The Tasmanian House of Assembly makes little use of Sessional Orders. Apart from motions allowing for government business to take precedence during the budget session and alterations to sitting days and times towards the end of a session, they are hardly ever used. Queensland makes much more use of Sessional Orders and at the beginning of each session of Parliament a number of Sessional Orders are passed providing for days of sitting and commencement times, matters of public interest, a time limit of one hour for question time, an adjournment debate for Tuesdays, alterations in the time limits for speaking, double days for the Address-in-Reply debate and for the Supply estimates and changes in the introductory procedure for Bills.

Other Minor Differences

There are also a number of minor differences between the two Houses, for example, the Notice Paper in Tasmania is referred to as the Business Paper in Queensland. A record of the attendance of members is kept in Queensland but not in Tasmania. With regard to the form of amendments to Questions, there is one marked difference. In Queensland, when the proposed amendment is to omit words the question put is "That the words proposed to be omitted stand part of the Question." In Tasmania the question put is, "That the words proposed to be left out be so left out."

Provision is made in each House for Members to be named under similar circumstances. However in Queensland, Standing Order 123A empowers the Speaker or Chairman after warning a member whose conduct in his opinion continues to be grossly disorderly, to withdraw immediately from the Chamber for the remainder of the days sitting. If the member so withdraws this negates the action of having to name the Member.

Question time in Tasmania is unlimited and can carry on well into an afternoon; in Queensland it is limited to one hour only and on allotted days for Supply, the debate on the Address-in-Reply and Matters of Public Interest, Question time must conclude at 12 noon. In Tasmania objection taken to the Speaker's ruling must be in writing and a motion of dissent moved and seconded and taken at once, the debate not to exceed sixty minutes, ten minutes per member. In Queensland the same time limits apply, but the motion of dissent must be on Notice to be considered within three sitting days of that on which the ruling was given. The Tasmanian House of Assembly has 35 members whereas the Queensland Assembly has 82 members. Consequently there is a markedly different atmosphere within the two Chambers.

There are a number of other differences between the two Houses, such as the order in which Notices of Motion and Orders of the Day are placed on the Business/Notice Paper and the provision for Formal or Unopposed Business as applies in Queensland where, if no objection is taken by any member at the commencement of the sitting day, a Motion on Notice for that day, and each Order for the Day for the Third reading of a Bill, the Motion or Order shall be deemed to be formal and shall take precedence, no amendment or debate being allowed.

Perhaps the most noticeable difference of all is that in Queensland the Standing Orders in the main favour the Government in steering through its legislative programme whereas in Tasmania the opposite is the case. With the annual appropriation taken as a Bill, with no restricted number of allotted days and no closing times, coupled with no provision in the Standing Orders for a closure motion, it is the Opposition who gain most from the Tasmanian Standing Orders.

It would be a very interesting exercise to carry out a study to determine how much variation there is in the procedures adopted by Parliaments throughout the Commonwealth.

XI. RESCISSION OF A RESOLUTION

BY JOHN CAMPBELL

Clerk of the Legislative Assembly, Victoria

The Victorian Legislative Assembly is composed of 81 Members and following the last general election and the subsequent election of a Speaker, the Government Party (the Liberal Party) has forty Members on the floor of the House and the two non-Government Parties between them have forty Members. In this situation, of course, "pairing" arrangements can be critical and a misunderstanding concerning "pairing" may have far-reaching effects.

It was in this context that on 13th December, 1979 a Member of the Opposition moved:–

"That this House views with concern the non-appointment of a full-time Minister for each important area of responsibility and requests the Premier to take steps to appoint a Minister with sole responsibility for housing in view of the current crisis in housing and the building and construction industry."

At the conclusion of the debate the House divided and the question was carried (against the votes of the Government Members) by 38 votes to 37.

Immediately after the Speaker had announced the result, the Government Whip advised the House that because he had been led to believe the Leader of the Opposition would not be present, he had arranged for him to be "paired" with a Government Member. It appeared that the Leader of the Opposition had then inadvertently voted whilst being "paired". The Whip raised with the Chair the question whether the matter could be corrected in some way.

Both the Leader and the Deputy Leader of the Opposition confirmed the position as described by the Government Whip and indicated their willingness to co-operate in any way to correct the matter.

Mr. Speaker Plowman said:–

"Pairs arrangements are a private matter between the parties. I shall seek some guidance on the subject and report back to the House."

Following brief intervening proceedings the Premier (the Hon. R. J. Hamer) then moved, by leave –

"That the resolution concerning the appointment of full-time Ministers agreed to this day be read and rescinded."

This motion was agreed to without debate or division.

The Deputy Leader of the Opposition having indicated that it was desired that the division on the original motion be again taken, the Premier then moved, by leave –

"That Standing Orders be suspended so far as to permit the motion moved by the Member for Carrum to be put again forthwith", (which motion was carried).

Upon the Speaker putting the original question again, the voting was found to be equal (38 "Ayes" and 38 "Noes") whereupon Mr. Speaker said –

"I am of the opinion that the matter is not one which should be decided except by a majority of this House. On these grounds, and in accordance with precedent, I therefore cast my vote with the 'Noes'".

The motion was accordingly negatived.

By way of explanation, the Standing Orders of the Legislative Assembly provide no machinery for their suspension. "By leave" motions have evolved as a means of acting outside requirements of the Standing Orders. Where, for example, it is proposed to immediately move, without the giving of notice, a type of motion in respect of which the Standing Orders require notice of motion to be openly given at a previous sitting, a "by leave" motion is the method adopted. The objection of one Member to a proposed "by leave" motion is fatal and in that event, leave having been refused, the would-be mover is thrown back on the procedures laid down in Standing Orders.

In this case, the view was taken that the two motions which were moved to rectify the position, by their nature, required the giving of notice.

XII. FIRST COMMONWEALTH CONFERENCE OF DELEGATED LEGISLATION COMMITTEES

BY HARRY EVANS

Secretary to the Commonwealth Delegated Legislation Committee

The Standing Committee on Regulations and Ordinances of the Australian Senate was the host for a conference of parliamentary committees involved in the scrutiny of delegated legislation in Commonwealth countries held at Parliament House, Canberra, from 29th September to 2nd October 1980.

The Australian Senate Committee sent invitations to attend the conference to its counterparts which were known to exist in other parliaments, and also sent letters to parliaments in respect of which there was no information about the existence of delegated legislation committees. Sixteen committees from jurisdictions throughout the Commonwealth were represented at the conference by 58 delegates. The jurisdictions represented were: Australia and all of the Australian states and the Northern Territory, Canada and two of the Canadian provinces (Ontario and Saskatchewan), Ghana, India, Papua New Guinea, the United Kingdom and Zambia. With the assistance and cooperation of the President of the Australian Senate and the Speaker of the House of Representatives, the conference was held in the Senate Chamber and the facilities of Parliament House were placed at the disposal of the delegates.

The conference was opened on the morning of 29 September by His Excellency the Governor-General of the Commonwealth of Australia, Sir Zelman Cowan, AK, GCMG, GCVO, K StJ, QC who made a very learned address on developments in administrative law with particular reference to delegated legislation. The chairmen of the committees represented made reports on developments in their respective jurisdictions. Addresses on particular aspects of the parliamentary control of delegated legislation were made by or on behalf of Professor G. S. Reid, Deputy Vice-Chancellor and Professor of Politics at the University of Western Australia, Sir Robert Speed, C.B.E., QC, Mr Speaker's Counsel at Westminster, Dr Eugene Forsey, former Canadian Senator and leading authority in Canada on constitutional matters, Professor J. E. Richardson, the Australian Ombudsman and Professor Emeritus of Law, and Dr D. C. Pearce, author of the authoritative work, *Delegated Legislation in Australia and New Zealand.*

Extremely lively and well informed discussions followed all of these addresses. The delegates proved to be enthusiastic about their task of scrutinising delegated legislation on behalf of their parliaments, and it was agreed that the conference provided a valuable exchange of ideas.

The conference passed a number of resolutions expressing the belief of the delegates that delegated legislation committees are a desirable means of assisting parliaments in the performance of their functions, and

providing machinery for continuing the work of the conference and furthering contacts between committees. A permanent committee, called the Commonwealth Delegated Legislation Committee, was established, with five members representing parliaments of the five major regions of the world. It is hoped that the next conference will be held in 1982 in another Commonwealth country.

The Australian Senate Committee compiled a report on the conference and presented this report to the Senate. The report, the transcript of the proceedings of the conference and the documents presented to the conference (including background documents on each committee) will be printed in three volumes, and it is intended to make these volumes freely available to other Commonwealth parliaments. The Commonwealth Delegated Legislation Committee also hopes to publish a regular bulletin containing information on delegated legislation throughout the Commonwealth.

All modern legislatures have adopted the practice of passing laws empowering executive departments and agencies to make instruments with the force of laws. In most Commonwealth countries there are statutory provisions giving the parliaments powers to control such delegated legislation made by the executive government. In most jurisdictions the method of control adopted is procedure for disallowance or annulment by either house of the parliament, or sometimes by both houses in conjunction. The British procedure whereby some delegated legislation is subject to affirmation by both houses has not been extensively adopted elsewhere. This procedure provides the strongest form of control over delegated legislation. In a few jurisdictions the houses of the parliament are given power to amend or modify delegated legislation. Most of the committees on delegated legislation advise their parliaments on the exercise of these parliamentary powers.

All of the committees represented at the conference adopt criteria in their scrutiny of delegated legislation which enable them to avoid consideration of the merits of such legislation and to ensure that the power of the executive to make laws is not misused. The criteria of most of the committees are concerned to ensure that delegated legislation is not contrary to the statute under which it is made, and that it does not unduly infringe individual rights and liberties. The fear that the executive government would use its expanding law-making powers to whittle away long established rights and liberties of the citizen was one of the main reasons for the establishment of delegated legislation committees in many parliaments.

The delegates to the conference reported that the volume, scope and complexity of law-making by governments is growing and that the burdens placed upon the committees in attempting to scrutinise this legislation is increasing accordingly. On the other hand, delegates felt that there is a general trend in most jurisdictions towards more parliamentary influence upon legislation and administration, supported by a greater demand among the public and members of parliament for accountability of government, and a sharper awareness of the rights of

citizens. Most delegates left the conference with ideas for improvements in the system of parliamentary control of delegated legislation in their jurisdictions. All delegates felt that the conference made a worthwhile contribution to enhancing parliamentary supervision of government.

XIII. ST. LUCIA AND DOMINICA INDEPENDENCE GIFTS

BY J. F. SWEETMAN

Second Clerk of Committees, House of Commons

One of the traditions of the House of Commons is that of giving gifts to the Parliaments of countries within the Commonwealth when they become fully independent. Since the end of the 1939-45 War there have been over forty such presentations. A recent example of this attractive practice was seen in January 1981 when Lord James Douglas-Hamilton (Conservative Member for Edinburgh West and a Government Whip) and Mr. Joe Dean (Labour Member for Leeds West and an Opposition Whip) reported to the House on the presentation of gifts to the Parliament of St. Lucia and to the House of Assembly in Dominica.

The Delegation of two Members, accompanied by Mr. John Sweetman, a Clerk of the House, flew first to St. Lucia where they presented a clock and gavel set to the Parliament. Both Members addressed the Assembly from the floor of the Chamber and were duly thanked in speeches by the Prime Minister and Leader of the Opposition. It so happened that the sitting was attended by Mr. Nicholas Ridley, Minister of State at the Foreign and Commonwealth Office, who was on an official Government visit. The irony of the Minister having to sit and listen to speeches made by two Whips was not lost on those present.

The welcome given to the Delegation was warm and spontaneous. Among many pleasant memories was a visit to the Morne Educational Centre near Castries, a place of learning combining sixth-form tuition, teacher training and technical training. Each member of the party had to sing for his supper by way of saying a few words to the students. In view of the tricky questions asked by each group it was probably just as well that these talks were given on an individual basis.

Another very enjoyable visit was to Pigeon Island National Park, a site of great natural beauty with a museum and buildings restored to illustrate the struggle between France and Britain in the aftermath of the American War of Independence. The struggle culminated in the Battle of the Saints in 1782 when Admiral Lord Rodney overwhelmed the French fleet under Admiral de Grasse and established British naval supremacy in the Caribbean.

Both St. Lucia and Dominica suffered considerably in the last two years from the onslaught of Hurricane David (1979) and Hurricane Allen (1980). St. Lucia suffered more in 1980 when the island's banana crop was totally destroyed. Welcome aid was given promptly by the crew of H.M.S. Glasgow and thereafter by a team of Royal Engineers. The devastation caused in 1979 in Dominica was even more severe; practically every building and house lost its roof and almost all the island's trees were either torn from their roots or decapitated by the hot, searing wind of the hurricane. The people, cheerful and resilient as they are, were stunned by

the catastrophe and will need help for some time to come.

The presentation of the Speaker's Chair was a dignified and punctiliously correct ceremony; it was an especially moving moment when Madam Speaker occupied her Chair for the first time. The dignity of the occasion may have had something to do with the probably unique distinction enjoyed by Dominica of having three women as Prime Minister (Miss Eugenia Charles), Speaker (Mrs. Marie Davis-Pierre) and Clerk (Mrs. Jennifer White).

The return journey started inauspiciously with a puncture on the rough, mountainous road to the airport. The Delegation's leader was more than equal to the occasion as from regular experience of such incidents in the Scottish Highlands he personally took charge of the change of tyre; it was raining heavily at the time. A strike by British Airways caused the party to fly back via the French island of Guadeloupe. It was a lengthy but enjoyable journey marred only by the refusal of a bank cashier in Pointe-à-Pitre to change a Bank of Scotland £10 note into francs. In firm French, she said it was "inacceptable"; and all the Member for Edinburgh West's protests in French were to no avail. That apart, the journey was completed without incident.

XIV. AN ARCHITECTURAL ARCHIVE FOR THE WESTMINSTER PARLIAMENT

BY ALEXANDRA WEDGWOOD

The main purpose of the records of Parliament is to document proceedings in the two Houses. The state of those buildings in which the Houses of Parliament are situated has, since the fire of 1834 and consequent reconstruction, frequently been the subject of much discussion in both Chambers and before Select Committees. The minutes of evidence given to such committees were of course published, together with long reports to the two Houses.[1] The visual part of that evidence in the form of plans and drawings was unfortunately very rarely published or preserved. The absence of such material sadly makes some of the evidence almost unintelligible today. There was, however, recognition as early as the First Report of the Select Committee appointed to inquire into the present state of the Building of the New Houses of Parliament in 1844 that there was a need to have available plans in order to understand the great and complicated building that was slowly rising as the New Palace of Westminster. In this article I will give some of the historical background to the attempts made to control these buildings through a knowledge of the plans, ending with an account of the establishment in 1980 of the present new Architectural Archive within the House of Lords Record Office.[2]

As with any great architectural enterprise, constant alterations were made while the New Palace was under construction during the 1840s and 50s. The unique circumstances of the commission, however, meant that the client, the Office of Woods and Forests (later called Office of Works), had in practice very little control over the architect, and Charles Barry adapted his plan with minimal reference to others. The House of Commons Select Committee of 1844 was aware of the substantial changes that had taken place between the competition of 1835, the first published plan of the principal floor of 1843 and what was actually being built. It recommended that 'Mr. Barry should make a half-yearly Report of the progress of the works to the Commissioners of Woods and Forests; and should also submit to that Board any alterations which may hereafter be deemed advisable and accompany such Report with plans of the alterations proposed.'[3]

A further plan of the principal floor was published in 1847 to mark the opening of the House of Lords. At that date, however, much building still remained to be done, principally the chamber of the House of Commons, the West front, St. Stephen's Porch and part of Speaker's Court, and alterations continued. Opinion in the House of Commons was becoming restive about the progress of the building and in 1848 a Royal Commission for the completion of the New Palace was appointed to superintend the final stages of the work.[4] It acted as an intermediary between Barry and the Office of Woods, and correspondence survives in the Public Record Office (Works 11/8/5) of another determined attempt

to obtain an up-to-date set of plans of the building. A letter of 7th July 1851 to the Office of Woods from the newly appointed Commissioners states

'with reference to your letters of 28 January and 28 May last requesting to be furnished with plans of the different floors of this building in consequence of the numerous modifications that have taken place since the printing of the last set, the Commissioners directed Mr. Barry to make a careful revision of the former plans and to prepare a fresh set with all the alterations and new arrangements of rooms etc. inserted therein.'

It seems clear that Barry prepared such a set of plans and he advised that they be engraved. An estimate for such engraving survives,[5] and the correspondence ends on 2nd September 1851. It is not clear what actually happened, but only one engraving, that of the ground floor, (Works 29/2781) is known to have survived. Moreover, the principal floor plan of 1847 was reproduced in guidebooks to the Palace up until the 1870s.[6] (That plan had been superseded in several important ways: the most obvious changes were the oriel windows added in 1850-51 to the Division Lobbies of the House of Commons and the repositioning of the Peers Robing Room from the south side of State Officers Court to the south side of St. Stephen's Court.) It is much to be regretted that a set of these engravings has not survived as it would have provided invaluable information about the early use of the building. A plan of the first floor of approximately the same date and no doubt very similar to the one that Barry made in 1852 came onto the market in 1975 and (as will be mentioned again below) was acquired by the House of Lords Record Office. Also a splendid set of elevations and sections of the whole Palace, almost certainly made at the same time as the plans, have survived in the Drawings Collection of the British Architectural Library.

The building of the New Palace continued through the 1850s against a background of constant criticism of the expenditure involved. On Sir Charles Barry's death in 1860, his second son, Edward Middleton Barry, became the architect to the Palace. His appointment was abruptly ended ten years later by a ruthless First Commissioner of Works, Acton Smee Ayrton, who was trying to establish a proper system of responsibility for all public works. A major issue in this process was the possession of plans and drawings for the Palace. In a letter that was described in the Commons as one that 'no gentleman would send to his butler',[7] Ayrton demanded 'all the contract plans and drawings of the Houses of Parliament, and all other papers necessary for affording a complete knowledge of the building, and of the works carried on in connection therewith'.[8]

This action provoked a major debate within the architectural profession since E. M. Barry had tradition at least on his side when he claimed that architectural drawings belonged to the architect. Barry was, however, forced to give way and in March 1871 a selection of the relevant drawings was made by a surveyor from the Office of Works. Barry was given specific permission to keep his father's design drawings. These were bequeathed by a descendant to the Drawings Collection of the British

Architectural Library, while those obtained by the Office of Works have now been placed in the Public Record Office. Thus the responsibility for this splendid building passed finally and effectively to the Office of Works, where it remains with the Office's successor, the Property Services Agency of the Department of the Environment. It is appropriate to add here that the Office of Works, once fully in control, did publish a complete set of plans of the Palace in 1881, the first of the completed building.[9]

The plans and drawings thus obtained were certainly studied from time to time over the intervening years by those responsible for the Palace but they cannot have been convenient to use. They were catalogued in different ways at least three times after passing into public ownership and they were moved on several occasions before coming to rest in the Public Record Office at Kew. From the 1960s has come a strong revival of interest in the architecture and interior decoration of this splendid Victorian masterpiece. A programme of restoration has been carried out despite the constant pressure to adapt the building to the needs of the present. Therefore it became more important to have easily to hand copies of those drawings which showed the original construction and fittings.

The Services Committee of the House of Commons, inspired by Mr. Robert Cooke, M.P. (now Sir Robert), resolved on 21st March 1979

> 'that a service be established for the collection, cataloguing and copying of architectural drawings and related matter relevant to the Palace of Westminster and its adjoining buildings, for permanent preservation with the records of both Houses; that the work be carried out under the general supervision of the Librarian of the House of Commons in collaboration with the Clerk of the Records, House of Lords; and that the need for the service to be reviewed after it has been in operation for three years.'[10]

I took up this newly created half-time post in January 1980. It is attached to the House of Commons Library, but, as indicated in the resolution, the archive itself is to be part of the total Parliamentary Archive, that is of the records of both Houses preserved in the Victoria Tower. I began my work with a survey of the sources of the material that the archive would contain. I have already mentioned the two principal collections of those nineteenth century drawings from which the New Palace at Westminster was constructed following the fire of 1834: the Public Record Office and the Drawings Collection of the British Architectural Library, which also contains many designs by A. W. Pugin for the furniture, stained glass and metalwork of the Palace. Another important collection of Pugin designs for the internal decoration of the building, chiefly wallpapers and textiles, is in the Victoria and Albert Museum. There are as well other sources for nineteenth century material, among them the Society of Antiquaries, Westminster Public Library and Birmingham City Art Gallery. In view of the major alterations that have taken place within the building since 1945, it is also most desirable that the archive should contain copies of recent architectural schemes, the drawings of which are mostly held by various branches of the Department

of the Environment.

Having completed this survey, I began to select drawings to be copied, which constitutes the second stage of my brief. My criteria for selection are both those of historical importance and those of practical value. The project depended on the help and encouragement of Mr. A. W. Mabbs, the Keeper of the Public Records, and so far most of this work of copying has been done by the Public Record Office staff, the materials being supplied to them by HMSO on Lords Record Office requests. The PRO staff have produced large, though not full-size, photographic copies, together with negatives on aperture cards, thus giving the Archive the means of reproducing further copies. The results have proved clear enough for all the detail to be legible, which is most satisfactory considering that the condition of many of the originals is poor. In addition some photography has been done as an allied service by HMSO. It is hoped that the services of the photographers of the Department of the Environment can also be used.

When the copies arrive at Westminster they are first catalogued and then filed in plan chests in the Victoria Tower. My aims in cataloguing are for clarity and brevity. I am organising the catalogue under topographical headings and the entries consist of a brief description of the drawing with its scale and its date, followed by a comparison between the drawing and the present state of that part of the building. Comment on the current state of the actual building I am sure greatly increases the value of the information in the catalogue. My aim is to process about 1,000 copies a year. The master index, which must be consulted in order to see the individual copies, is in the House of Lords Record Office, and copies of the catalogue of the contents to date are in the Library of the House of Commons, the Surveyor's Drawing Office and in the Library of the National Monuments Record.

The first instalment of the Architectural Archive is now in working order, and, through the House of Lords Record Office, available to the public but the chief users of the archive have so far been those members of the Property Services Agency who have the day-to-day responsibility for the condition of the buildings of Parliament. The archive can be organised to demonstrate both the history and the present state of the architecture of the Palace more coherently than has hitherto been possible. Copies of drawings have been brought together from different sources in a form that is easy to handle. Though the progress of the archive is assured, it will not solve every architectural problem in the building, since complete records of the original drawings do not exist. It will, however, make the identification of the gaps, such as the sad absence of the designs for most of the decorative woodcarving, more obvious.

As a parallel activity to the creation of the Architectural Archive, the House of Lords Record Office has initiated an active policy of acquisition of material relevant to the construction and decoration of the building. Certain important items had already been presented to the House of Lords Library: a bound volume of twenty-two drawings for the throne

came in 1937 from a descendant of the Barry family, and in 1959 the volume of some 300 drawings almost all relating to the rebuilding of the New Palace which was made up in Barry's office during the 1840s by a young architectural draughtsman, Octavius Moulton-Barrett, was presented by Miss Mottisone, and is now in the care of the Lords Record Office (Historical Collection 130). Several of these office 'scrap-books' are known but this is undoubtedly the most important. Another valuable presentation of 120 drawings, this time directly to the House of Lords Record Office, was made in 1964 by the firm of John Hardman & Sons, who had been responsible in the 19th century for the manufacture of the original stained glass and metalwork (Historical Collection 131).[11]

The policy of acquisition began in 1975 with the purchase of Barry's plan of the first floor, (Historical Collection 208) which has been mentioned above. A drawing by A. Salvin of the Cloisters and the ruins of St. Stephen's Chapel, made after the fire of 1834 (Historical Collection 274), was purchased in 1980. Then, also in 1980, a number of studies made by C. W. Cope for frescoes in the Peers Corridor and the Chamber of the House of Lords, (Historical Collection 278 and 279), were purchased from a descendant. A further study for a fresco in the House of Lords by an unknown artist, (Historical Collection 280), was presented in the same year by Sir Robert Cooke, now the Special Adviser on the Palace of Westminster to the Secretary of State for the Environment. Three full-size cartoons of 1851 for the stained glass, which was made to Pugin's designs by J. Hardman & Sons, in the South window of Westminster Hall (Historical Collection 281), were transferred in 1980 from the Surveyor's Drawing Office. Finally, in 1980 two further volumes of Barry office 'scrap-books' came onto the market. These were known as the Kennedy volumes after that assistant, George Kennedy, who made them up, and the House of Lords Record Office purchased from them the 20 drawings which related to the building of the Palace of Westminster (Historical Collection 282).[12]

It is felt that both the establishment of the architectural archive and the policy of acquisition of material relevant to the construction and decoration of the buildings of Parliament, brings a valuable new aspect to the work of the House of Lords Record Office.

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1. A list of Reports of Commissions and Select Committees of either House relating to the New Houses of Parliament, 1831-70, is given as Appendix III in the authorative account of the building. *The Houses of Parliament*, edited by M. H. Port, 1976.
2. 'The Preservation of the Records of Parliament at Westminster' by M. F. Bond, *The Table*, XXXII, 1963, pp. 20-25, and *Guide to the Records of Parliament*, M. F. Bond, 1971.
3. *Report from the Select Committee on Houses of Parliament*, H. C. 448 (1844), p. iii.
4. M. H. Port, *op. cit.*, p. 142.
5. P.R.O. Works 11/8/5;12.
6. *The New Palace of Westminster*, Warrington & Co., 1871. There is a small collection of early guides to the building in the HLRO.
7. *3 Parl. Deb.* CCI, 717.
8. *Correspondence between the First Commissioner of Works and E. M. Barry Jan.-March 1870*, H. C. 154 (1870), p. 673.
9. Copies of plans published by the Office of Works (and their successors) in 1881, 1902, 1937-8, 1944-47, 1953 and 1960-70 are now held in the Architectural Archive, together with the set of current

survey drawings of 1975-8 which were made by Plowman Craven and Associates on behalf of Central Survey DCES.

10. *Minutes of Proceedings of the Select Committee on H.C. (Services)* 1978-79 (118 – iii) p. iii.
11. Accessions are announced in the annual *Reports of the House of Lords Record Office*, obtainable from that office.
12. Some of the latest acquisitions are described and also illustrated in the *Report for 1980* (House of Lords Record Office).

XV. COMMITTEE STRUCTURES

The Questionnaire for Volume XLIX of The Table asked for the following information:

Please give details of your current Committee structure, including Select and Standing Committees, and indicating any recent changes or developments in this structure. Future developments under consideration would also be of interest.

Replies were received from some twenty-two legislatures. With the exception of those returns which provided merely lists of committees, all the replies are printed.

House of Lords

The House of Lords has a committee structure which may conveniently be divided into six categories: committees concerned with the judicial function of the House; committees to deal with Private business; domestic committees; committees on Consolidation Bills and Statutory Instruments; the sessional select committees on the European Communities and Science and Technology; and *ad hoc* Select Committees.

(a) Judicial committees. The Law Lords sit in two Appeal and two Appellate Committees. Appeal Committees consider any petitions or applications for leave to appeal referred to them, and the Appellate Committees hear any cause or matter referred to them.

(b) Private Bill Committees. Select Committees are set up as necessary to deal with opposed Private Bills. Proceedings before such committees are quasi-judicial. The unopposed provisions of Private Bills are considered by Unopposed Bill Committees. In addition a sessional Personal Bills Committee considers any petition for a Personal Bill.

(c) Domestic Committees. The House has five committees which deal with domestic matters:
   1. Leave of Absence and Lords' Expenses Committee
   2. Committee for Privileges
   3. Procedure Committee
   4. Sound Broadcasting Committee
   5. Offices Committee

   The Offices Committee has seven sub-committees dealing with specific areas of the House's administration.

(d) The House of Lords participates with the House of Commons in Joint Committees to scrutinise delegated legislation and Consolidation Bills. The House also has a Hybrid Instruments Committee, which considers petitions against Hybrid Instruments. That Committee may recommend that there should be a further enquiry by Select Committee into any instrument referred to it. The House also participates in the Ecclesiastical Committee which scrutinises Measures passed by the General Synod of the Church of England.

(e) The House of Lords has two sessional committees on national policy areas. The most substantial is the Select Committee on the European Communities, which has seven sub-committees dealing with all areas of Community activity. There has also been, since the start of 1980, a Select Committee on Science and Technology, which has at present three sub-committees for specific enquiries.

(f) Finally, the House of Lords appoints *ad hoc* Select Committees to investigate particular matters: for instance, the House has at present a Select Committee on Unemployment.

House of Commons

The House of Commons, like the House of Lords, has committees to deal with Private business and also committees on Statutory Instruments and Consolidation, &c., Bills. In addition, there are Standing Committees which examine many of the Bills which come before the House, Special Standing Committees and Select Committees. These last two categories are described in detail below.

(a) *Special Standing Committees*

Following a pause for deliberation, two of the major recommendations of the Select Committee on Procedure of 1978 (H.C. (1977-78) 588) have been implemented, though in a modified form and on an experimental basis, for the present session.

The Procedure Committee recommended (paras. 2.19 ff.) in effect that the question-and-answer process associated with Select Committees should also be used in Standing Committees for their consideration of public Bills. In a debate covering a variety of procedural matters on 30th October 1980, the then Leader of the House (the Rt. Hon. Norman St. John-Stevas, M.P.) moved an Order covering in part the Select Committee's intentions. The motion for the Order was carried by 141 votes to 11; it specified that it was to have effect only until the end of the current session.

The Order provides that after Second Reading, if a member of the Government so moves, a Bill may be committed to a Special Standing Committee. The Committee then has power to send for persons, papers and records, to deliberate at one morning sitting and then to take oral evidence at three further morning sittings each lasting not more than two and half hours. The oral evidence is to be reported in the Official Report, together with such written evidence as the Committee directs to be so reported. Crucially, the oral evidence must be taken within a period of four sitting weeks starting from the date of committal. (When the process of taking oral evidence is concluded, the Committee goes through the Bill in the usual way, by debating proposed amendments to the text.)

The Order made special provision for the chairing of Special Standing Committees; for the preliminary deliberative sitting and the three question-and-answer sittings, Mr. Speaker may appoint *any* Member of the House as Chairman, but for the remaining sittings that appointment, as for other Standing Committees, is restricted to members of the

Chairmen's Panel. In fact for both the Special Standing Committees which have sat at the time of going to press, Mr. Speaker has appointed the Chairman of the relevant Select Committee as Chairman for the question-and-answer sittings. So the Chairman of the Select Committee on Home Affairs chaired the question-and-answer sittings of the Special Standing Committee on the Criminal Attempts Bill, and the Chairman of the Select Committee on Education, Science and the Arts chaired the question-and-answer sittings of the Special Standing Committee on the Education Bill; but both Committees were chaired for the remainder of their proceedings by members of the Chairmen's Panel.

Both the Special Standing Committees used their quotas of three question-and-answer sittings to the full; and the evidence taken at the sittings was used as the basis for the series of amendments moved to the Bills at the subsequent sittings. So far members of the Committees have expressed satisfaction with the method of proceeding; but a fuller evaluation will of course be made later this Session, assessing in particular the extra time which the Committee stage takes under the procedure.

The Procedure Committee of 1978 also recommended (paras. 2.21 ff.) that Standing Committees should have the option of a "second-round" of amendments – that is they wanted to save time on the Report Stages of bills by enabling Standing Committees, at the end of their consideration of bills, to go through the bill again to make any necessary consequential amendments arising from amendments already made, and also to consider any further amendments arising from the very common position where original amendments are withdrawn when a Minister undertakes to look at a proposal with a view to drafting an amendment of his own.

The Order of the House of 30th October provides that a Special Standing Committee may have a "second-round" of amendments in this way. When the Committee have gone through the Bill in the usual way, the Minister in charge of the Bill may intervene at the point where the Chairman would ordinarily propose the question "That I do report the Bill to the House". If the Minister moves the adjournment of the Committee at this point, it is then for the Chairman to name a day for resuming proceedings for the purpose of holding the "second-round"; but amendments on the "second-round" are restricted to amendments which

(a) arise from undertakings given by Ministers during previous proceedings of the Committee; or
(b) are consequent upon previous decisions of the Committee; or
(c) have been shown to be necessary during the Committee's proceedings.

At the time of going to press, neither of the Special Standing Committees which have concluded the consideration of their Bills have exercised this power to hold a "second-round". In fact, there appears to be no particular reason why the process of a "second-round" should be particularly appropriate to Special Standing Committees and the power to proceed by question-and-answer. It remains to be seen whether a

further experimental period will be required for "second-rounds" before the House decides whether or not to make permanent provision for the process.

(b) *Select Committees*

Select Committees, that is Committees composed of a number of Members specially named, are appointed from time to time to consider, inquire into or deal with particular matters or bills. Select Committees on bills are rare, perhaps three or four a decade, not least because the consideration of a bill by a Select Committee is in addition to all the other proceedings in passing bills.

Select Committees on matters arise in various ways.

i. The orders of reference of some Committees, together with the number to be proposed as the quorum, and the powers with which the Committee is invested, are contained in the standing orders. Members are nominated by motion in the House. In 1979 Standing Orders were made appointing fourteen Select Committees to examine the expenditure, administration and policy of the principal Government departments and their associated public bodies. In the case of these fourteen Committees, the motions for nominating Members can be made only on behalf of the Committee of Selection. The Committees, when formed, function for the remainder of the Parliament.

ii. The orders of reference of some Committees together with the number to be proposed as the quorum, and the powers with which it is proposed the Committee should be invested, are moved for in the House, and the orders are made standing orders until the end of the parliament. Members of such Committees can then be nominated on motion for the remainder of the parliament by the use of a similar procedure.

iii. Each session, other Committees may be set up upon motions in which are laid down their orders of reference, the number to be proposed as the quorum and the powers with which it is proposed that the committee should be invested. The Members are usually nominated at the same time. Such committees cease to exist at the end of that particular session of Parliament or (if they had not been given power to report from time to time) after they have made their report to the House.

Committees may be given the power to appoint one or more sub-Committees. Three of the fourteen "departmental" committees have been empowered to appoint one Sub-Committee each. Others of them have sought, but not as yet been granted, the power to appoint one or more Sub-Committees.

Australia: Senate

The present Australian Senate Committee structure is divided into six classes of committees:

Standing Committees
Joint Statutory Committees
Joint Committees
Legislative and General Purpose Standing Committees

Estimates Committees
Select Committees.

(a) *Standing Committees*

The Senate has a number of long-standing domestic committees – Standing Orders, Privileges, Library, House, Disputed Returns and Qualifications and Publications.

In 1932 the Regulations and Ordinances Standing Committee was established to consider and report, if necessary, upon all regulations and ordinances laid on the Table of the Senate. By an amendment to Standing Orders reported in the last edition, the Committee is now empowered to consider all delegated legislation subject to disallowance by either House of the Parliament.

The Committee scrutinises delegated legislation to ensure:

(i) that it is in accordance with the statute;
(ii) that it does not trespass unduly on personal rights and liberties;
(iii) that it does not unduly make the rights and liberties of citizens dependent upon administrative decisions which are not subject to review of their merits by a judicial or other independent tribunal;

and

(iv) that it does not contain matter more appropriate for Parliamentary enactment.

(b) *Joint Statutory Committees*

The Joint Statutory Committees are:

The Joint Committee on the Broadcasting of Parliamentary Proceedings, composed of three Senators and six members of the House of Representatives;

The Joint Committee of Public Accounts – composed of three Senators and seven members of the House of Representatives; and

The Parliamentary Standing Committee on Public Works – composed of three Senators and six members of the House of Representatives.

(c) *Joint Committees*

Three committees are at present established as joint committees. They are:

The Joint Committee on Foreign Affairs and Defence;
The Joint Committee on the Australian Capital Territory;
The Joint Committee on the New Parliament House.

(d) *Legislative and General Purpose Standing Committees*

In 1970 the Australian Senate sought to expand its committee system to enhance the effectiveness of the Senate's role as a House of review. In addition to its existing committees seven new Standing Committees were appointed to examine and report upon such matters as might be referred to them by the Senate.

The seven Standing Committees agreed to were as follows:–

Foreign Affairs and Defence
Constitutional and Legal Affairs
Education, Science and the Arts
Health and Welfare
Finance and Government Operations
Social Environment
Primary and Secondary Industry and Trade.

From 1971, when the establishment of the new committees was completed, to 1976, the work of the committees expanded steadily. The status of the Committees was recognised in March 1977 with the adoption of new Standing Order 36AA providing for the appointment, at the commencement of each Parliament, of the Legislative and General Purpose Standing Committees, which were previously appointed by sessional resolutions.

In 1977, the number of committees was increased by one. The eight committees are now as follows:

Constitutional & Legal Affairs
Education and the Arts
Finance & Government Operations
Foreign Affairs and Defence
National Resources
Science and the Environment
Social Welfare
Trade and Commerce.

The Standing Committees have presented 124 reports to the Senate. On 25 May 1978, the Government accepted the principle that it should be required to respond to Reports of Committees by informing the Parliament of its intention with respect to such Reports, and since that time 23 government responses have been received.

Each Standing Committee consists of six Senators, with provision for the representation of all Parties and independent Senators.

Provision is made for participation in public meetings by Senators who are not members of a Committee. Such Senators may question witnesses, unless the Committee otherwise orders, but may not vote.

(e) *Estimates Committees*

The Senate also established in 1970 five Estimates Committees. Prior to that time, the annual Estimates of Government had been examined by the Senate sitting as a Committee of the whole.

In 1973 the Committees were increased to 6 and in 1974 to 7, to correspond with the number of Ministers in the Senate. In 1977, Estimates Committees were established under Standing Order 36AB, which calls for the appointment of 6 Committees, unless otherwise ordered, at the beginning of each Parliament.

Each Committee now consists of six Senators, although other Senators may attend and ask questions. Their charter is to examine the estimates of each Department, to seek explanations of proposed expenditures from

Ministers of State in the Senate and departmental officers, and to report to the Senate within a stated time. In 1979, the Senate by resolution authorised the Committees to examine expenditure for the previous year under the Advance to the Minister for Finance.

(f) *Select Committees*

Since 1901 the Australian Senate has appointed Select Committees to inquire into specific questions. The present select committees, both of which were appointed in May 1980, are as follows:

Parliament's Appropriations and Staffing

Passenger Fares and Services to Tasmania

Select Committees are composed of up to seven Senators.

Australia: House of Representatives

A System of committees of the Australian House of Representatives has developed gradually over the years in response to the changing needs of the Parliament. The committees of the House and the joint committees comprising both Members and Senators may be classified into four groups, according to their method of appointment: committees established under standing orders; committees established by sessional order; committees established by resolution of the House; and committees established by statute. Proposals for changes to the system of committees have been developed on several occasions and submitted to the House for its consideration.

(a) *Committees established under standing orders*

The House of Representatives appoints 5 standing committees in accordance with the requirements of standing orders (Nos. 25-28), namely: Standing Orders Committee, Committee of Privileges, Library Committee, House Committee, and Publications Committee. The committees are commonly referred to as 'domestic' standing committees since they are concerned primarily with the affairs of Parliament rather than public matters.

The appointment of these committees is mandatory at the commencement of each Parliament and they exist from the time Members are appointed to them until the House expires by dissolution or effluxion of time. Membership of the committees is determined by standing orders. The standing orders are largely silent on the powers and procedures of these committees; however, it is established practice that the committees operate in accordance with select committee procedures, unless otherwise provided for in standing orders or by order of the House. With the exception of the Committee of Privileges, each committee is empowered by standing orders to confer with similar committees of the Senate. The Library, House and Publications Committees sit jointly with their respective counterparts in the Senate on a regular basis.

(b) *Committees established by sessional order*

During the 31st Parliament the structure of the committee system in the

House of Representatives was significantly affected by the provision for the appointment of legislation and estimates committees by sessional orders. (*See* THE TABLE, 1979, Vol. XLVII, pp 164-5; 1980, Vol. XLVIII, pp. 146-8).

Estimates committees were appointed again in 1980. However the practice and the sessional orders were varied to reflect some of the proposals Mr Speaker had suggested for the improvement of the committees after the 1979 experience. Those changes were –

the number of committees was increased from 2 to 4;

committee membership was decreased from a variable 12-18 Members to 10 Members plus the responsible Minister;

committees were appointed and members nominated early in the Budget sittings; and

3 of the committees had permanent chairmen.

The committees also met on days other than sitting days but, it being an election year, the time available for consideration of the annual proposed Government expenditures was again limited. This factor led to continued criticism by Members of the committees' operation. Nevertheless the 44 hours of deliberation by the committees in 1980 was still well above corresponding debating time in committee of the whole House before introduction of the committees.

(c) *Committees appointed by resolution of the House*

The House of Representatives appoints three types of committees by resolution of the House: select committees, standing committees and joint committees. Joint committees also require a resolution from the Senate before they can be established.

(i) *Select Committees*

Select committees are appointed by resolution, following notice of motion, to inquire into and report on specific matters. Their powers and procedures are prescribed by Standing Orders Nos. 323 to 353. In contrast to a standing committee, a select committee has a limited life and ceases to exist on the presentation of its final report to the House, or on the day fixed by the House for the presentation of its report, unless an extension of time has been obtained. However, select committees may also be appointed with power to report "as soon as possible" or "from time to time", or both. In such cases a select committee may table several reports (e.g. interim reports) at convenient intervals and may also report on additional matters referred to it.

The number of Members appointed to serve on select committees is not fixed but such committees normally comprise eight Members. In recent years the House of Representatives has appointed 2 Select Committees on (a) Specific Learning Difficulties, and (b) Tourism.

(ii) *Standing committees*

Standing committees are appointed by resolution of the House, following notice of motion, and are normally established at the commencement of each Parliament. They have an ongoing function and

continue to exist, or "stand", from the time of their appointment until the House expires by dissolution or effluxion of time.

These committees are required to investigate areas of general community interest. Their terms of reference are usually so general as to presuppose a series of inquiries rather than one inquiry within a broadly defined jurisdiction. They may have particular matters falling within their general terms of reference referred to them for investigation from time to time by the House or the appropriate Minister. In accordance with their resolution of appointment, some standing committees are also entitled to initiate their own inquiries.

There are at present four standing committees in the House of Representatives. The initial dates of appointment of these committees vary (the Standing Committees on Aboriginal Affairs and Environment and Conservation were first appointed in the 28th Parliament (1973), the Standing Committee on Road Safety was first appointed in the 29th Parliament (1974) and the Standing Committee on Expenditure was first appointed in the 30th Parliament (1976)). The Committees have been re-appointed in successive Parliaments. Committee membership and the procedures followed by standing committees in the conduct of their business are specified by each committees' resolution of appointment and those standing orders applicable to select committees.

(iii) *Joint Committees*

Joint committees, other than joint statutory committees, are appointed by resolution agreed to by both Houses, following notice of motion, and comprise Senators and Members. These committees are established following an exchange of Messages between the two Houses.

Joint committees may be appointed to function either as select committees or as standing committees of both Houses. Joint committees of the select type are appointed to investigate and report on specific matters which are referred to them from time to time. These committees cease to exist on the presentation of a final report. Joint committees of the standing type have an ongoing function and therefore generally exist for the life of a Parliament. They are normally re-appointed at the beginning of each Parliament.

Standing orders of both Houses are largely silent on the procedures to be followed by joint committees. It has become established practice for such committees to operate under the standing orders of the Senate which are applicable to select committees, subject to the provisions of the resolutions appointing them and any further instructions agreed to by both Houses.

Recent joint committees which have been, or are, serviced by the House of Representatives include the Joint Committee on the Parliamentary Committee System, the Joint Committee on Prices, the Joint Committee on the Northern Territory, the Joint Committee on Aboriginal Land Rights in the Northern Territory, the Joint Committee on the Family Law Act, the Joint Committee on the Australian Capital Territory and the Joint Committee on the New Parliament House.

(d) *Statutory Committees*

Statutory committees are appointed by Act of Parliament. Usually, they are joint committees consisting of Senators and Members of the House of Representatives. Three committees are required by statute to be appointed as soon as possible after the commencement of each Parliament: the Joint Committee on the Broadcasting of Parliamentary Proceedings, the Parliamentary Standing Committee on Public Works, and the Joint Committee of Public Accounts. The membership, powers and procedures of these three joint statutory committees are prescribed in their respective enabling Acts and Regulations.

The Joint Committee on the Broadcasting of Parliamentary Proceedings is established under the Parliamentary Proceedings Broadcasting Act 1946 and exercises control over the parliamentary broadcast in accordance with principles ratified by the Parliament. The Committee consists of the Speaker and the President of the Senate, who are ex officio members, and five Members of the House and two Senators appointed on motion by their respective Houses. Committee members hold office until the House of Representatives expires by dissolution or effluxion of time.

The Standing Committee on Public Works is established under the Public Works Committee Act 1969 (*See* The Table, 1969, Vol. XXXVIII, pp. 171-5).

The Public Accounts Committee is appointed under the Public Accounts Committee Act 1951 and examines and reports to Parliament on the accounts of the receipts and expenditure of the Commonwealth including financial statements transmitted to the Auditor-General in accordance with the Audit Act 1901. The Committee consists of seven Members and three Senators each of whom holds office during the pleasure of the House from which he was appointed, or until the House of Representatives expires by effluxion of time or dissolution. The Chairman of the House of Representatives Standing Committee on Expenditure is an ex officio member of the Committee but is not eligible to be elected as chairman. The Expenditure Committee's resolution of appointment provides that the Chairman of the Public Accounts Committee or his nominee in the House of Representatives shall be a member of the Expenditure Committee.

(e) *Proposals for future development*

Several proposals for the future development of the House of Representatives committee system have been made in recent times. In the main, these proposals have sought to establish a permanent system of standing committees. Although the four standing committees (Aboriginal Affairs, Environment and Conservation, Expenditure and Road Safety) have been re-appointed in successive Parliaments, there is no requirement for the appointment of these particular committees under standing orders, nor do they form part of a comprehensive system of standing committees covering all areas of government responsibility.

In 1970 the then Speaker of the House submitted a proposal for the

establishment of a system of standing committees to the Prime Minister, Members of the House and the Standing Orders Committee[1]. In his report, he recommended that the House establish seven "legislative and general purpose" standing committees. The committees were to be appointed either by resolution at the commencement of each Parliament or by amendment to the standing orders. In their legislative role they were to be immediately available to consider and report on any Bill, motion, petition, vote or expenditure and to report on any other matter before the House referred to them by the House on motion. In their general purpose role the committees were to consider and report on any aspect of government administration or responsibility referred to them by the House on motion.

This system of committees was not intended to affect the existing 'domestic' standing committees, i.e. House, Privileges, Standing Orders, Library and Publications, nor the existing statutory committees of Public Accounts, Public Works and Broadcasting of Parliamentary Proceedings which were to remain as they are. It was anticipated that the need to appoint select committees would be largely superseded by the establishment of the new standing committees. Nevertheless, the existing provisions in the standing orders relating to select committees were to remain in case the occasion arose for a committee to operate which did not readily fit into the pattern of any one of the seven standing committees. The Speaker's proposal was not acted upon.

In 1979 a further proposal for the establishment of a system of standing committees was submitted by the Clerk of the House and circulated to Members for their consideration.[2] This proposal recommended the establishment of eight standing committees which were to be described as "finance and government operations" committees. In their finance role they were to be immediately available to consider and report on any Bill, motion, petition, vote or expenditure, or other matter of a financial nature which was before the House and which was referred to them by the House on motion. The intention was that this function would enhance the effectiveness of the House as a financial House.

As proposed in 1971, the five 'domestic' committees and the three statutory committees were to remain as they were. The future of the existing Joint Committees on the Australian Capital Territory and Foreign Affairs and Defence and the House Standing Committees on Aboriginal Affairs, Road Safety and Environment and Conservation were to be reviewed in the light of developments of the standing committee system. However, it was proposed that the House Standing Committee on Expenditure should remain unaffected by the new system. In other respects the proposal was similar to that submitted in 1970.

While considerable interest, both within the Parliament and outside,

1. "Development of the Committee System – Proposals by Mr Speaker Presented to the Standing Orders Committee and Circulated at the Request of the Committee", 1970.
2. "Development of a Committee System – Discussion Paper", Clerk of the House of Representatives, 1979.

was generated by the proposals for a new committee system, no changes to the existing arrangements have been made at this stage.

New South Wales: Legislative Council

There are no Standing Committees of the Legislative Council which are appointed in accordance with any Statute.

Sessional Committees appointed by the House in accordance with the Standing Orders comprise the Standing Orders Committee, House Committee, Printing Committee and Library Committee. (Standing Orders Nos 280 and 281).

Another Committee, the Committee of Subordinate Legislation, although not provided for in the Standing Orders, is appointed each Session by Motion on Notice.

Select Committees and Joint Committees with the Legislative Assembly on other subject matters are appointed from time to time by Motion on Notice, or in response to a Message from the Assembly. Such Committees are conducted in accordance with the Standing Orders Nos 232 and 257, and Nos 154 to 157.

There have been no recent changes or developments in the Committee structure nor are any changes under consideration at the present time.

New South Wales: Legislative Assembly

The Standing Orders relating to the appointment and operation of Select and Joint Committees in New South Wales have not been amended in recent years.

Changes in the Committee system have involved staffing, increases in the number of Joint Committees following reconstitution of the Legislative Council, and more wide-ranging travel.

Staffing of Committees has been varied in the past few years, mainly to cope with the increased numbers of Committees. Occasionally, officers were seconded from the Public Service to act as Clerk or Secretary, but more recently, members of Parliamentary staff have been appointed as full time committee officers.

Committees have recently used the services of independent advisers, departmental officers and/or experts. Advisers have not normally been associated with the day-to-day secretarial duties. There have been more Joint Committees of both Houses of Parliament recently. This trend is likely to continue following the reconstitution of the Legislative Council, with members of that House being elected by the people.

Committees are continuing to travel in the course of investigation, and a precedent has recently been set for travel overseas. The Joint Committee upon Public Funding of Election Campaigns had to look to other countries for information, because of the nature of its inquiry, and as there were no Australian models for comparison. As it was felt that first hand experience of national election funding systems would be of great value to the inquiry, approval was granted for a deputation, appointed from the Committee, to travel and examine schemes in operation. The Chairman and an appointed research officer travelled to

the U.K., West Germany, Canada and the U.S.A., and reported to the Committee on its return, the details being incorporated in the final report of the Committee.

The basic committee system has not changed in essence, but has evolved as a vital aspect of the Parliament of New South Wales.

South Australia: House of Assembly

In 1980 the House established Estimates Committees to replace the Committee of the Whole procedure in examining the Government's annual Revenue and Loan Estimates.

Briefly, the Sessional Orders establishing the Committees provided for two Committees of 9 Members to examine and report on the proposed expenditures by seeking explanations from Ministers, assisted where necessary by Officers in the provision of factual information. Permanent Chairmen were appointed but the Committees had a revolving membership.

The Committees sat for two weeks during which time the House was adjourned. Other Members of the House participated after the official Members of the Committees had completed their questioning.

The Committees worked well first time round and all Parties expressed the view that they should continue, albeit with modification. As a result the Standing Orders Committee is reviewing their operations with a view to amending the Sessional Orders before the next budget is brought down in August.

The main concerns which were expressed were the use (or lack) of advisers by Ministers in providing information, whether the Committees were the appropriate place to deal with policy matters and whether the House Chamber or smaller Committee rooms were the appropriate venue.

Tasmania

The Tasmanian Parliament has three statutory standing committees which comprise members of both Houses: Public Works Committee, Public Accounts Committee and Subordinate Legislation Committee.

There are also standing committees under the Standing Orders which deal with internal matters such as refreshment rooms, car parking, printing, privilege, standing orders. Some of these are joint committees, and some are not.

There are also joint or select committees appointed to enquire into and report upon a particular issue.

Western Australia: Legislative Council

Three select committees were appointed during 1980 to investigate specific subjects. Only one of these committees had reported by the end of the year.

Victoria

The Committee system in Victoria is confined to Select Committees

having either domestic, scrutiny and/or investigative functions. There has been no development of Standing Committees to consider legislation, this function being retained by the Committee of the Whole.

In recent times only one select committee has had legislation, then under consideration by the House, referred to it for examination and report. During the past 30 years only three Assembly Committees have been appointed to examine a Private Bill, the last occasion being in 1974.

Select committees are appointed pursuant to statute, under Standing Orders, or by resolution of the House. The usual method of appointment has been by statute with the emphasis placed on the development of joint committees. Sole House committees have tended to be confined to those performing a domestic role, such as the Standing Orders and Printing Committees of each House and the Privileges Committee of the Assembly.

The present committee establishment is as follows:—

JOINT	
Company Take-overs (Investigative)	8 members (5 Assembly 3 Council) Established under Act 7727 Members appointed each Session.
Conservation of Energy Resources (Investigative)	8 members (5 Assembly 3 Council) Established under Act 8851 Members appointed each Session.
Public Accounts and Expenditure Review (Investigative)	12 members (8 Assembly 4 Council) Established under Act 7727 Members appointed each Session. Power to appoint sub-committees
Public Bodies Review (Investigative)	8 members (5 Assembly 3 Council) Established under Act 7727 Members appointed each Session.
Road Safety (Investigative)	8 Members (5 Assembly 3 Council) Established under Act 9252 Members appointed for life of Parliament.
Statute Law Revision Committee (Investigative)	12 members (7 Assembly 5 Council) Established under Act 7727 Members appointed each Session.
Subordinate Legislation (Scrutiny)	8 members (6 Assembly 2 Council) Established under Act 7727 Members appointed each Session.
House (Domestic)	12 members (5 Assembly 5 Council) (Speaker and President ex officio) Established under Act 7727 Members appointed each Session.
Library (Domestic)	10 members (5 Assembly 5 Council) Established under Joint Standing Orders Members appointed each Session.
ASSEMBLY	
Privileges (Domestic)	7 members Appointed by resolution of the House each Session.
Standing Orders (Domestic)	8 members Appointed by resolution each Session.

Printing (Domestic)	8 members Established under Standing Order No. 221 Members appointed sessionally.
COUNCIL	
Standing Orders (Domestic)	9 members Members appointed sessionally.
Printing (Domestic)	6 members Established under Standing Order No. 304 Members appointed sessionally.

Recent developments of interest have been the appointment of a Joint Public Accounts and Expenditure Review Committee in place of the previous Legislative Assembly Public Accounts Committee. This new committee provided for Members of the Upper House to be appointed to a financial committee which had in the past been the sole preserve of Members of the Assembly. The terms of reference were expanded to provide for a greater investigative role for the committee over the former audit function of the Public Accounts Committee. The creation of the Public Bodies Review Committee in 1980 established for the first time an investigative role for a committee into Statutory Authorities and Corporations enabling it to make recommendations concerning the retention or otherwise of such public bodies.

Bahamas

The House of Assembly appoints four sessional committees on the following subjects – the state of the Public Treasury, expiring laws, Public Accounts and Rules and Orders. It may also appoint select committees to consider bills or any other matter.

The number and selection of members for select committees are entirely in the hands of the Speaker, but almost invariably, the mover of the motion for the appointment of the select committee is a member of it. The seconder of a motion shall not be appointed as a member if the committee consists of less than 5 members. (Rule 23)

Since the advent of party politics in the House in 1956 it has been the practice of the Speaker to appoint committees in relation or proportion to the representation of the various parties in the House; i.e. in the 1963 House the United Bahamian Party had 20 members, the Progressive Liberal Party had 9 members and there were 4 Independents with a total of 33 Members. Accordingly the Speaker has appointed on five man committees, 3 members of the majority party, 2 members being either members of the Progressive Liberal Party or a member from the Independents. On a three member committee, the position has usually been 2 members of the majority party and a member of the minority party. On a seven man committee the Speaker has somewhat more latitude but relatively the same proportions are observed. Obviously it is impossible to carry this out to the letter as there are many instances in which certain members are particularly interested (but not pecuniarily interested) in a given measure and can contribute toward the work of the committee in

this matter. On these occasions the proportions are varied slightly.

A select committee may not sit while the House is sitting except with the consent of the House. (Rule 25)

Bermuda

The Bermuda Parliament has the following Standing Committees appointed for the duration of the life of Parliament:

(1) The Joint Select Committee on Private Bills. The Speaker of the House of Assembly appoints not more than five members to sit with three members appointed by the President of the Senate (called the Legislative Council until Parliament was dissolved on the 3rd November, 1980). Any member may be discharged from serving as a member of the Committee and be replaced.
(2) The Public Accounts Committee is a Select Committee consisting of five Members of the House of Assembly appointed by the Speaker, who may discharge and replace any member serving on the Committee.

The House of Assembly has the following Sessional Select Committees, the members of which are chosen by the Speaker at the beginning of each Session:–

(1) The Rules and Privileges Committee which consists of the Speaker, who is the Chairman, and five other Members.
(2) The Regulations Committee which consists of five Members, who elect their Chairman.
(3) The House and Grounds Committee which consists of the Deputy Speaker, who is the Chairman, and four other Members.

Other Select Committees of the Senate of the House of Assembly may be appointed by the President of the Senate or the Speaker of the House of Assembly on motion made after notice given, and question put, and shall consist of such Members as may be chosen by the President or the Speaker. The President and Speaker may discharge any member of a Select Committee and appoint another Member to fill the resulting vacancy. A Select Committee elects its own Chairman and may continue its investigations and duties although Parliament may not be in Session and shall not be dissolved until the presentation to the Senate or the House of Assembly of its Report. Any Member of a Select Committee dissenting from the opinion of a majority of such Committee may make a written statement of his or her reasons for such dissent, which shall be appended to the Report of the Committee. The Report of a Select Committee shall be brought up by the Chairman of such Committee and presented to the Senate or House of Assembly and on the motion of any Member present it may be referred to a Committee of the whole Senate or the whole House.

A motion to refer a Bill to a Select Committee of the Senate or the House of Assembly shall not be made until the motion for the second reading of such Bill has been affirmed.

Other Joint Select Committees of Parliament may be appointed by the

President of the Senate, who may appoint not more than three Members to sit on the Committee and by the Speaker of the House of Assembly, who may appoint not more than six Members to sit on the Committee.

A Joint Select Committee may be appointed at the request of either House with the approval of the other House.

A Joint Select Committee elects its own Chairman and if the Chairman is absent from any meeting the Committee elects from among their numbers another Chairman whose tenure of office shall be for the day of the election only. A Select Committee of either House may also, if its Chairman is absent from any meeting, follow the same procedure as a Joint Select Committee.

Unless the Senate or the House of Assembly otherwise orders, the majority in number of the members of a Joint Select Committee shall be a quorum for the transaction of business. A Select Committee of either House follows the same procedure in respect of a quorum.

Notice of the first meeting of a Joint Select Committee is given by the Clerk to the Legislature on the direction of the President of the Senate. Notice of the first meeting of a Select Committee of either House is given by the Clerk to the Legislature on the direction of the President of the Senate in respect of a Select Committee of the Senate and on the direction of the Speaker of the House of Assembly in respect of a Select Committee of the House of Assembly.

The proceedings or report of any Joint Select Committee, or a summary of such proceedings or report, must not be published until the report of the Committee has been presented to the Senate and the House of Assembly. The proceedings or report of any Select Committee, or a summary of such proceedings or report, must not be published until the report of the Committee has been presented to the Senate in respect of a Select Committee of the Senate or to the House of Assembly in respect of a Select Committee of the House of Assembly.

Canada: British Columbia

Under Standing Order 68 the following Standing Select Committees are appointed each session:–

Standing Orders and Private Bills.
Public Accounts and Economic Affairs.
Agriculture.
Municipal Affairs and Housing.
Labour and Justice.
Health, Education, and Human Resources.
Transportation and Communications.
Environment and Resources.

These committees consist of five members each.

Special committees, consisting of not more than eleven members, may also be appointed under Standing Order 69.

Since October 1977 a Select Standing Committee on Crown Corporations has been established under Standing Order 72A. This

Committee continues in existence until dissolution of the Parliament during which it is appointed.

Saskatchewan

The committee structure of the Saskatchewan Legislature has not changed in recent years but a special Committee on Rules is presently studying a restructuring of the committee system. The Committee's report is expected by April-May 1981.

Yukon

There are three Standing Committees and special committees may also be appointed. The committees can sit during inter-sessional periods and in fact do most of their work at such times. There have been no recent changes in the Committee structure and none is expected.

Hong Kong

Committees of the Legislative Council are

(i) The Committee of the whole Council: It includes all Members of th Council and is mainly to study all bills to be passed.

(ii) The Finance Committee, a standing committee: This Committee includes all Unofficial Members of the Council, the Financial Secretary, the Director of Public Works and is chaired by the Chief Secretary. It considers requests for public expenditure and supplementary provision of funds.

(iii) The Public Accounts Committee, a standing committee: This Committee consists of a chairman and six members, all of whom are Unofficial Members. Its task is to consider reports of the Director of Audit on the Government's annual accounts, on other accounts required to be laid before the Council and on any matter incidental to the performance of the duties of the Director of Audit.

(iv) The Establishment Sub-Committee and the Public Works Sub-Committee, sub-committees of the Finance Committee: The former is responsible for examining staff requests and the latter for reviewing the progress and priority of projects in the Public Works Programme.

India: Lok Sabha

Under the Rules of Procedure and Conduct of Business in Lok Sabha, a Parliamentary Committee is defined as one which (a) is appointed or elected by the House or nominated by the Speaker, (b) works under the direction of the Speaker and presents its report to the House or to the Speaker, and (c) the Secretariat for which is provided by the Lok Sabha Secretariat.

Parliamentary Committees are of two types, *viz.* (i) Standing Committees and (ii) *ad hoc* Committees. Standing Committees are those Committees which are elected by the House or nominated by the Speaker every year or from time to time, as the case may be, and are permanent Committees whereas *ad hoc* Committees are those which are constituted by the House or by the Speaker to consider and report on specific matters,

and become *functus officio* as soon as they have completed their work on that matter.

STANDING COMMITTEES

Among the standing committees, the three financial committees, *viz.*, the Committees on Public Accounts, Estimates and Public Undertakings – constitute a distinct class and between them monitor government's spending and performance.

The Public Accounts Committee scrutinises the Appropriation Accounts of the Government of India and the report of the Comptroller and Auditor-General thereon. It ascertains whether the money granted by Parliament has been spent by Government within the scope of the Demand and calls attention to cases of waste, extravagance, loss or nugatory expenditure. The Estimates Committee reports on 'what economies, improvements in organisation, efficiency or administrative reform, consistent with the policy underlying the estimates' may be effected. It also examines whether 'the money is well laid out within the limits of the policy implied in the estimates' and suggests the form in which the estimates shall be presented to Parliament. The Committee on Public Undertakings examines the reports and accounts of certain specified public undertakings and reports of the Comptroller and Auditor-General thereon, if any, It also examines whether the public undertakings are being run efficiently and 'managed in accordance with sound business principles and prudent commercial practices'.

The control exercised by these committees is of a continuous nature. They gather information through questionnaires, memoranda from representative non-official organisations and knowledgeable individuals, on-the-spot study of organisations, and oral examination of official and non-official witnesses.

Another important Standing Committee is the Committee on the Welfare of Scheduled Castes and Scheduled Tribes, composed of Members from both Houses of Parliament. The main functions of the Committee are: to consider the reports of the Commissioner for Scheduled Castes and Scheduled Tribes and to suggest measures to be taken by the Union Government, to report on the working of the welfare programmes for these classes in the Union Territories, and to examine the measures taken by the Union Government to secure due representation for these classes in services and posts under its control. The Committee serves as an instrument for safeguarding the interests of the Scheduled Castes and Scheduled Tribes and securing the implementation of the constitutional safeguards in respect of these classes.

Other Standing Committees, suitably grouped in terms of their functions, are:–

(i) *Committees to inquire*:

(a) the Committee on Petitions, which examines petitions on Bills and on matters of general public interest and also entertains representations on matters concerning Central subjects;

(b) the Committee of Privileges, which examines any question of privilege referred to it by the House or the Speaker.

(ii) *Committees to scrutinise:*

(a) the Committee on Government Assurances, which keeps track of all the assurances and undertakings given by the Government in the House and pursues them till they are implemented;

(b) the Committee on Subordinate Legislation, which scrutinises whether the rule-making power conferred on the Government by the Constitution or by a statute has been exercised within the scope of the delegation;

(c) the Committee on Papers Laid on the Table, which examines all the papers laid on the Table of the House by Ministers to see whether there has been compliance with the Provisions of the Constitution, Act, rule or regulation under which the paper has been laid.

(d) Joint Committee on Offices of Profit, which examines the composition and character of the Committees and other bodies appointed by the Central and State Governments and recommends which of the offices ought to or ought not to disqualify a person from being a Member of either House of Parliament.

(iii) *Committees relating to the day-to-day business of the House*:

(a) the Committee on Absence of Members from the Sittings of the House, which considers all applications from Members for leave of absence from the sittings of the House;

(b) the Business Advisory Committee, which recommends the allocation of time for items of government and other business to be brought before the House;

(c) the Committee on Private Members' Bills and Resolutions, which deals with classification of and allocation of time to Bills from private members, recommends allocation of time for discussion of private Members' resolutions, and examines Constitution amendments Bills given notice of by private members, before their introduction in Lok Sabha; and

(d) the Rules Committee, which considers matters of procedure and conduct of business in the House and recommends any amendments to the Rules of Procedure and Conduct of Business in Lok Sabha.

(iv) *Committees concerned with the provision of facilities to Members*:

(a) the General Purposes Committee, which considers and advises the Speaker on matters concerning the affairs of the House, which do not appropriately fall within the purview of any other parliamentary committee;

(b) the House Committee, which deals with residential accommodation for Members and exercises supervision over food and other general amenities; and

(c) the Library Committee, which considers matters concerning the Parliament Library and assists Members generally in utilising the services provided by the Library.

(v) Joint Committee on Salaries and Allowances of Members of Parliament, which apart from dealing with salary and allowances of members, also frames rules in respect of matters like medical, housing, telephone and postal facilities.

AD-HOC COMMITTEES

Besides Select/Joint Committees on Bills, ad hoc Committees have also been appointed in the past to examine specific matters as and when need arose. Recently, an *ad hoc* Joint Committee of both the Houses to examine the question of the working of the Dowry Prohibition Act, 1961, was constituted in pursuance of a motion adopted by Lok Sabha on 19 December, 1980 and concurred in by Rajya Sabha on 24 December, 1980. Referring of Bills needing detailed examination, to Select/Joint Committees, has become almost an established practice. During the 7th Lok Sabha, the following Bills have been referred to the Select/Joint Committees:

(1) The Chit Funds Bill, 1980 (referred to a Select Committee of Lok Sabha on 23-12-1980); and

(2) The Criminal Law (Amendment) Bill, 1980 (referred to a Joint Committee of both the Houses on 23-12-1980). Motion regarding reference of the Bill to the Joint Committee was adopted by Lok Sabha on 23rd December, 1980 and concurred in by Rajya Sabha on 24th December, 1980.

Members of Parliamentary Committees are appointed or elected by the House on a motion made, or nominated by the Speaker, as the case may be. Select or Joint Committees on Bills are the Committees which are appointed on motions adopted by the House. The motion for reference of a Bill to a Select Committee sets forth the names of members proposed to be appointed to the Committee. Similarly, members to a Joint Committee on a Bill are appointed on a motion adopted by one house and concurred in by the other House.

Members of the Committees on Public Accounts, Estimates, Public Undertakings and Committee on the Welfare of Scheduled Castes and Scheduled Tribes are elected every year by the members of Lok Sabha according to the principle of proportional representation by means of the single transferable vote. Members are also elected to *ad hoc* Committees set up in pursuance of a motion adopted by the House in that behalf, *i.e.* Committee to review conventions *re.* Separation of Railway from Finance (1949).

A Joint Committee on Offices of Profit is also constituted in pursuance of a motion adopted by Lok Sabha and concurred in by Rajya Sabha. The members to the Joint Committee are elected by respective Houses in accordance with principle of proportional representation by means of single transferable vote. The Joint Committee on Offices of Profit remain

in office for the duration of the Lok Sabha. The Joint Committee on Offices of Profit was constituted for the first time in 1959 on the recommendation of the Joint Committee on Offices of Profit (1954). Since then such Committees have been constituted in 1962, 1967, 1971 and 1980 (No Joint Committee on Offices of Profit was constituted in Sixth Lok Sabha). The Joint Committee on Offices of Profit undertakes a continuous scrutiny in respect of Offices of Profit and matters connected with disqualification of Members of Parliament under Article 102(1)(a) of the Constitution of India.

Members are nominated to specified Parliamentary Committees by the Speaker after consultation with the Leader of the House and the Leaders of the Opposition Parties/Groups in the House. As far as possible, different parties and groups are represented on Parliamentary Committees in proportion to their respective strengths in the House. Committees are reconstituted every year on expiry of the prescribed term on the basis of names of members suggested by Leaders of parties/groups for consideration of, and appointment by, the Speaker.

The Chairman of a Parliamentary Committee is appointed by the Speaker from amongst the members of the Committee. If the Speaker himself is the member of a Committee, he invariably is the Chairman of that Committee. Where the Speaker is not a member, but the Deputy Speaker is a member of a Committee, then the Deputy Speaker is appointed the Chairman. If the Chairman of a Committee resigns, or is, for any reason, unable to act, the Speaker appoints another member of the Committee as Chairman in his place. In the absence of the Chairman from any sitting of the Committee, the Committee may choose another member to act as the Chairman at that sitting. In the case of the Joint Committee on Salaries and Allowances of Members of Parliament, the Chairman of the Committee is elected by the members of that Committee.

A Parliamentary Committee nominated by the Speaker holds office for a period not exceeding one year or for a period specified by the Speaker or until a new Committee is nominated by him. The Business Advisory Committee, Committee on Petitions, Committee of Privileges and the Rules Committee continue in office till reconstituted by the Speaker whereas other Standing Committees hold office for a period not exceeding one year. In the case of the Joint Committee on Salaries and Allowances of Members of Parliament, the tenure of Office of members of the Committee is one year from the date of their nomination to that Committee.

Members of the Committee on Estimates, Committee on Public Accounts, Committee on Public Undertakings and Committee on the Welfare of Scheduled Castes and Scheduled Tribes are elected by the House for a term not exceeding one year.

There is no fixed term of office for *ad hoc* Committees like Select or Joint Committees on Bills. The motion moved in the House for reference of a Bill to a Select or Joint Committee, generally specifies the date by

which, or the period within which, the Committee might present its report. Where it is not possible for such Committees to present their report during the specified period, they have to ask for extension of time up to a specified date on a motion being moved and adopted by the House to that effect. In case the House has not fixed any time for the presentation of the report, the Committee is required to present its report before the expiry of three months from the date on which the House adopted the motion for the reference of the Bill to the Select Committee.

A Committee may appoint one or more sub-Committees, each having the powers of the undivided Committee, to examine any matters that may be referred to them, and the reports of such sub-Committees are deemed to be the reports of the whole Committee, if they are approved at a sitting of the whole Committee. A Committee has power to send for persons, papers and records provided that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question is referred to the Speaker whose decision is final. A Committee has power to administer oath or affirmation to a witness examined before it. A Committee has also power to make detailed rules of procedure, with the approval of the Speaker, for its internal working.

The quorum to constitute a sitting of a Committee is one-third of the total number of members of the Committee. Proceedings in Committees are generally conducted in an intimate and informal atmosphere. When a Committee is deliberating, a member can speak more than once on a question under consideration. The verbatim record of the proceedings is kept when a witness is examined by the Committee or if it is otherwise considered necessary depending upon the nature and importance of the matter considered by the Committee. The verbatim proceedings are for the use of the Committee only and no part thereof can be communicated, shown for reference or divulged to anyone who is not a member of the Committee unless and until the proceedings have been laid on the Table. All questions at any sitting of a Committee are determined by a majority of votes of the members present and voting. In case of an equality of votes on any matter, the Chairman, or the person acting as such, has a second or casting vote. Soon after each sitting of a Committee, minutes of the proceedings of the sitting are prepared by the Secretariat of the Committee and after approval by the Chairman or the member who presided over the sitting, are circulated to the members of the Committee.

The report of a Committee may be either preliminary or final. A Committee may, if it thinks fit, make a special report on any matter that arises or comes to light in the course of its work. Standing Parliamentary Committees generally present their reports to the House or to the Speaker, as the case may be, from time to time. Where a matter is referred to a Committee by the House and the House has not fixed any time for presentation of report of the Committee, the report is required to be presented to the House within one month from the date on which the

reference has been made to the Committee. The report of a Committee, together with the connected documents, if any, is printed either before or after its presentation to the House or to the Speaker, as may be convenient. Until a report is presented to the House, it is treated as confidential and it becomes a public document only after its presentation to the House. After presentation of the report to the House, copies of the report are circulated to members of Lok Sabha, Ministries/Departments of the Government of India and also made available to the public at the sales counter of the Lok Sabha Secretariat and through other various selling agencies all over the country.

When a Committee is unable to complete its work before the expiration of its term or before the dissolution of Lok Sabha, it reports that fact to the House. In such cases, any preliminary report, memorandum or note that the Committee may have prepared or any evidence that the Committee may have taken, is made available to the succeeding Committee.

Gujarat

Sixteen committees are appointed by the Legislative Assembly, four of which are responsible for matters of domestic concern to the House. The others deal with a wide range of subjects, similar to those already described in the Lok Sabha. The Chairman of each Committee is appointed by the Speaker. There are no plans to reorganise the present committee structure.

Tamil Nadu: Legislative Council

(a) *Standing Committees*

There are five standing committees. The members of the Committee on Government Assurances and the Rules Committee are nominated by the Chairman of the Council. The members of the Committee of Privileges and of the House Committee are elected by the Council. The remaining committee is the Business Advisory Committee.

(b) *Membership of Committees*

Five Members of the Council are members of each of the Committees of the Assembly, such as the Public Accounts Committee, Estimates Committee, Committee on Public Undertakings and Committee on Delegated Legislation.

(c) *Select and Joint Select Committees*

Under Rule 98, the Select Committee on a Bill shall be appointed by the Council when a motion "That the Bill be referred to a Select Committee", is made. The Chairman of the Council shall nominate one of the Members of the Committee to be its Chairman.

Under Rule 139(1) of the Council Rules, the Council may by motion desire to obtain the concurrence of the Assembly in setting up a Joint Select Committee of the two Houses to consider a Bill. The total number of members shall not exceed forty-five and on every Joint Select Committee, the number of members to be nominated by the Assembly and the Council shall be in the proportion of 2:1.

Under Rule 140, in the case of a Bill originating in the Assembly, the Council concurs with the Assembly in setting up a Joint Select Committee and the name of the Members of the Council to serve on such Committee.

Uttar Pradesh: Legislative Assembly

The current Committee structure of the Uttar Pradesh Legislative Assembly, including Select and Standing Committees, is described in Chapter XVI of the Rules of Procedure and Conduct of Business of the Uttar Pradesh Legislative Assembly, 1958. As regards any proposed changes or development in this structure, the matter of constitution of Subject Committees is under consideration by the Rules Committee of the House, and the said Committee is at present studying the structure and functions of similar Committees existing in some Commonwealth countries, as well as those in the state of Kerala, India.

Jersey

The Committees appointed by the States are Executive in that the Island has a committee, rather than ministerial, system of government. They are not comparable with parliamentary select or standing committees.

Lesotho

The Legislative Assembly appoints a number of sessional committees.

1. *Business Committee:* It determines the size of every other select committee (unless the House itself has determined such size in its order appointing such committee) and, unless the Standing Orders otherwise provide, nominates the chairman and members of such a committee. The business committee also determines the length of time to be allotted to any stage of a Bill or to any Government motion.
2. *House Committee*: It considers matters connected with the comfort and convenience of members when attending the House, and advises the Speaker on these matters.
3. *Committee on Standing Orders*: It is presided over by the Speaker and considers matters connected with the rules and Standing Orders and such other matters as may be referred to it by the House.
4. *Public Accounts Committee*: It is responsible for the examination of the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure and such other accounts as are laid on the Table of the House. The Committee has power to send for persons, papers, and records and to report from time to time.
5. *Staff Committee*: It considers matters connected with the staff of the National Assembly and advises the Speaker on these matters.
6. *Committee of Privileges*: It considers and/or investigates all complaints of alleged breaches of privilege and of contempt against the House, its Members; its officers or its Speaker which may be referred to it by the House or by its Speaker or which otherwise come to its notice. The Committee of Privileges has power to send for persons, papers and

records, and to report back its findings to the House in order to enable the House to take such further action as may be necessary.

Malaysia

The Standing Orders of the House of Representatives provide that there shall be a Committee to be known as the Committee of Selection appointed at the beginning of every Parliament to perform the functions allotted to it by the Standing Orders, and for such other matters as the House may from time to time refer to it.

The Committee of Selection shall consist of the Speaker as Chairman and six members of the House to be elected by the House.

Other committees appointed are as follows:–

(i) the Public Accounts Committee which consists of a Chairman and Vice-Chairman to be appointed by the House, and not less than six and not more than twelve members to be nominated by the Committee of Selection.
(ii) the Standing Orders Committee which consists of the Speaker as Chairman, and six other members to be nominated by the Committee of Selection.
(iii) the House Committee which consists of the Speaker as Chairman and six members to be nominated by the Committee of Selection.
(iv) the Committee of Privileges which consists of the Speaker as Chairman and six members to be nominated by the Committee of Selection.

The life of these Committees is for the period of the Parliament.

New Zealand

The New Zealand House of Representatives has select committees only, with no standing or other types of committee. Select committees are appointed under S.O. 342 at the commencement of each Parliament. Changes in personnel may be made in accordance with S.O. 345. Section 2 of the Legislature Amendment Act 1977 allows business before select committees to be carried over to the next succeeding session of Parliament (whether the same Parliament or not) where the House so resolves.

The select committees have various roles. In respect of their main function of dealing with Bills, their standard procedure is as follows:

(a) Call for public submissions, by way of newspaper advertisements and/or direct contact with probable interested parties.
(b) Hear oral evidence from those witnesses who have requested a hearing.
(c) Consider and deliberate on the evidence of witnesses and the content of departmental reports.
(d) Report back to the House (no narrative report from the committee itself, although the chairman will often list changes to the Bill in his reporting back speech).

Select committee functions additional to the consideration of Bills are as follows:

(a) Scrutiny of public expenditure. This is carried out by the Public Expenditure Committee and its subcommittees pursuant to S.O. 334.
(b) Scrutiny of delegated legislation. This is carried out by the Statutes Revision Committee pursuant to S.Os 377 and 378.
(c) Consideration of petitions. Once a petition is presented to the House it is automatically referred to the Clerk of the House (S.O. 407, 408). The Clerk then classifies the petition and sends it to the particular select committee that can most appropriately deal with it. (S.O. 409). This could be either the Petitions Committee itself, or another committee whose normal area of speciality appears to cover the subject matter of the petition. The select committee will then receive evidence on the petition, deliberate, and report the petition back to the House with or without a recommendation for government action (S.O. 412).
(d) "In house" functions (e.g. House Committee, Library Committee).

A number of Committees have permanent status under specific standing orders, being the:
– Committee on Bills (S.O. 208)
– Lands and Agriculture Committee (S.O. 220)
– Local Bills Committee (S.O. 264)
– Committee of Selection (S.O. 279)
– Public Expenditure Committee (S.O. 334)
– Statutes Revision Committee (S.O. 377)
– Privileges Committee (S.O. 426)

The main powers of Select Committees are set out in legislation or standing orders as follows –
(a) Power to administer oaths (s. 252, Legislature Act 1908)
(b) Power to send for persons, papers and records (S.O. 358)
(c) Power to admit or exclude strangers (S.O. 360)
(d) Particular powers:
  (i) Power to appoint subcommittees is restricted to the Public Expenditure Committee (S.O. 334) and the Statutes Revision Committee (S.O. 377)
  (ii) The Public Expenditure Committee is the only committee with power to adjourn from place to place without the leave of the House (S.O. 334)
  (iii) The Public Expenditure Committee and the Statutes Revision Committee are the only committees with the power to initiate their own investigations (the latter with regard to delegated legislation only).
  (iv) S.O. 377 allows the Statutes Revision Committee to require any Government department to submit a memorandum or to depute a witness for the purpose of explaining any regulation which may be under its consideration.

A number of minor changes in the committee structure have occurred as a result of the 1979 Standing Orders Committee consideration of how committees should be organised. The adoption of the recommendations

of that Committee resulted in a re-organisation of subject-matter and nomenclature, rather than any substantive change in the overall functions of committees. The main areas of change recommended by the Committee and adopted by the House were –

(a) Automatic referral of *all* Government Bills to select committees, with the exception of (i) Bills of a financial or budgetary nature, and (ii) Bills for whose passing urgency is accorded. (S.O. 221)
(b) The Statutes Revision Committee was given the power under S.O. 377 to initiate its own investigations into regulations while the House is in session (cf previous position where investigations could only be carried out pursuant to a referral from the House).
(c) Minor alterations to the nomenclature and sphere of interest of existing select committees (Report of the 1979 Standing Orders Committee).

The recommendations of the 1979 Standing Orders Committee have only been in operation for one parliamentary session. No further developments in the committee system are envisaged at this stage.

St Vincent

The House of Assembly is comprised of nineteen members, thirteen elected by adult franchise and six named, four by the majority party and two by the opposing party having the majority of seats. It is standard that each member of the Assembly is automatically a member of the Finance Committee.

Each public bill in the House when it comes to committee stage is examined by a committee of the whole House. Each private bill is usually, after second reading, referred to a select Committee, which comprises three members. Parties who hold seats in Parliament are usually represented proportionately on smaller select committees.

The other standing select committee is the Public Accounts Committee which, by Section 76 of the Island's Constitution, is appointed at the commencement of each session of Parliament. It is comprised of five Members of Parliament who are not ministers of the Crown. The Leader of the Opposition is at all times Chairman of this Select Committee.

On occasions a select committee may be appointed to examine current matters for example, Revision of the Rules of the House, Members' salaries and allowances, etc. Again cognisance is paid to party representation by proportion of seats held in the House.

The provision under section 76 of the Saint Vincent Constitution for the appointment of a Public Accounts Committee is very unusual and was a provision requested firmly by the island's present Prime Minister, who at the time was Leader of the Opposition.

Zambia

The information is contained in an article, published as Chapter V of the Journal.

Zimbabwe

Select Committees: Committees on Public Matters

All Committees which are composed of a certain number of Members of Parliament specially nominated may be termed Select Committees as distinguished from those committees which consist of the whole House. In practice, however, the term is not applied to those committees appointed in terms of Standing Orders Nos. 156, 157 and 158, namely Estimates, Public Accounts and Pensions, Grants and Gratuities or those sessional committees appointed by Mr. Speaker in terms of Standing Orders Nos. 13 and 14, related specifically to the Committee on Standing Rules and Orders, the Joint Sessional Committees on Printing, Parliamentary Library and Internal Arrangements.

The functions of select committees in reference to the subject matter referred to their consideration and the powers conferred upon them for the performance of the duties with which they are charged, emanate directly from the House and depend entirely upon the authority originally vested in them. The committee is not at liberty to entertain any proposition or institute any inquiry which does not come within the direct proposition for which the committee is appointed. These Rules are founded upon the clear and indisputable principles of Parliamentary law that a committee is bound by and is not at liberty to depart from its terms of reference. This principle is essential to the regular dispatch of business. If the committee desires to extend its inquiries beyond its terms of reference, it must obtain special authority from the House for that purpose.

When a subject is referred to the consideration of a Select Committee, the committee is authorised to recommend any measures connected with and arising out of the subject so referred. Careful thought must be given to all aspects of the terms of reference of a select committee before the motion is moved in the House. In the past there have been instances where such terms of reference have been so broad as to involve the committee in a very wide investigation – an example of this was the appointment of a Select Committee to investigate and report upon Ways and Means of Rehabilitating the Mining Industry. In this instance it is doubtful whether the House fully appreciated the very wide scope of the terms of reference or the enormous task which would fall to the lot of the committee. In fact an inquiry of this magnitude and national importance could well have been the responsibility of a commission of experts whose report would be regarded as a blueprint for the future of the mining industry.

In the recent past such select committees have been set up to investigate Friendly Societies, Insolvency, Political Boycott, Restrictive Trade Practices, Liquor Licensing, Betting, Lotteries and Gaming Laws, Education, the Rhodes Estates, Decentralisation and Testate and Intestate Succession. These examples will indicate the importance placed upon the Parliamentary Select Committee.

Standing Committees: Estimates

The Estimates Committee, appointed in terms of Standing Order No. 157, is required to inquire into and report upon such of the estimates as it may think fit with a view to achieving economies and to draw attention to items which may involve or have involved wasteful or unnecessary expenditure, to consider the form in which the estimates are presented and to examine the principal variations between the estimates for the current financial year and those of preceeding financial years. It is claimed that the Estimates Committee provides a channel for an independent investigation into the finances and economy of the Government's administrative machine and as such is able to tender impartial advice which may, or may not, be accepted by the Government. The preparation and the content of the Estimates of Expenditure is not within the purview of this Select Committee. This is a function which is reserved solely to Government as opposed to Parliament. All expenditure must depend either on Government policy or on the basic requirements of the Ministry concerned for the implementation of that policy. It is an accepted basic principle of financial procedure that the State has the exclusive right to initiate expenditure through its Ministers and it is the responsibility of Government to determine the national expenditure. In this connection, the Estimates Committee is the watchdog of Parliament in regard to public expenditure as revealed in the Estimates. It is not the function of the Estimates Committee to inquire into Government policy. In fact the Committee is specifically excluded from doing so. In brief, the Estimates Committee is primarily concerned in examining such estimates as it may think fit, with a view to achieving economies and to ensure that Government is getting the best value for its money and that the policy implied in the Estimates is being carried out economically.

It should be noted that, in effect, the Estimates Committee is relieving the Committee of Supply of some of its burden of work in relation to the examination of the Estimates of Expenditure. In practice all individual votes of Ministries have to be approved by the House. The Committee of Supply is, however, limited to 85 hours and whilst this may be sufficient time to consider most of the Estimates in the House itself, it could so happen, and has indeed happened in the past, that several votes are not debated. In these circumstances, the Estimates Committee should examine such Votes and report their findings to the House even though the Votes have already been passed by Parliament. The ideal situation would be for the Estimates Committee to select the Votes which it wishes to examine at the time the Estimates are presented to the House, so that the House need not examine such Votes in detail, thereby avoiding unnecessary duplication of debate and examination.

Committee of Public Accounts

A Select Committee of Public Accounts is appointed at the beginning of every session of Parliament. The members of the Committee,

including the Chairman, are nominated by the Committee on Standing Rules and Orders of the House of Assembly. The Chairman of the Estimates Committee is *ex officio* a member of the Committee so that there may be some liaison between the two Committees on matters being investigated.

The Committee is appointed in terms of Standing Orders – "for the examination of the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure and of such other accounts laid before the House of Assembly as the Committee may think fit."

It will be noted that the actual powers which are conferred upon the Committee through its terms of reference are strictly limited. Nevertheless, the power and influence which the Committee can exercise indirectly is considerable and derives from the methods it adopts and the interpretations concerning the scope of its activities and purpose which by tradition have been placed by successive Committees of Public Accounts here and elsewhere upon the intentions of Parliament; and the publicity given to the matters it investigates and reports upon, and the moral effect which public criticism has on the administration and the executive alike.

The main function of the Committee is to make sure that the parliamentary grants for each financial year have been applied to the purposes for which Parliament intended them, and to consider matters brought to the notice of Parliament. The researches made by the Committee on behalf of the House are intended to ensure a critical examination of the public accounts.

The Committee deals with matters reflected in public accounts. The public accounts which become subject to examination by the Committee of Public Accounts are those which are audited by the Comptroller and Auditor-General in terms of the Audit and Exchequer Act [Chapter 168]. and those of statutory bodies.

In regard to the accounts mentioned above the Auditor-General can readily make such reports to the Committee as he considers necessary or desirable, since in the conduct of his audit he has direct access to the accounts.

The accounts mentioned above are normally audited by commercial auditors appointed in terms of the legislation providing for the statutory bodies' establishment and control. Any reports by the Comptroller and Auditor-General to the Committee therefore emerge either from an examination and appraisal of these audited accounts, or from any domestic reports which may have been made during the year by the auditors to the statutory body or from information provided by the appropriate accounting officer at the request of the Comptroller and Auditor-General.

The Committee may not concern itself with matters of Government policy as such; this is outside the scope of its terms of reference. Nevertheless, Parliament is concerned that the best possible use is made of the country's limited financial resources. As a result the Committee

can and does concern itself with the financial consequences of the implementation of any given line of policy.

This aspect of the Committee's work involves it in the examination of an investigation into reports made to Parliament of unnecessary, wasteful or excess expenditure of public money, indicating, for example, weaknesses in departmental organisation or in the administration of departmental function; and defects in systems of financial administration and control.

In all such investigations the Committee's function is to elicit the facts and to make judgments thereon. The function of the Committee may therefore be described as quasi-judicial.

Sessional and Joint Sessional Committees

The Committee on Standing Rules and Orders is appointed by Mr. Speaker, in terms of the Standing Orders as soon as practicable after the commencement of every session. In general the Committee is set up to consider and decide upon all matters concerning the House of Assembly as it shall deem fit. (The same applies to the Senate Committee on Standing Rules and Orders). In general this Committee decides on rules of procedure, general administration of Parliament, the appointment of members of Standing Committees and Joint Sessional Committees and the filling of vacancies where they occur.

The other Joint Sessional Committees which are appointed are the Printing Committee to assist in regard to the printing arrangements of Parliament, the Parliamentary Library Committee to assist in regard to all matters relating to the policy, conduct and management of the Library of Parliament and the Internal Arrangements Committee to consider and make recommendations to Mr. Speaker and Mr. President upon matters concerning the amenities for, and convenience of, Members and Senators.

The Senate Legal Committee

The Senate Legal Committee is not a select committee as such, but is appointed in terms of the Constitution to examine all legislation that has been introduced into Parliament with the exception of Money Bills and Constitutional Bills. It also examines all statutory instruments that are published in the Government Gazette, in order to see that no Bill or statutory instrument infringes the Declaration of Rights as defined in the Constitution.

Scrutiny of Policy and Administration

As in the British model, committees do not have substantial power over the Government. They have the power to summon any person to come before them and give evidence, and also to ask for any papers or documents relevant to their investigation. In practice Ministers are not usually called to give evidence before committees. They have no power to alter or change the policy of the Government. Indeed the Standing Rules state that the Committee on Estimates "shall not have power to question

or report upon Government policy". A Committee may present its report in such a way that it gives rise to a debate and vote in the House. Nevertheless, after all is said and done, the Government may reject a committee's report. The only power of scrutiny and control over policy and administration by the committee depends on what it brings to light and thereby the influence it has on the Government into taking corrective action.

XVI. APPLICATIONS OF PRIVILEGE

AUSTRALIA: HOUSE OF REPRESENTATIVES

Production of Hansard in Court — As previously reported in *The Table* (Vol. XLVIII, 1980, pp. 121-3), the following matter was referred to the Committee of Privileges on 11th September 1979:

"The extent to which the House might facilitate the administration of justice with respect to the use of or reference to the records of proceedings of the House in the Courts without derogation from the Privileges of the House, or of its Members."

The Committee's report, presented on 9th September 1980, recommended as follows:

"(1) that the practice of petitions being presented to the House for leave to refer to House records in the Courts, derived from the long-established practice of the United Kingdom House of Commons, should be maintained.

(2) that upon presentation of a petition, the House shall, at the earliest opportunity, refer the petition to the Committee of Privileges for its consideration and report.

(3) that in considering the petition the Committee of Privileges should enable the Member (or former Member) referred to in the petition to be heard on his own behalf.

(4) that the Committee of Privileges, at the completion of its deliberations, should report to the House its views on the petition and, in addition, recommend such conditions upon the production of the record or *Hansard* report as it deems appropriate in all the circumstances."

The Committee further recommended that the House of Representatives should resolve:

"(1) that the broadcast of the proceedings in the House of Representatives and the publication of those proceedings in *Hansard* do not amount to a waiver of privilege by the House of Representatives and that the decision to the contrary by Begg, J. in the case of *Uren v John Fairfax & Sons Limited* is in error.

(2) that, whilst recognising that there are statutory exceptions, such as the Parliamentary Proceedings Broadcasting Act, and common law exceptions, such as the fair and accurate reporting of the proceedings of the House by the Press, the House reaffirms –

(a) that as a matter of law there is no such thing as a waiver of Parliamentary Privilege,

(b) that the House has a paramount right to impose such conditions as it deems appropriate on the production of any *Hansard* report or record of its proceedings in a Court, and

(c) that such conditions as a matter of law are binding upon the Court before which the *Hansard* report or other records of its proceedings are produced."

The report came up for consideration by the House on 17th September 1980. The Leader of the House moved:

"That this House, recognising the need for extensive consideration by the House of the report from the Committee of Privileges relating to the use of or reference to the records of proceedings of the House in the Courts, is of the opinion that the report should be considered early in the 32nd Parliament ..."

An amendment to give effect to the first four of the Committee's

recommendations was moved by the Deputy Leader of the Opposition, himself a member of the Committee of Privileges. After some debate, the amendment was negatived and the original motion agreed to. It is anticipated that the report will be further considered by the House early in 1981.

No doubt the House's consideration of the matter will be assisted by the resolution adopted by the United Kingdom House of Commons on 31st October 1980 as follows:

"That this House, while re-affirming the status of proceedings in Parliament, confirmed by Article 9 of the Bill of Rights, gives leave for reference to be made in future Court proceedings to the Official Report of Debate and to the published Reports and evidence of Committees in any case in which, under the practice of the House, it is required that a petition for leave should be presented and that the practice of presenting petitions for leave to refer to parliamentary papers be discontinued."

Alleged discrimination and intimidation of a witness — On 1st April 1980 Mr K. L. Fry, M.P., raised as a matter of privilege an allegation by a constituent that he had been discriminated against and intimidated in his employment in the Australian Public Service as a result of evidence given by him before a sub-committee of the Joint Committee on Foreign Affairs and Defence. Mr Fry produced documents relating to the alleged discrimination and intimidation. Mr Speaker stated that he would examine the matter and announce whether a *prima facie* case of breach of privilege existed. Later that day, Mr Speaker informed the House that, from the information contained in the material produced, he was unable to conclude that a *prima facie* case of breach of privilege existed.

On 23rd April 1980 Mr Fry again raised the matter, producing additional documentary material for Mr. Speaker's consideration. Subsequently Mr Speaker announced that having considered the additional material submitted by Mr Fry, he was prepared to allow precedence to a motion by Mr Fry to refer the matter to the Committee of Privileges.

The following motion, moved by Mr Fry, was agreed to:

"That the matter of the alleged discrimination and intimidation of Mr David Berthelsen in his public service employment because of evidence given by him to a sub-committee of the Joint Committee on Foreign Affairs and Defence, be referred to the Committee of Privileges."

Mr Berthelsen, an employee of the Auditor-General's office and previously an employee of the Department of Defence, had given evidence, in part critical of the Department, to the Sub-Committee on Defence Matters in October 1978. Considerable media publicity over a period of more than a year had resulted from this appearance and from the subsequent chain of events, which included the Sub-Committee's investigation of a complaint by Mr Berthelsen of intimidation by the Department of Defence, critical references to Mr Berthelsen made by a Minister in the House, evidence given to the Sub-Committee by the

Secretary of the Department of Defence and the Chief of Defence Staff in rebuttal of Mr Berthelsen's evidence, and the "leakage" of certain documents to the press. Finally, in November 1979, the contents of a letter dated 2nd October 1979 from Mr Berthelsen to the Chairman of the Sub-Committee were the subject of media comment. On 30th November 1979 the Auditor-General decided that it would be in the best interests of his Office if Mr Berthelsen could be placed in a less sensitive area of the Public Service. Steps were taken to achieve this, though in fact it did not come about.

This brief summary does not do justice to the extremely complex series of events and issues which faced the Committee of Privileges. In brief, the Committee was called upon to decide three questions: whether there had been an attempt from within the Department of Defence to silence and discredit Mr Berthelsen; whether the attempt to have Mr Berthelsen moved to a less sensitive area of the Public Service constituted discrimination and/or intimidation, and, if so in either case, whether these actions were the result of evidence given by Mr Berthelsen to a sub-committee of a Joint Committee of the Parliament and thereby constituted a breach of privilege.

Before proceeding with its investigation the House of Representatives Committee of Privileges considered the question of its jurisdiction in respect of matters arising from an inquiry conducted by a Joint Committee of the Parliament. After careful consideration, it determined that it had jurisdiction and resolved to proceed with the reference.

After a lengthy inquiry during which it took 770 pages of evidence, the Committee reported to the House on 11th September 1980 that on the evidence available to it, it was not satisfied that a breach of Parliamentary Privilege had been proved against any person. However, the report went on to say that:

"On all the evidence before it the Committee is satisfied that a number of persons within the Department of Defence individually and collectively determined not only to rebut the evidence of Mr Berthelsen but to go further and if possible to silence him, to discredit him personally, and to deter him (and others similarly minded) from offering further evidence which was critical of the Department of Defence before the Sub-Committee on Defence Matters, or indeed any other Parliamentary Committee."

Despite intensive investigation, however, insufficiency of evidence prevented the Committee from making a positive finding of breach of privilege against any individual member of the Department of Defence, past or present.

With regards to the situation in the Auditor-General's Office, the Committee was satisfied that Mr Berthelsen suffered disadvantage in respect of his career prospects in the Public Service. The Committee was of the opinion, however, that this was not so much the direct result of his having given evidence to the Sub-Committee on Defence Matters but rather because of a certain notoriety which had attached to Mr Berthelsen due principally to accumulating media publicity about his involvement with the Sub-Committee and the effect that this might have had on the

relationship between the Auditor-General's Office and its clients.

The question of privilege here in part hinged on the evidentiary status of the letter of 2nd October 1979, publicity surrounding which had "triggered off" the Auditor-General's determination to move Mr Berthelsen. The Committee found that the letter and its attachment were not sought nor formally received as evidence by the Sub-Committee and consequently did not partake of the character of "evidence" as technically defined within the meaning of the privilege in question.

The Committee recommended:

"... that the attention of the Public Service Board be drawn to the circumstances of this case and that the Public Service Board should do all within its power to restore Mr Berthelsen's career prospects in the Public Service and to ensure that he suffers no further disadvantage as a result of this case."

The report concluded as follows:

"*Prospective Witnesses before Parliamentary Committees*

The Committee declares that it will deal most seriously with any matters which are referred to it involving tampering, intimidation, discrimination or threats thereof, involving witnesses or prospective witnesses before Committees of the Parliament.

The Committee is concerned at the possibility that future witnesses might be deterred from appearing before Committees of the Parliament for fear that action may be taken against them for so doing. The Parliament has a clear responsibility to monitor Executive administration closely. It does so to a large extent through its committees whose activities depend largely on the availability and willingness of competent witnesses to appear before them. If the Parliament fails to provide the protection to which these witnesses and prospective witnesses are entitled, the effectiveness of the Committees, and through them, the Parliament and the Nation, will suffer. The Committee of Privileges is determined that this should not happen.

The Committee believes that the Parliament should consider the enactment of a Parliamentary Witnesses Protection Act which would both provide for the prosecution of persons who tamper with, intimidate or discriminate against witnesses who give (or have given) evidence before a Parliamentary Committee or the House; and also provide a statutory cause of action in which witnesses who have suffered intimidation or discrimination would have the right to sue for damages those responsible for the said intimidation and/or discrimination. In respect to actions against such persons, their Departments may also be joined as Defendants and may also be vicariously liable to compensate by way of damages the witness so intimidated and/or discriminated against.

It has also been pointed out that there is no mechanism by which breach of privilege can be referred for examination when the Parliament is not sitting and the particular circumstances of a case may require some urgent action to be taken. Consideration should be given to conferring power on the Speaker to make an interim referral of an issue to the Committee of Privileges, such action to be referred to the House for its approval at the first opportunity."

The report came up for consideration by the House on 17th September 1980. The Minister Assisting the Prime Minister moved:

"That this House, recognising the need for extensive consideration by the House of the report from the Committee of Privileges relating to the alleged discrimination and intimidation of Mr David E. Berthelsen in his public service employment because of evidence given by him to a sub-committee of the Joint Committee on Foreign Affairs and Defence, is of the opinion that the report should be considered early in the 32nd Parliament ..."

The following amendment to the motion was moved by the Deputy Leader of the Opposition:

"That all words after "That" be omitted with a view to substituting the following words: "the House calls upon –

(1) the Public Service Board to do all within its power to restore Mr Berthelsen's career prospects in the Public Service and to ensure that he suffers no further disadvantage as a result of this case and directs the Government to do all within its power to ensure that this occurs;

(2) the Chairman of the Public Service Board to draw the attention of all Permanent Heads to the Report of the Privileges Committee relating to Mr David E. Berthelsen, and further calls upon the Chairman of the Public Service Board to direct Permanent Heads to bring the report to the attention of all public servants and calls upon Ministers responsible for statutory corporations to take similar appropriate action, and

(3) the Chairman of the Privileges Committee to introduce by way of legislation at the earliest opportunity in the 32nd Parliament a Bill enacting the recommendations referred to in clause 71 of the Report of the Privileges Committee [i.e. for the enactment of a Parliamentary Witnesses Protection Act] and calls upon the Government to make available the assistance of parliamentary counsel for this purpose."

After further debate the amendment was negatived. By leave, the original motion was amended by the Leader of the House to read as follows:

"That –

(1) this House, recognising the need for extensive consideration by the House of the report from the Committee of Privileges relating to the alleged discrimination and intimidation of Mr David E. Berthelsen in his public service employment because of evidence given by him to a sub-committee of the Joint Committee on Foreign Affairs and Defence, is of the opinion that the report should be considered early in the 32nd Parliament;

(2) the Public Service Board be requested to do all within its power to restore Mr Berthelsen's career prospects in the Public Service and ensure that he suffers no further disadvantage as a result of this case ..."

The motion, as amended, was agreed to, and it is anticipated that the matter will receive further consideration early in 1981.

AUSTRALIA: SENATE

Imprisonment of a Senator – During 1980 the Senate considered the matter of privilege which was reported in the last edition.

In December 1978 and July 1979, Senator Georges was arrested on charges relating to protest marches in the streets of Brisbane. On both occasions he pleaded guilty to the charges, and was fined for the offences. Senator Georges was imprisoned, after refusing to pay the fines. On both occasions the President of the Senate was not formally notified by the court of the imprisonment of Senator Georges.

On 30th August 1979 the Senate accepted a motion by Senator Georges to refer the following matters to the Committee of Privileges:

(a) the failure of any appropriate authority in Queensland to advise the President of the Senate of the arrest and imprisonment of Senator George Georges;

(b) whether the matter leading to the arrest and imprisonment of Senator Georges was of a civil or criminal nature; and
(c) whether, if the Committee determined that the matter was of a civil nature, the arrest and imprisonment of Senator Georges constituted a breach of the privileges of the Senate.

The Committee considered the matters referred to it, and on 25th October 1979 presented its report. The Committee's conclusions were as follows:
(1) The Committee considered that it is desirable that the practice of notification of the Presiding Officers of the imprisonment of members of the Parliament should be followed in Australia. It would be premature for the Senate to treat the failure to give notification of the imprisonment of one of its members as a contempt, until steps have been taken to make the attitude of the Senate known to the courts and to secure their co-operation.
(2) With reference to whether the matter leading to the arrest and imprisonment was of a civil or criminal nature, the Committee determined that it was clearly not civil in character. The term "quasi-criminal" is sometimes attached to such matters. It must be regarded as well-established that the privilege of freedom from arrest is not available in relation to such matters.
(3) The Committee indicated that had Senator Georges' imprisonment been in a civil matter, it would clearly have been a breach of privilege, but as it was not in a civil matter, this question was not relevant.

On 26th February the Senate passed the following Resolutions:
(1) It is the right of the Senate to receive notification of the detention of its members.
(2) Should a Senator for any reason be held in custody pursuant to the order or judgment of any court, other than a court martial, the court ought to notify the President of the Senate, in writing, of the fact and the cause of the Senator's being placed in custody.
(3) Should a Senator be ordered to be held in custody by any court martial or officer of the Defence Force, the President of the Senate ought to be notified by His Excellency the Governor-General of the fact and the cause of the Senator's being placed in custody.
(4) The Presiding Officers of the Parliament should confer with the Presiding Officers of the Parliaments of the States, and the Attorney-General should confer with the Attorneys-General of the States, upon the action to be taken to secure compliance with the foregoing Resolutions.
(5) The terms of these Resolutions be communicated to Presiding Officers of the Parliaments of the States and the Attorneys-General of the States.

TASMANIA: LEGISLATIVE COUNCIL

Verbal exchanges – A case of possible breach of Parliamentary Privilege between the Legislative Council and House of Assembly occurred at the

end of the 1979 Session. As Christmas 1979 approached, a Bill relating to electoral matters reached the Upper House, and during a party at which Members from both Houses mingled, some dubious verbal exchanges took place. Press reports exacerbated the situation, with headlines such as –

"Two top Ministers accused of threats and abuse on bill" and
"We won't back down. Stand by MLC's".

In March 1980 when the Legislative Council commenced Sitting, its Privileges Committee considered the matter, and presented a Report. With a written apology from a House of Assembly Member read in Council on 2nd April 1980, the matter was resolved.

GUJARAT

Disturbance in Visitors' Gallery – On 1st October 1980, at about 10.35 a.m., twenty-one persons shouted slogans in the Visitors' Gallery and threw pamphlets in the House. They were immediately taken into custody by the security staff of the House. Thereafter the Minister for Parliamentary Affairs moved the following motion, which was adopted by the House without any dissenting vote:

"That the persons who have misbehaved in the actual view of the House today have committed contempt of the House and, therefore, they be sentenced to simple imprisonment till prorogation of the House and that they be sent to Sabarmati Central Jail, Ahmedabad."

In pursuance of the aforesaid motion adopted by the House, the Hon'ble the Speaker, by warrant of commitment signed by him and addressed to the Superintendent of the Sabarmati Central Jail Ahmedabad, sent the said twenty-one persons to the Jail.

UTTAR PRADESH: LEGISLATIVE ASSEMBLY

Alleged harassment of a Member in respect of speech made in the House – On 4th August 1980, the Speaker referred a question of breach of privilege, notice of which had been given earlier by Sri Badan Singh, M.L.A., for examination, investigation and report by the Committee on Privileges, because it involved the harassment of the member in respect of his speech in the House and another member, Sri Vijai Singh Rana had corroborated this allegation in his speech in the House on 16th July 1980. In his complaint, Sri Badan Singh had stated that one Sri Ravi Shanker Tripathi, Circle Officer Police, Khairagarh, District Agra had intimidated him in many ways when he had reached Agra on 12th July 1980 after speaking in the House on the motion of thanks on the Governor's address, where he had brought to light the irregular and partisan attitude of the said circle officer. Earlier, on 16th July, the Speaker had heard Sri Badan Singh and some other members in this matter on the floor of the House and had said that he would give his decision after obtaining the facts of the case from the Chief Minister. The

desired information was later received from the Chief Minister. He stated that according to the report received from the District Magistrate and Senior Superintendent of Police, Agra, the allegations made in the complaint were not correct and the same appeared to be consequential to a case registered under I.P.C. against Sri Badan Singh and some other persons. However, keeping in view the precedents in similar cases and the speech made in the House by Sri Vijai Singh Rana in support of Sri Badan Singh's complaint, the Speaker decided to refer the question to the Committee of Privileges.

RAJASTHAN

Disturbances in the Visitors' Gallery – During the year 1978, there were two cases of contempt in the House. On both occasions visitors shouted slogans and threw leaflets from the Visitors' Gallery on to the floor of the House. Immediately Watch and Ward Staff took the visitors into custody:

(1) The first event took place on 15th March 1978. After preliminary enquiry, the matter was referred to the House for decision. The Government Chief Whip moved a resolution proposing to keep the culprit in the custody of Sergeant-at-Arms till the rising the House for the day.

The resolution was adopted by the House.

(2) The Second event took place on 31st March 1980. The culprit, after preliminary enquiry, expressed regret for his behaviour. Consequently he was discharged by a decision by the House.

PAPUA NEW GUINEA

Reflections on Ministers: Mr Speaker's ruling – Honourable Members, on 1st July 1980, the Honourable Member for South Fly and the Minister for Police raised a matter of privilege and requested me to refer it to the Committee on Privileges.

The alleged Matter of Privilege was raised in relation to the following comments made by the Honourable Leader of Opposition Mr. Michael Somare when replying to the Prime Minister's nation-wide address on the State of the Nation:

"The Prime Minister should stand firm as a Leader and have control over his Ministers. Some of his Ministers have been to jail and others have used their powers to release them".

At this point of the Leader of the Opposition's speech, the Honourable Minister for Police immediately raised a point of order in the following words, and I quote:–

"The Honourable Leader of the Opposition is repeating the allegation by the Honourable Member for West Sepik, that I have used my powers to do incorrect things. As I told Parliament, the allegation is a categorical lie and subsequently asked the Member for West Sepik whether he was prepared to give names of the Policemen to Police Department so they could do an investigation. He said that the sources were not his but that he received them from someone else in the Opposition and said he was not prepared to give the

information to Police Department but would give it to the Ombudsman.

Mr. Speaker, this Parliament is the place to handle allegations of this sort and I ask you to refer it to the Parliamentary Privileges Committee".

Honourable Members, in deciding whether an alleged breach of Privilege should be referred to the Privileges Committee, I must be satisfied that the claim of privilege complies with two conditions.

Firstly I must be reasonably satisfied that there appears to be a matter for consideration by the Committee, and secondly I must be satisfied that this matter was raised at the earliest reasonable opportunity.

Honourable Members, it is not my duty to rule on the substance of the matter, for that is a matter for the Committee to decide after proper investigations. I am merely required to rule on whether the matter was properly raised and whether it can be properly referred to the Committee.

The Honourable Minister for Police in raising the matter of privilege appeared to refer to two different statements – one by the Honourable Leader of the Opposition and the other by the Honourable Member for West Sepik. The Honourable Member for West Sepik's statement in the form of a question was made on 24th June 1980 and it appears from the Hansard that that question was sufficiently answered by the Minister for Police, and if any matter of privilege arose from that statement, it was not raised there and then by any member including the Minister for Police.

A Matter of Privilege must be raised at the earliest reasonable opportunity if it is to be considered by me as the Speaker. If it is not raised at the earliest opportunity, it must be raised by a substantive motion referring it to the Privileges Committee.

I therefore rule that the Matter of Privilege now before me can only relate to the comment by the Leader of the Opposition I have mentioned earlier. This is because the Matter of Privilege was immediately raised following that statement.

In deciding whether that alleged Matter of Privilege should be referred to the Privileges Committee, I have taken into account the view that the statement by the Honourable Leader of the Opposition was made in very general terms and did not mention any Minister in particular. The statement also in my view did not make clear reference to the matter raised by the Honourable Member for West Sepik on 24th June 1980.

I, however, feel that the general allegation that "some Ministers have been to jail and others have used their powers to release them" sounds serious and may have undue reflections on the Parliament as a whole. Therefore I rule that the Matter of Privilege raised by the Minister for Police on 1st July 1980 as it relates to the statement by the Leader of the Opposition be referred to the Privileges Committee for proper investigation and consideration.

UNITED KINGDOM: HOUSE OF COMMONS

Not Proven – Mr Dale Campbell-Savours (Labour), elected in May 1979 as

Member for Workington in Cumbria, represents a constituency with a very high level of unemployment, and the daily bread of many of his constituents depends on the continuing operation of various local steel plants. At the same time, the viability of the United Kingdom steel industry depends on the effective planning and co-ordination of steel processing and production throughout the country, and the Chairman of the nationalised British Steel Corporation, Mr Ian MacGregor, a U.S. citizen appointed personally by Her Majesty's Government to oversee this vitally important task, recently produced a "Corporate Plan" for the industry.

The Plan envisages, amongst measures for the elimination of uneconomic plants, the closure of a foundry in the Workington constituency. Mr Campbell-Savours, however, considered that this proposal was based on a wrong evaluation and misleading statistics and expressed himself strongly on the subject, on the Floor of the House and elsewhere, but particularly in a debate on 16th December 1980. Two days later, he had a meeting with Mr MacGregor and members of his staff at which the affairs of the Corporation in Workington were to be discussed. He subsequently wrote to the Speaker saying he considered that certain remarks made by Mr MacGregor at the meeting constituted a breach of privilege. When the House re-assembled in January 1981, the honourable Member, with the permission of the Speaker*, made a formal complaint in the House of Mr MacGregor's remarks, and secured the agreement of the House that the matter be referred to the Committee of Privileges (13th and 14th January 1981).

The problem for the Committee, meeting for the first time in the current Parliament, was the absence of a full record of what was said at the meeting. Mr Campbell-Savours said that Mr MacGregor attempted to restrict his freedom to say what he wanted in the House by threatening further closures if he made similar speeches to the one he had already made. Mr MacGregor said this was not so, and that he had merely pointed out that the divisive effect, on the relationship between workers and management, of Mr Campbell-Savours' comments and general attitude would be bound to lead to poor performance in the industry and further closures in consequence.

The Committee were unable to satisfy themselves on two important points:

(i) Had there been any actual *threat* by Mr MacGregor?

(ii) Even if there had been, was the threat related to Mr Campbell-Savours' speeches *in the House*?

In their Report (H.C. (1980-81) 214), the Committee observed that this had been an occasion when two men with heavy responsibilities had confronted one another and might have expressed themselves in words they would not otherwise have chosen. They drew attention to Mr MacGregor's expressions of regret if the honourable Member had

* An absolute prerequisite for raising a complaint of privilege under the procedure adopted by the House on 6th February 1978.

thought that he was being threatened. They emphasised that their concern was not only for Mr Campbell-Savours' privilege but for that of the whole House. And they added that Members, in exercising their privilege, ought always to recognise their responsibility for the substance of their speeches.

ZAMBIA

Editorial comment – An Hon. Member raised a point of order on 15th January 1980 against the *Zambia Daily Mail* for the editorial opinion in its issue of Tuesday 15th January 1980. Part of the editorial comment read as follows:–

"One thing is, it was the shortest Presidential Address to the House, but it was packed with Meaningful messages for every citizen. Because the Address was short, no MP fell asleep as has happened before, and we hope that every word the President used sank in the minds of the honourable Members.

It was important for every one of the MPs to remain awake and get the seriousness of every word that the President used because it is these leaders who have to carry out and interpret the instructions contained in the Address".

The Hon. Member for Mbabala (Mr E. H. Nyanga, MP) wondered whether the newspaper was in order to imply that whenever the President addressed the House the speeches were so long that Members of Parliament went to sleep. He believed that this gave the impression that Hon. Members caused delays in the implementation of development projects in the country because they went to sleep in Parliament. He asked Mr Speaker to make a ruling on the matter.

On 20th February 1980, Mr Speaker announced to the House that the Standing Orders Committee had considered the question of Breach of Parliamentary Privilege by the Zambia Daily Mail. In dealing with the matter, the Standing Orders Committee had taken into consideration:

(a) Privileges and immunities of the National Assembly and of Members as provided in the Constitution of Zambia;
(b) Freedom of Speech and debate in the Assembly as provided in the National Assembly (Powers and Privileges) Act, Cap. 17 of the Laws of Zambia;
(c) Privileges of Freedom of Speech and immunity from Proceedings as practised in most Commonwealth Parliaments;
(d) The Protection of Freedom of expression as contained in the Constitution of Zambia;
(e) The length of speeches that have been delivered to the House during the State Opening of Parliamentary Sessions; and
(f) The points of Order that some Hon. Members raise from time to time, against other Hon. Members seen sleeping during sittings of the House.

Mr Speaker continued:

"After taking into consideration all the facts together with relevant issues and surrounding circumstances, the Committee decided that although some words and phrases

used in the editorial of the *Zambia Daily Mail* of 15th January 1980, constituted a breach of Parliamentary Privilege, the circumstances in which they were used did not require further action by the House. The dignity of the House will be best maintained by taking no further action."

Press reporting of debates – A point of Order was raised on 24th January 1980 in connection with the reporting by the Press of the contributions that Hon. Members make in the House. In the point of Order, the Hon. Member for Malambo (Mr W. H. Banda) submitted that what was reported in the *Times of Zambia* of Wednesday 23rd January 1980 and attributed to him was a misrepresentation of what he actually said in the House during his contribution on Tuesday 22nd January 1980. Parts of the *Times of Zambia* report read as follows:–

"Speaking on the continued Vote of Thanks to President Kaunda's Opening Speech, Mr Banda said as some Central Committee Members and Ministers were running private business, he wanted to know whether the capital they were using was 'clean' ....." "Central Committee Members and Cabinet Ministers claiming to have "clean Capital" must come out in the open and run their business publicly ...."

The Hon. Member viewed this as a very serious statement which gave the impression that he had made a direct attack on Members of the Central Committee and Cabinet Ministers. He submitted that no such words existed in the official uncorrected transcripts of his speech. He, therefore, asked Mr Speaker to rule on whether it was in order for the newspaper to print incorrect reports.

After studying the issue, Mr Speaker made a ruling on Friday 1st February 1980. In his lengthy ruling, Mr Speaker informed the House that for reasons best known to themselves, the *Times of Zambia* had misquoted most parts of the contribution made by the Hon. Member for Malambo. The newspaper had capitalised on the part of the contribution where the Hon. Member had referred to leaders running businesses. The Hon Member had, however, not mentioned the offices of Central Committee Members or Cabinet Ministers. The actual contribution of the hon. Member in this regard was as follows:–

"..... As a result, many accusations have been levelled against our leaders for running businesses. This accusation is common in the country and we can only avoid this by allowing them to come in the open and run your affairs with your clean capital."

Mr Speaker added that the offence of unfair or inaccurate reporting and misrepresentation of speeches made by hon. Members in the House or in its Committees was very serious. Referring to provisions of the National Assembly (Powers and Privileges) Act, Cap. 17 of the Laws of Zambia and of the authoritative *Parliamentary Practice* of Erskine May, Mr Speaker stated that misrepresentation of contributions of hon. Members in the House is a punishable offence of the same character as a libel. He added that the practice followed in Commonwealth countries is that any newspaper whose representative is guilty of this offence may be barred from representation in the Press Gallery of the House. Mr Speaker continued:

"In our own Parliament here, the tradition which has been established over many decades is that Mr Speaker may grant permission in writing to the representative of any newspaper, journal, broadcasting or television station to attend the sittings of the House under such rules as Mr Speaker may, from time to time, prescribe for that purpose. If the rules are contravened, or if the newspaper or the journal or broadcasting or television station publishes a report of the Proceedings of the House which is, in the opinion of Mr Speaker, unfair and inaccurate, permission may be revoked."

However, the ruling went on:

"Hon. Members, I now wish to make a request: we should once again forgive this paper – the *Times of Zambia* – for grossly misrepresenting the contribution made by the Hon. Member for Malambo (Mr W. H. Banda, MP). I request the House not to take any further action on this matter, as doing so would look like lifting a hammer to kill a fly sitting on a glass window."

Mr Speaker stated that he had arrived at that decision after considering that most people did not understand the function and position of Parliament and were still learning. He said though, that this was not the first case of gross misrepresentation of the proceedings of the House. He, therefore, concluded his ruling with a warning.

"However, I wish to warn the *Times of Zambia* against its persistent tendency of inciting persons or groups of persons against other people in this country, especially when they deal with reports from Parliament. No one person or institution in the land can be expected to shoulder nation-building alone. It is all done by cooperative effort. Failure to take heed of this warning now – this is my second time to forgive – will definitely lead to stiffer punishments being meted out against all culprits."

Contempt of the House – During Questions for Oral Answer on 12th February, 1980, the Hon. Member for Chingola (Mr Kapandula) raised a point of Order against the *Times of Zambia* for the editorial which appeared in its edition of 2nd February, 1980 and 9th February, 1980. In his point of Order, the hon. Member charged that the editorial gave the reading public the impression that hon. Members of Parliament, in their contributions, were implying that the Party, UNIP, was finished when, in fact, the Members were trying to find solutions to revamp the Party and make it effective. He wondered whether the *Times of Zambia* was in order to misinform the nation. To support his point of Order, the hon. Member, quoted parts of the editorial comment of 2nd February 1980, as follows:–

"The special status of Parliament predates Zambia's independence. In fact, it is a legacy of our colonialism under the British ..... Yesterday's outburst by the Speaker was not his first against MPs backbenchers and frontbenchers alike .... Being a member of that August Assembly is no laughing matter. There was the case of the MP who, overcome with emotion during his maiden speech, started sobbing. Another spoke at such "supersonic" speed, the House's recording machines could not keep up with him. Most actors are familiar with "stage fright" which is what some MPs experience on their debut in the House."

The Hon. Member also quoted parts of the editorial opinion of 9th February 1980, as follows:

"These MPs who recently protested in Parliament at the vetting procedure were fortunate that they were not ruled "out of order." For this is clearly a Party and not a Parliamentary question. But how dare any MP stand up in Parliament to moan that the Party is in a bad way? ..... If Party membership is low, what is the MP doing to increase it? Shouting off his mouth in one long Parliamentary moan is not the way to increase it. Such tactics are only too likely to decrease membership still."

Mr Speaker promised to study the point of order and report to the House accordingly at a later stage. In his ruling on 14 February 1980, Mr Speaker reminded the House that it was not his duty to pronounce on whether speeches of hon. Members, strangers, editorials or passages in articles of newspapers or magazines did or did not constitute breaches of parliamentary privilege. All the Speaker had to rule on was whether a *prima facie* case of breach of privilege had been made out to the extent that the matter be given priority over orders of the day. After studying the provisions of the Constitution of Zambia dealing with the Legislative power of the Republic, the duties and powers of the Speaker, privileges and immunities of the National Assembly and Members, precedents of the House and those of other Commonwealth Parliaments plus relevant books on the practice and procedure of Parliament, Mr Speaker ruled that a *prima facie* case had been established. He, therefore, called upon the House to decide what course of action to follow. The decision of the House was that the matter of complaint be referred to the Standing Orders Committee for further examination.

The Standing Orders Committee considered the matter and resolved that the Editor-in-Chief of the *Times of Zambia* be brought before the Bar of the House and be severely reprimanded and admonished for gross contempt of the House and breach of its privileges. In his ruling on 28th February 1980, Mr Speaker told the Editor-in-Chief that the *Times of Zambia* had incessantly spoken of the duties of hon. Members of the House with callous insolence and indignity without heeding Mr Speaker's clear guidelines of Press reporting of Debates. He went on:

"It seems your paper has not heeded (the guidelines) because since 1st February 1980 there has been raised three cases of complaints against your paper alone, namely:

(a) 1st February 1980: gross misrepresentation of the contributions of hon. Member for Malambo (Mr W. H. Banda). This House forgave you and your paper.

(b) 14th February 1980, *a prima facie* case of breach of Parliamentary privileges was established against your paper after the hon Member for Chingola (Mr D. Kapandula) had raised a point of order on your opinion for 2nd and 9th February 1980. This is the subject of the ruling I am making to the House today.

(c) 19th February 1980; a point of order was raised by the hon. Member for Katuba (Mrs M. L. Muyunda) for attributing to her contributions she did not make in this House. Again, Parliament took no action against you and your paper."

Mr Speaker informed the Editor-in-Chief that the House had means by which it protected its privileges and punished their violations. These included reprimand and admonition, imposition of fines, prosecution of offenders, and committal to prison. He added that in all those forms of punishment, no appeal could be heard by any court of law.

The House had, however, decided to be lenient and gave the *Times of*

Zambia a final warning. In accordance with the decision of the House, Mr Speaker accordingly reprimanded and admonished the Editor-in-Chief and ordered him to read an unreserved apology to the House and that the same apology be published on the front page of the newspaper on Friday, 29th February, 1980.

Misrepresentation in the press – Another point of order was raised on 15th February 1980 by the hon Member for Katuba (Mrs M. L. Muyunda) on press reporting of debates. The hon. Member submitted that a report which appeared in the *Times of Zambia* on Friday, 15th February 1980 regarding a contribution made in the House by another hon. Member on 13th February 1980 was erroneously attributed to her. The hon. Member sought Mr Speaker's ruling on the misrepresentation by the *Times of Zambia*.

In his ruling on Tuesday, 19th February 1980, Mr Speaker informed the House that after studying the point of order together with the *Times of Zambia* report and the uncorrected transcripts of the *Daily Parliamentary Debates*, he had established as a fact that the report of the *Times of Zambia* of 15th February 1980 was attributed to a wrong hon. Member. Mr Speaker continued:

"In the ruling I delivered to this House on 1st February 1980, on the point of order raised by the hon. Member for Malambo (Mr W. H. Banda) on gross misrepresentation of his contribution in the House by the *Times of Zambia*, I said:

"The practice followed in Commonwealth Parliaments is that any newspaper, whose representative infringes upon the Standing Orders or any rules made by Mr Speaker for the regulation of the admittance of strangers or persistently misreports the proceedings of the House, or neglects and refuses, on request from the Clerk of the House to correct any wrong report thereof to the satisfaction of Mr Speaker may be excluded from representation in the Press Gallery for such term as the House shall direct."

However, Mr Speaker noted that in her point of Order, the hon. Member did not indicate whether she had personally requested the *Times of Zambia* to correct their mistake and she had not informed Mr Speaker that inspite of demanding the necessary correction and apology, the *Times of Zambia* had not obliged. That being the case, Mr Speaker ruled that no *prima facie* case of breach of Parliamentary Privilege had been established. He continued:

"Hon. Members, I now wish to make an appeal; as leaders we must sift trivialities from what is of substance. The duty of this House is to make laws for our country and to approve funds for the development of our people – the voters who brought us here – and to debate matters of national importance. Dealing with trivialities, such as unnecessary or irrelevant points of Order, serve only to lower the standards and dignity of the House. It also lowers the standing of hon. Members to the general public.

As for members of the Press, I want to warn them once more that it is not too late for them to study carefully the guidelines I gave in this House on Thursday, 6th April 1978. I gave a lot of thought to that statement about the Press, and they must study it carefully because time is not very far off when I shall be more strict than I am at the moment."

Editorial comment – During Question for Oral Answer on 5th March, 1980, the Hon. Member for Kapoche, (Rev. B. L. Zulu), sought the

guidance of Mr Speaker on whether or not the editorial comment in the *Times of Zambia* of 1st March 1980 was contemptuous of Parliament. The hon. Member quoted the following passages from the editorial:

"However, lovers of freedom will be saddened to note that the Editor of this newspaper was compelled on pain of the threat of imprisonment to read an apology before the House ... In every real sense, the freedom of Parliament and that of the Press are the two wings which sustain the dove of liberty in flight .... We do not want to precipitate an unfortunate constitutional crisis over parliamentary privilege as opposed to the freedom of the Press. Both institutions must be allowed to serve the nation in their separate unique ways. If Parliament in Zambia can be committed on the endure for a thousand years, so too may the Press. Both are vital to our democracy."

The hon. Member wondered whether the Editor-in-Chief of the *Times of Zambia* was sincere in the apology he gave to the House on Thursday, 28th February 1980. He asked whether it was proper to compare Parliament and a newspaper and requested Mr Speaker to make a ruling on whether or not the editorial opinion amounted to contempt of Parliament because it seemed to give the impression that Parliament had forced the Editor-in-Chief to apologise.

Mr Speaker's immediate ruling was that Parliament could not be compared to any institution. Whereas other institutions may have freedoms, rights and privileges, they have no powers to defend them. On the other hand, Parliament too has powers to protect and defend those freedoms, privileges and rights. Mr Speaker also promised to study the point of Order and make a ruling at a later date.

Mr Speaker made his ruling on Tuesday, 18th March 1980. In his ruling Mr Speaker referred to an earlier ruling he had made on the gross contempt and breach of Parliamentary Privilege by the Editor-in-Chief of the *Times of Zambia* in which he had quoted relevant provisions of the Constitution of the Republic of Zambia, Acts of Parliament and precedents of the House and of other Commonwealth Parliaments. He said:

"All in all, I did show that while Parliament should be criticised, it had rights to defend and protect itself when attacked. Criticism may be tolerated but not insults. Those who fight the Zambian Parliament as instituted under our Constitution should know that the Zambian Parliament takes exception to insults hurled at them under the guise of freedom of expression. The hidden motive of the paper against Zambia is now clearly showing itself by the un-Zambian insults hurled at our Parliament."

He added that the Editor-in-Chief had been given the opportunity to exculpate his newspaper before the Standing Orders Committee. The Editor-in-Chief gave his views to the Committee and, in the end, admitted that he, together with his paper, had committed offences against the House and had pleaded with the Committee to exercise leniency as he and other employees of the newspaper were still learning and did not understand fully the powers, privileges and immunities of the House. Mr Speaker added:

"I wish to inform the House that from investigations I have carried out, it has been revealed that some people are inciting the *Times of Zambia* through its Editor-in-Chief to

create turmoil in the country, using Parliament as a scapegoat. I have not yet found out why they choose Parliament for whatever grievances or malice they have against the Party, Government and leadership of the country .... Parliament is now requesting all those who are inciting the *Times of Zambia* newspaper and the effective owners of the paper to come out publicly and make their feelings against Parliament known so that Parliament can defend itself against those who attack it. They are now using the Editor-in-Chief as a mere 'front', abusing freedom of the Press instead of making their intentions known openly. However, the truth will come out sooner or later. Hon. Members, it is clear that contempt and breach of Parliamentary Privilege have been committed by the Editor-in-Chief and the *Times of Zambia* newspaper."

But Mr Speaker advised the House that since the Standing Orders Committee had thoroughly examined the issue, no further action need be taken on it. Mr Speaker, finally, appealed to hon Members not to be over-sensitive on Press reports and avoid "using a hammer to hit a comfortable fly sitting on a glass window." The House would only be maintaining their dignity by showing great patience under provocation. He appealed to hon. Members to forgive, "not once but seven or seventy times seventy and even to more than seven hundred times seven hundred."

New South Wales (Disqualification of Members). – The New South Wales Constitution Act, 1902, was amended by the Constitution (Amendment) Act, 1980, to ensure that section 13 (1) and (2) of the prior Act, does not disqualify a person from sitting and voting or holding office as a Member of either House of Parliament by reason of holding or accepting an office of profit under the Crown.

Section 13B of the Constitution Act, 1902, (which specifies the circumstances in which a disqualification for any such reason takes place) was amended so that a person is not automatically disqualified from sitting and voting or holding the abovementioned office by reason of holding or accepting an office of profit under the Crown or having or accepting a pension from the Crown during pleasure or for a term of years. A Member is so disqualified only if the House of Parliament of which he is a member does not, within 7 sitting days after being notified of the circumstances that would otherwise give rise to the disqualification, pass a resolution indicating that those circumstances have terminated.

The amending Act also provides that a person is not disqualified from sitting and voting or holding such office by reason of —

(i) holding or accepting an office of profit under the Crown in respect of which the only remuneration to which he or she is entitled is fees for attending meetings or an allowance for reasonable expenses, or both;

(ii) holding or accepting an office of profit under the Crown, other than the Crown in right of the State of New South Wales, but not being an office as a member of any legislature of a country other than New South Wales; or

(iii) having or accepting a pension from the Crown, other than the Crown in right of the State of New South Wales, for the pleasure or for a term of years.

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

Western Australia (Increase in number of Ministers). – A Bill was introduced in 1980 in the Legislative Assembly to increase the number of Ministers of the Crown in Western Australia from thirteen to fifteen. The Bill was debated at great length, with the Opposition strenuously opposing its passage through the House. Before the vote was finally taken, the Speaker ruled that the Bill was not one which required to be passed by a constitutional majority. The ruling was quite unexpected by the Opposition and by other people, and resulted in a motion of dissent and a strongly worded 'no confidence' motion in the Speaker.

The Bill eventually completed its passage through the Assembly and was transmitted to the Legislative Council, where a similar ruling was given by the Hon. President. This ruling was also dissented from, unsuccessfully, by the Opposition, and the Bill subsequently passed both

Houses and received the Governor's Assent.

In view of the controversy aroused by the "no constitutional majority" ruling, the Government indicated it would seek a declaration from the Courts before putting the amendment into effect.

To date no such declaration has been made, and those members who would have become Ministers as a result of the amendment, are still filling the role of Honorary Ministers, with a great number of the responsibilities of a Ministerial post, but without the appropriate remuneration.

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

Western Australia (Disqualification provisions). – A Bill was introduced to amend the Constitution so as to provide that no member should lose his seat, or be deemed to have lost his seat, or be deemed to have been disqualified in any of the following circumstances:

(a) arranging to purchase a motorcar through a loan from the State;
(b) arranging with the State for the provision of an electorate office;
(c) availing themselves of the travel arrangements provided by the State; and
(d) holding the office of "Honorary Minister" and receiving benefits pertaining to that office.

Papua New Guinea (Attendance of Members of the National Parliament at Provincial Assemblies). – The Organic Law on Provincial Government was amended during 1980 to allow a member of the National Parliament to attend meetings of the Provincial Assembly in his Province. The member can take part in the proceedings of the Assembly but exercises no voting rights, and he is not counted towards a quorum and holds no other office in that provincial legislature.

Zimbabwe (Independence Constitution). – Zimbabwe achieved full independence and sovereignty on the 18th April, 1980. The new constitution is contained in the Zimbabwe Constitution Order (S.I. 1979/1600). It establishes a bicameral legislature, elections based on universal adult suffrage, a constitutional presidency, and a constitutional structure based on the Westminster model. There is special representation for the white minority to elect a fifth of the members of the lower house, the House of Assembly, and this is entrenched for 7 years by a procedure requiring *inter alia* the unanimous vote of all the members of the House of Assembly. There is a strict Declaration of Rights, judicially enforceable and entrenched. The privileges of the House of Commons are by reference applied to the House of Assembly and the Senate of Zimbabwe.

The office of Speaker and the position of the officers of Parliament are made independent of the Government of the day. The Secretary to Parliament has security of tenure.

2. PROCEDURAL

Australia: House of Representatives (Sessional Orders). – In recent years the House has found it convenient, in the first instance, to implement proposed changes to the standing orders on a trial basis in the form of sessional orders. In the light of experience these may be amended prior to being incorporated in the standing orders in their final form. This practice was followed quite successfully in the previous Parliament in relation to the implementation of Legislation Committees and Estimates Committees.

In this, the 32nd Parliament, the procedure is being used in relation to the membership of the Committee of Privileges and the deadline for submitting matters of public importance to Mr Speaker.

The sessional order adopted by the House on 4 December 1980 provides that in addition to the 9 Members of the Committee provided for in the standing orders, the Leader of the House or his nominee and the Deputy Leader of the Opposition or his nominee are to be *ex officio* Members. This move was taken in order to introduce an "executive" element into the proceedings of the Privileges Committee, and, given the nature of the Committee and its inquiries, it was obvious that the Leader of the House was the most appropriate choice from the Government side, while the Deputy Leader of the Opposition is able to represent the executive element of the opposition.

A proposal to submit a matter of public importance to the House for discussion (sometimes referred to as "urgency motions" in other Parliaments) must be submitted, in writing, to Mr Speaker at least one hour before the time fixed for the meeting of the House. This time factor has in the past imposed constraints upon the Government in organising its daily programme of business and in preparing Members to respond to what are in the majority of cases Opposition-sponsored matters. A sessional order was therefore introduced to bring forward the time when matters are to be submitted to Mr Speaker from one hour to two hours before the time fixed for the meeting of the House. The Opposition objected to the introduction of this measure on the grounds that by and large it eliminated the opportunity to have a discussion on Thursdays when the House meets at 10.30 a.m., unless the proposal was submitted to Mr Speaker on the previous evening which then meant that the urgency or "surprise" factor was removed.

From a procedural viewpoint it is a helpful amendment since it facilitates the earlier programming of the day's proceedings and enables a more definite timetable to be agreed upon.

Australia: House of Representatives (Parliamentary Expressions). – Erskine May's *Parliamentary Practice* cites at page 430 that "Expressions which are unparliamentary when applied to individuals are not always so considered when applied to a whole party". Rulings of this nature for some years have been prevalent in the Australian House of Representatives. In 1914 the Deputy Speaker stated that "The Standing

Orders do not apply to reflections of a general character" (*Hans*, H of R, Vol LXXIII, page 1065) and these sentiments have been consistently maintained by occupants of the Chair since that day.

The ruling was maintained until 1979 when Acting Speaker Millar (13th September 1979 *Hans*, pp 1136-7) and later Deputy Speaker Armitage (26th September 1979 *Hans*, p. 1589) both indicated to the House that the Speaker (Sir Billy Snedden) had requested that references on a collective basis should be restrained.

It was on 27th February 1980 that the Speaker virtually put an end to the practice of collective reflections when he stated –

"We have a continuing problem in this House and have had for some time. In the past it has been ruled that if an accusation is made against a group it is not unparliamentary, whereas if it was made against an individual it would be unparliamentary. The difficulty is that if I permit it to go on, every person who feels that he is part of the group would be obliged to stand and deny it. Therefore, I am of the view that in such a serious instance as this I should call upon the honourable gentleman to withdraw even though the words were used against a group. I ask the honourable member for ..... to withdraw."
(*Hans*, H of R, p 431)

Then on 10th September 1980 the Speaker unequivocally requested the withdrawal of the expression "this Government telling lies" (*Hans*, H of R, pp1075-6). Members challenged this apparent change of attitude by citing previous practice. In response the Speaker stated that he had changed the practice and that in future while such remarks might not be about any specified person the nature of the language was unparliamentary and would not be allowed.

Australia: House of Representatives (Disallowance of Notices of Motion). – In keeping with the tradition and practice of previous Speakers, the Speaker of the House of Representatives, the Rt Hon. Sir Billy Snedden, kept a close watch on the nature and content of notices of motion given in the House during 1980.

In the routine of business of the House the period allotted for the giving of notices occurs early in the day's proceedings immediately after the Clerk's announcement of petitions lodged for presentation and preceding the period of questions without notice. Notices are given openly in the Chamber by Members rising in their places and catching the Speaker's eye. Consequently, there is at this time invariably a full attendance in the Chamber and in the Press gallery of the House. Towards the end of the 31st Parliament (1978-80) Members came to realise that this set of circumstances gave them a perfect opportunity to air their particular grievance, ostensibly in the form of a notice of motion.

By the end of the 31st Parliament, there were 229 general business (or private Members') notices listed on the Notice Paper with very few having had any real chance of being moved and considered by the House. During the 3 years of that Parliament, in fact, only 13 of the notices under general business were moved and debated and only 5 voted on.

With the commencement of the 32nd Parliament in November 1980,

the Speaker informed the House that he would accept only those notices of motion which conveyed a distinct proposition to be considered by the House, and that he would not accept those containing arguments of fact which could be put forward during debate on the proposed motion.

Concomitant with this issue was the problem of the length of notices of motion. In proposing a distinct proposition for the consideration of the House, Mr Speaker believed that it was not necessary for notices to be of excessive length and warned Members that he would not accept notices that were in fact minor speeches in themselves. This particular issue has been of concern to the current Speaker for some years. As long ago as March 1977 he said:

> "I feel bound to inform the House that it has been apparent for a period of time that notices have included unnecessary recitals. It is necessary to give a recital to make a motion meaningful, but when recitals are so extended as to amount really to a speech in support of the motion it will be necessary for me to consider the extent to which that procedure can continue to be adopted and the forms of the House be put aside. I will consider whether this should be done by an examination of the Standing Orders or whether some discretion needs to be exercised by the Chair."

In the absence of any such amendment to the standing orders to date, Mr Speaker has been exerting a discretion by ruling out of order notices of motion which develop into minor speeches or do not contain a concise and clear proposition which can be put to the House. In some instances the Speaker has suggested Members rephrase their notices to delete the unnecessary words and then try again.

3. ELECTORAL

Québec (Electoral divisions). – Until 1980 the Province of Québec was divided into 110 electoral districts or constituencies. By Bill 95 assented to on 27th March 1980, the number of constituencies was increased to 122 electoral divisions. The new list of electoral divisions will come into force upon dissolution of the Assemblée nationale du Québec in 1981.

Tasmania (Redistribution of Legislative Council Electoral Boundaries). – In 1980, redistribution of Legislative Council boundaries occurred for the first time in 13 years. Of the many unique features of Tasmania's Upper House, one is the Council's prerogative to determine its own electoral boundaries, generally implemented by the creation of a Select Committee to recommend changes.

The Council was created in its present form in 1856, with 15 Members. Then, Tasmania's population was some 70 000. Today, 400 000 people are represented by 19 Councillors.

Divisional boundaries have been revised in this century in 1908-1909, 1946 and 1967. Demographic changes since the last redistribution have resulted in gross inequalities in elector numbers (though as explained below, equality of numbers is not a prime factor in Divisions), and in 1979 the customary Select Committee was set up to recommend alterations.

These were accepted, and the new Divisional boundaries to come into force in 1982, show great changes, though there has been no alteration in the number of Councillors – there are still 19 single-Member areas.

Following recent expansion of idealism from "one man – one vote" through "one person – one vote" to "one vote – one value", readers may be interested in the principles adopted by the Select Committee when recommending Divisional changes. A percipient local identity once labelled the Council –

"The last bastion of the people against the excesses of democracy"

and this to some extent is visible in the Committee's approach to its tasks, best shown by quotes from its Report:

"In general terms, evidence from persons of political affiliation laid emphasis on the democratic ideal of one vote – one value. In simple terms, witnesses stated that each voter should have equal voting strength; and various devices to achieve this were recommended. One submission proposed that the State become one division, electing nineteen Members; another that the five House of Assembly boundaries be used, within each there being four Members elected; while another proposal was to equalise divisional elector numbers within a ±10% variation. As opposed to the above, the bulk of evidence laid stress on the great importance placed by electors on access to their representatives. The need for every voter to be able to converse face-to-face with his Member, and the two corollaries; that his Member have sufficient time to spend on the elector's personal concern, and that the Member be readily contactable by available transport in timely fashion; was brought up in submissions and in the mass of personal testimony. Further, the principle of community of interest and area representation was given far greater emphasis than equality of numbers. Some evidence is quoted:–

'It is vital, imperative and crucial that this Council continue to represent the principle of community of interest ....'

'The value of the principle ... is that it means representation of non-metropolitan areas ... the rural people have some voice ...'

'the small areas require protection which Upper Houses have recognised for centuries ...'

'community of interest is one very important criterion and the second, and perhaps most important – is a Member's ability to service an electorate because of distance and the elector's ability to contact his Member and receive proper consideration'."

In its final summing up before making Recommendations, the Committee listed the principles it followed, *in order of importance*, as:

1. Community of interest among electors and effective representation of areas.
2. Ease of access by constituents to their representatives.
3. Equality of elector numbers.
4. Classification of Divisions in the following groups, each group having its special characteristics –
   (a) urban and suburban;
   (b) rural;
   (c) special.
5. Increase in the physical size of the Legislative Council.
6. Commonality of Council boundaries with those of other political divisions.

New Zealand (Electoral Rolls). – Following controversy, over the state of the electoral rolls at the time of the 1978 General Election and on electoral law generally – controversy which involved one declared result being overturned by the Supreme Court on petition, a declaration by the Court of Appeal of the grounds on which a vote could be disallowed by the Returning Officer, which declaration conflicted in some respects with the law as stated by the Supreme Court on the earlier electoral petition, a report of a Committee of Inquiry into the administration of the Electoral Act, and a report by a select committee on Electoral law – legislation was enacted in 1980 making a number of changes to the Electoral Act 1956.

The responsibility for compiling electoral rolls has been transferred from the Chief Electoral Officer, an officer of the Department of Justice, to the Director-General of the Post Office, as Chief Registrar of Electors. The system of re-registration at the time of every 5-yearly census introduced in 1975 is replaced by 3-yearly roll revisions. The first such roll revision began in October last year with an approach by the Chief Registrar to every elector whose name was on the roll inquiring whether the particulars held about that elector were correct. A non-response from an elector resulted in his or her name being removed from the roll. Rolls will be printed annually and from time to time supplementary rolls containing the names of persons who do not appear on the main roll will also be printed. It is hoped that this system of continuous registration followed by a revision of the rolls every 3 years will maintain the integrity of the roll and avoid the large-scale inaccuracies which had resulted under the previous system.

Among a number of other changes to the electoral law made by last year's legislation was the rescission of a provision introduced in 1975 whereby party designations were included on the ballot paper. A list showing the candidates' names and party affiliations will continue to be posted on the walls of each voting cubicle, but party designations will no longer appear on the ballot paper itself. This followed a recommendation by the select committee to this effect on the ground that the inclusion of party designations on the ballot paper increased the chances of people incorrectly marking the paper when recording their vote.

4. STANDING ORDERS

New South Wales: Legislative Assembly (Division etc. Bells). – Standing Orders Nos 41, 44, 207 and 322 of the Legislative Assembly, which concern the length of time bells are rung –

(a) before the Speaker takes the Chair;
(b) when divisions are demanded; and
(c) when notice of the absence of a Quorum is taken,

and the concomitant practice of the House, were amended to extend the time for ringing of bells from two to five minutes. This was done to enable members to reach the Chamber from the new multi-storey Parliamentary Office Block.

The amending motion read:

"That unless otherwise ordered –

(1) Standing Orders Nos 41, 44, 207 and 322 are amended by leaving out the words "two minutes" wherever occurring and inserting the words "five minutes", instead thereof.

(2) When the House or the Committee has carried the question, "That the question be now put", the Speaker or the Chairman of Committees, as the case may be, may order the doors to be locked immediately after the division bell has been rung in respect of a division on any question that is consequential on the closure motion.

(3) When successive divisions are taken and –

(a) there is no intervening debate after the first division, or

(b) any intervening debate after the first division is of a limited nature

and the Speaker or the Chairman of Committees, as the case may be, considers that sufficient time has elapsed after the division bell has been rung, the Speaker or the Chairman may order the doors to be locked and the vote taken.

(4) Notwithstanding anything contained in the standing orders and except as provided by Standing Order 42, when a quorum has once been formed during a sitting, and attention is again drawn by any Member to the fact that a quorum is not present, it shall be in the discretion of the Speaker or the Chairman of Committees, as the case may be, to proceed with the business or to count the House or Committee."

Victoria: Legislative Assembly (Question Time). – Standing Order No. 124 was amended in 1980 by inserting a new provision as follows, "Provided that such questions may be asked from the time Mr Speaker calls on Question until the lapse of – (a) 45 minutes on Tuesday; and (b) 30 minutes on other days." The effect of this amendment was to extend Question Time on Tuesdays by 15 minutes.

Hong Kong (Rules of Debate). – The Standing Orders were amended during 1980 to allow an ex officio or Official Member to speak a second time during the debate upon the motion "That this Council thanks the Governor for his address."

Lesotho (Procedure on the Estimates). – In 1980 Standing Order No. 67 was amended to read as follows:–

"(1) On the day on which the estimates of expenditure for the public services during the whole financial year have been laid before the House, the Minister of Finance may move a motion that this House gives general approval to the financial proposals contained in the estimates of revenue and expenditure for the year and that the estimates of expenditure be referred to the Committee of supply. In moving that motion he may make a statement on financial and economic policy and on the financial proposals contained in the estimates of revenue and expenditure for the year.

(2) The motion shall not require seconding and when the question has been proposed on it the debate shall stand adjourned for not less than two clear days.

(3) When the debate is resumed it shall take place on the general principles of financial and economic policy set forth by the mover of the motion and it may also take place on the financial proposals contained in the estimates of revenue and expenditure for the year."

The purpose of the amendment is to reduce the number of days from "*six clear days* after the estimates of expenditure have been laid before the House" to nil and to enable the Minister of Finance to move that the House gives general approval to the financial proposals contained therein and that the estimates be referred to the Committee of supply on the same day. This has the effect of speeding up work on estimates.

Zambia (Length of speeches). – A new Standing Order 41(2) was passed to facilitate the participation of more Members in the debates on a Motion of Thanks to His Excellency's Address. By this new Standing Order the Member moving the Motion will not be limited in the length of his speech either when moving the Motion or replying to the debate, but speeches of all other Members will be limited to forty-five minutes in order to provide time for more speeches by other Members. Furthermore, Mr Speaker will have a discretion to curtail a Member's speech if in his opinion that Member's speech appears to yield no fresh points. This will avoid redundancy and repetition.

Zambia (Committee on Foreign Affairs). – A new Standing Order creating the Committee on Foreign Affairs was made in 1980. According to the Standing Order the functions of this Committee will be as follows:–

> "In addition to any other duties placed upon it by Mr Speaker or any Standing Order or any other Order of the National Assembly, it shall be the duty of the Committee on Foreign Affairs to scrutinise Zambia's Foreign Policy. While the Government may make and ratify Treaties or Agreements without the authority or approval of the National Assembly, such Treaties or Agreements must be formally laid before the House; and the Government shall not proceed with the ratification until twenty-one days have elapsed after the Treaties or Agreements have been laid before the House."

The Committee on Foreign Affairs will enjoy all the privileges, immunities and powers of a Sessional Committee as provided for in the National Assembly Standing Orders, the Constitution of Zambia and the National Assembly (Powers and Privileges) Act, Cap 17 of the Laws of Zambia. The main reason for setting up this Committee was that, hitherto, the House had no direct means of scrutinising Zambia's policies on Foreign Affairs. The only means that had been available was a general policy debate on the floor of the House when considering the Estimates of Expenditure or the Ministry of Foreign Affairs and this had proved inadequate.

5. GENERAL

Australia (Consultancy Study of Information Systems and Services). – During the earlier half of 1980, an international consultancy group, Logica Pty Ltd, was commissioned by the Parliament to undertake a planning study of the information systems and information services of the Parliament. This culminated in the presentation of a Planning and Design Study for the Information Systems and Information Services of the Parliament (which includes 5 separate Parliamentary Departments) the summary of which was subsequently tabled in both Houses of the Parliament.

The report presented an Overall Plan for the introduction of information technology into the Parliament covering the period 1980-1988 (and beyond) in a number of phases. It has identified potential applications for information technology, based on an assessment of the

requirements of Parliamentarians and supporting Departments. Every Senator or Member had the opportunity either by personal interview or questionnaire to make his or her views known to the consultants and the parliamentary staff working with them.

Some highlights from the Overall Plan report are:

there is a place for the further co-ordinated development of *word processing* facilities in the Parliament (a number of units are already in operation);

there is a place for a shared *computer based information storage and retrieval system;*

the successful introduction of such technology requires the *most careful management*, both in relation to technical matters and the human interface;

Parliament needs to decide whether or not it accepts an underlying assumption of the report – viz that the information needs of Parliamentarians will best be met by first equipping those who serve them with better tools for the job, and then equipping the Parliamentarians themselves at a later stage.

A Steering Committee of Departmental heads (or their representatives) and a study group of more junior officers have been established to represent the Parliament's interests in this area.

At the end of 1980 the Overall Plan Report was being reviewed by the Steering Committee, with support from the study group in order to advise the Presiding Officers on its treatment. Tasks being undertaken at the time included a cost analysis to enable the costs of foreshadowed systems to be compared with the projected costs of traditional methods. Once this process is complete, a Detailed Design for the introduction of various types of information technology based on the Overall Plan may be commissioned.

(Contributed by the Clerk of the House of Representatives)

Australia: House of Representatives (Seminar for New Members). – At the General Election held on 18th October 1980, 26 new Members were elected to the House of Representatives (including 3 defeated at previous elections). The Clerk's department organised a seminar for the new Members with the ready co-operation of office bearers of the previous Parliament (the Speaker, Chairman of Committees, Whips of all parties) and several long-serving Members.

The seminar was held over 2 days prior to the opening of the new Parliament. Personnel from executive Departments involved in providing amenities and services to the Parliament were invited to contribute to particular aspects.

Sessions were held on –

the opening procedures for a new Parliament,

the Member's office and entitlements, electoral offices, personal staff, salaries and allowances,

procedural matters including the roles of the occupant of the Chair and the Whips, the Chambers, the rules of debate and a description of a typical sitting day,
the running of the electoral office and the personal effect Parliament and its sittings have on the Member and the Member's family,
Parliament's supporting services

New Members were given the opportunity to become better acquainted with each other, office bearers and staff at a dinner and luncheon and were shown a film produced by Film Australia on the functions of the Parliament. The seminar concluded with a comprehensive tour of the Parliament building and a recall session. Each session was conducted on as informal a basis as possible and took the form of short addresses by panel members followed by discussions between the new Members and the panel.

It was the first seminar of its kind conducted by the department and both the new and existing Members expressed their support for the concept. There was a general consensus that similar seminars should be held after each general election.

New Zealand (Parliament Grounds). – In recent years Parliament Grounds have become the focal point for a number of demonstrations, some of which have resulted in charges of criminal trespass. During the course of these proceedings it has been necessary on each occasion to establish the precise status of Parliament Grounds so as to prove who was the lawful occupant entitled to require (or to authorise another to require) a demonstrator to leave the grounds. The question of proving the status of the grounds was complicated because different parts of it were set aside for parliamentary purposes at different times under different Acts. In order to simplify the position a clause was included in the annual legislation which is passed dealing with miscellaneous matters relating to Crown land, reserves and land held for public purposes. Parliament Grounds is now legally defined in that legislation which goes on to provide that that land is vested in Her Majesty the Queen for Parliamentary Building purposes. It is intended to obtain a certificate of title in respect of the now legally unified area of land known as Parliament Grounds, and produce such a certificate in future Court proceedings instead of the more cumbrous procedure hitherto required of citing Proclamations from various volumes of the *New Zealand Gazette*.

Zimbabwe (Parliamentary Seminar 6th to 10th April 1981). – On the initiative of the Zimbabwe Branch of the Commonwealth Parliamentary Association and the assistance of the Secretary General, arrangements were made to hold a parliamentary seminar in Zimbabwe as one of the series of local or regional seminars sponsored by the C.P.A., the first one of which was held in Sierra Leone in 1978 and the second in Botswana in 1979. The Indian and Tanzanian Branches of the C.P.A. each accepted

an invitation to send a delegate and a delegation of two Members and a Clerk was invited to represent the U.K. Branch. The team selected for the U.K. consisted of the Rt. Hon. Arthur Bottomley, OBE, MP, Mr Paul Dean, MP, and Mr John Sweetman, Second Clerk of Select Committees. Mr Ramniwas Mirdha, MP, attended as the Indian Delegate and Mr I. N. Elinewinga, MP, represented Tanzania.

A provisional list of subjects for discussion had been suggested in advance by the secretariat of Parliament in Salisbury. Details of the programme and the rules whereby the debates under the various headings were to be conducted had also been agreed in advance. The programme provided for the 'home' team and visiting delegates to take responsibility in turn for introducing and making follow-up contributions in each session.

A novel feature of the seminar was its documentation: informative working papers on each subject for discussion had been prepared by the two newly-recruited research assistants in the Library. Copies of these papers were circulated in advance to all those taking part in the seminar. They were useful in helping Members to make contributions to the debates; what was of more benefit, they saved time by removing the need for those leading on the various subjects to make lengthy speeches.

The seminar was held in the Chamber of the Assembly and was chaired throughout by the President of the Senate, the Hon. N. C. Makombe, and the Speaker of the House of Assembly, the Hon. D. N. E. Mutasa, with assistance at intervals from their deputies. Visiting delegates were seated on the Treasury front bench; other Members attending were free to sit anywhere in the Chamber.

The subjects discussed were as follows:–

(i) "Critical, Control and Legislative Functions of Parliament", led by a British delegate.
(ii) "Parliamentary Government and the Party System", led by the Zimbabwe Minister of Health.
(iii) "The Speaker and Officers of Parliament", led by the Indian delegate.
(iv) "Parliament and the Media", led by a Zimbabwe Member.
(v) "Parliament and the Civil Service", led by a British delegate.
(vi) "Development of the Committee system for the legislative process and for the scrutiny of policy and administration", led by Mr Speaker Mutasa.
(vii) "Parliamentary Privilege", led by a British delegate.
(viii) "The Role of the Member of Parliament in the task of Nation Building", led by the Zimbabwe Deputy Minister of Manpower, Planning and Development.
(ix) "Brains Trust". in which almost everyone played a part.

The seminar was opened by Mr Mugabe, the Prime Minister of Zimbabwe, in a speech which drew attention to the constructive role of Parliament in a one-party state. Mr Bottomley took the opportunity in leading on the first topic to thank the Prime Minister and the Zimbabwe

Branch of the C.P.A. for organising the seminar; he went on to draw attention to the inherent merits of the two-party system of Parliamentary Government. The arguments for and against the one-party state were developed by several Members and formed the major theme of the debate which followed.

Proceedings throughout the week were lively and spontaneous. Attendance was good; a total of 66 Members of the Assembly and 19 Senators were present at one time or another: 37 Ministers and their Deputies also attended. Two former Prime Ministers attended, Mr Garfield Todd (now a Senator) and Mr Ian Smith, who both made interventions in the debates. Among many notable contributions was a speech by Mr Speaker Mutasa who had personally prepared a paper on the development of the committee system, which provided the basis of a well-informed and thought-provoking discussion.

Proceedings ended on Friday afternoon after a lively Brains Trust. Mr Bottomley expressed the thanks of the visiting delegates to the President of the Senate, to Mr Speaker, and to all the staff involved in arranging and running the seminar. On behalf of the U.K. Branch he presented bone china ashtrays. The closing speech was made by Mr President Makombe on behalf of the Zimbabwe Branch of the C.P.A. in which he thanked the visiting delegates and Members of both Houses for their contributions to what had been, by common consent, a valuable, successful and enjoyable seminar.

(Contributed by John Sweetman, Second Clerk of Select Committees, House of Commons)

6. ORDER

Westminster (Obstruction of Black Rod). – The session which had begun on 9th May 1979 finally came to an end on 13th November 1980, though rather later than expected. On the last day the Secretary of State for the Environment, by means of a written answer to be published in Hansard, announced certain proposals involving increased rents for local authority houses. As there would be no opportunity to question the Minister in the House – at least in the same session – the Opposition spokesman got up in a packed House, after the division following the final debate of the session, to raise the matter. The Speaker reminded Members that they were waiting for Black Rod and that on his arrival, in response to the Royal Command, he would lead the procession to the House of Lords. However, a number of Members blocked Black Rod's entry by massing at the bar of the House. Black Rod temporarily withdrew. Mr Speaker's appeals for Members to make way for Black Rod were ignored and he therefore suspended the sitting. After a second suspension, the Secretary of State rose on a point of order. He argued that the manner of announcing his proposals was precedented but said that in order to uphold the Chair's authority, he would withdraw the consultative

document. The way was clear for Black Rod to enter the Chamber. The House went up to the Lords and at 11.17 p.m. Parliament was prorogued.

7. EMOLUMENTS

Australia (Recommendations of the Remuneration Tribunal). – The operations of the Australian Remuneration Tribunal, particularly in relation to the fixing of emoluments for both Members of the Parliament and its senior staff, was reported on in the last edition of The Table (Vol. XLVIII, 1980, pages 76-9). In the Tribunal's 1980 Review it expanded on its powers to inquire into and determine matters which the Tribunal considered were significantly related to parliamentary salaries.

The Tribunal made the following suggestions relating to the entitlements of Members:

(1) That the Minister give consideration to establishing a second office in electorates of 200,000 sq km or more, and where there is a second electorate office, it has determined that those Members should be provided with an additional staff member;

(2) That there is a need for an additional staff member to be provided for the Chairmen of the Public Accounts and Public Works Committees, and

(3) That there are persuasive reasons as to why Senators and Members should be deemed to be workers for the purposes of the Compensation (Commonwealth Employees) Act 1971.

The Tribunal also determined some minor changes in the travelling entitlements of the staff of Senators and Members. These changes, while not increasing the total entitlement available, were designed to give the Senator or Member greater flexibility in decisions relating to the movement of staff.

(Contributed by the Clerk of the House of Representatives)

Papua New Guinea (Members' pensions). – The Constitution was amended during 1979 to authorise a Parliamentary Committee to fix pensions or retirement benefits for members of the National Assembly. (This task does not fall within the responsibilities of the Parliamentary Salaries Tribunal.) At the same time the Parliamentary Members' Retirement Benefit Act 1979 came into force. The law established the scheme for retirement benefits for Members and former Members of the Parliament and the former House of Assembly (before Independence). The scheme is also intended to provide certain benefits for dependant spouses and children on the death of members and former members.

Law-making in Australia, Edited by Alice Erh-Soon Tay and Eugene Kamenka (Edward Arnold, London, 1980, £18.50 U.K.). It is unfortunate that the title of this collection does not do it justice; in particular, the words "in Australia" could well have been omitted. Although the various addresses and essays by distinguished judges, lawyers and other scholars refer to Australian situations and Australian examples, there is a great deal in the book which is of general application and interest in other jurisdictions. Even the contribution on that peculiarly Australian institution, industrial conciliation and arbitration law, will be read with interest by non-Australians because of its pertinent reflections on the place of law in industrial relations. A good many of the contributions are concerned with issues and problems in the philosophy of law and in the sources of law-making. In dealing with those matters, the contributors display a capacity to achieve Professor Bernard Crick's laudable aims (see his *In Defence of Politics*) of overcoming boredom with established truths and "making old platitudes pregnant".

The contributors range over a wide area, and there is space to refer to only a few of the contributions which have the most interest for readers of this journal.

The very concept of law, that is, a system of general principles for treating like cases alike and for conferring rights and imposing obligations without distinction between individuals, has come under attack. The dogmas of pop marxists (law is merely the rationalisation of the interests of the ruling class) have been reinforced by more sophisticated theses which are to the effect that this traditional concept of law is an outdated middle-class concept, about to be supplanted by concern with social goals. The editors of the collection, distinguished academics, make a strong defence of classical (*Gesellschaft*) law and warn against its abandonment. They point out that if the "market model" of law, law as the means of resolving conflicts in society, is suppressed, it is replaced by power, or at best by administration. The fact that law presupposes conflicts in society and the need to resolve them explains why persons of a radical persuasion are often ill at ease with the law: they look forward to a society without conflict, or, in practice, a society in which conflict is suppressed.

The editors give examples in common law jurisdictions of the trend towards the elevation of interest and policy as opposed to a formal concept of justice achieved through the application of general principles of law. They describe the process whereby law becomes politics and justice becomes the will of the State or of "the community", and they point out that the findings of social science are no more sacrosanct or free of error than legal technique and legal tradition. They wax polemical: "Legal competence and professionalism .... cannot simply be replaced by half-baked sociology, vociferous compassion, strident protest or the belief that the simple and direct elevation of policy is an adequate

substitute for knowing and understanding the structure and development, the problems and complexities of law and the legal tradition".

Hand in hand with the attack on law as such goes the denigration of Parliament as an institution for law-making. Political scientists, with their theories of the pluralism of the sources of power and the importance of elites have, perhaps unwittingly, assisted in this process. Parliament is seen simply as the place where the predetermined outcomes of politics are registered. At the same time, there is the demand that law-making should be the work of experts and not of amateur elected politicians. Professor Gordon S. Reid, Professor of Politics at the University of Western Australia, who is well-known in Australia for his highly perceptive writings on Parliament, and who deserves to be more widely known outside Australia, points out that this notion that experts should take over the functions of Parliament has strong roots in the writings of Nineteenth Century authorities. He traces the trend towards systems that "are clearly designed by experts, for experts, and appear to plan that expertise will never again by encumbered by elected laymen". He makes a plea that Australia, and by implication other modern States, should not "so easily write-off its elected institutions in the way it is doing".

It is interesting to note that the contribution by Mr Justice M. D. Kirby, the brilliant and energetic Chairman of the Australian Law Reform Commission, an expert if ever there was one, is refreshingly free of the heresy of which Professor Reid complains: he accepts and welcomes the constructive role which Parliament must play in law reform. At the same time he disposes of the idea that bodies entrusted with recommending law reform can confine themselves to uncontroversial and value-free areas, and draws attention to the need for new types of consultation by law reformers and for the explicit statement of the values upon which proposals for reform are based.

Enough has been said to indicate that this collection is of interest to people other than Australians, and deals forthrightly with some of the most difficult issues in law-making which now confront all modern societies. It is highly recommended to readers in all jurisdictions who are interested in the law and concerned about the future of parliamentary institutions.

(Contributed by Harry Evans, Principal Parliamentary Officer (Procedure) in the Australian Senate)

Called to Account: The Public Accounts Committee of the House of Commons, 1965-66 to 1977-78, By Vilma Flegmann (Gower, 1980). Despite its long history, there has been almost no academic study of the work of the Committee of Public Accounts (PAC). In the course of her research, Vilma Flegmann has made extensive use of PAC Reports and other parliamentary publications. She also interviewed past and present

Members of the Committee, the present Comptroller and Auditor-General and some of his predecessors, and many of the civil servants who gave evidence to the Committee in the period under review. Part 1 of the book describes the Committee's working methods and its relations with the C&AG, Government Departments and the Treasury. The author expresses the hope in her introduction that the book will "present an accurate and objective view of the Committee's work and significance." The second half of the book summarises the Committee's activities between 1965-66 and 1977-78. It provides a source of information about the Committee's Reports and the Government's responses to them, which is particularly valuable in the absence of an epitome of PAC Reports for the period after 1969.

I hope the author will forgive me if I point out one or two small inaccuracies in her description of how the Committee works. Since 1973, there has only been one Treasury Officer of Accounts, not two as stated on page 78. On page 6, she states that PAC is the only parliamentary Committee which always "summons" witnesses to give evidence. Although PAC's relations with witnesses are probably more formal than those of other Select Committees of the House of Commons, it is not true to say that the Committee formally "summons" witnesses to appear before them. A formal summons is the means by which a Select Committee can oblige a reluctant witness to appear before them by virtue of the Committee's power to call for "persons, papers and records". It requires an order made by the Committee for the appearance of a particular witness which, when signed by the Chairman of the Committee, is then served upon the witness, sometimes in person, by the Sergeant at Arms of the House of Commons. So far as I am aware, PAC have never had to resort to this means to oblige a witness to attend. Indeed, it is most unlikely to be necessary, since the usual witness called to give evidence before PAC is the Accounting Officer for a Department's Vote (normally the Permanent Secretary). The Treasury's memorandum sent to all Accounting Officers, on taking up their appointment, makes it clear that one of the responsibilities of an Accounting Officer is to appear on behalf of his Department before PAC. It is not correct to say, (as she does on page 15), that the names of Members coming into a meeting half-way through are not recorded. The names of all Members who attend any part of a meeting are recorded in the Minutes of Proceedings.

Despite these few inaccuracies, in general the book provides a description of the Committee's work which will be of value not only to other academics, but also to Parliaments around the world which have followed the Westminster model and set up similar Committees of Public Accounts. It draws attention to some recent developments in the work of the Committee, such as the decision to admit strangers to most meetings when evidence is taken. There is an interesting discussion of the relationship between the Committee and the C&AG, (whose assistance to the Committee this book describes as "the secret of the PAC's

success"), the Treasury and Government departments, and a cautious attempt is made to assess the effect of PAC on the administration of Government departments and other public bodies. As is rightly stated, it is rarely possible to measure, in terms of cash savings, the effects of implementing the Committee's recommendations.

In the last two Chapters, the author also discusses some of the recommendations made by the Procedure Committee in 1978 about the setting up of the new departmentally-related Select Committees and their implications for PAC. The comments she makes have to some extent been overtaken by events: the House has now set up the new Select Committees, no attempt has been made by the House to implement the Procedure Committee's recommendation that Members of the new Committees should participate in PAC's examination of witnesses. More importantly, the Government published a Green Paper on the role of the Comptroller and Auditor General in March 1980, (Cmnd. 7845). PAC have responded to this in their First Special Report of 1980-81 (H.C. 115, 1980-81) and have made major recommendations for an extension of the role of the Comptroller and Auditor General to cover value for money examination of all bodies in receipt of money voted by Parliament, (including the nationalised industries and local authorities, as suggested by Mrs. Flegmann in Chapter 21), and for the national audit office to become an agency of the House of Commons, rather than a Government department as the Exchequer and Audit Department is at present. If the Government and the House of Commons accept these recommendations, the Committee will assume an even more significant role in the control of public expenditure. I hope that when decisions about the future role of the Comptroller and Auditor General and the Committee have been taken, someone will tackle the job of producing an appraisal of the work and significance of PAC and the Exchequer and Audit Department from their inception in the 1860s to the present day. In the meantime, this book is a welcome addition to the literature.

(*Contributed by Helen Irwin, a Senior Clerk in the House of Commons*)

Works of Art in the House of Lords. Edited by Maurice Bond (HMSO £3.95)

Ceremonial and the Mace in the House of Commons. By Peter Thorne (HMSO £3.75)

One of the occupational diseases of a career as an officer of the United Kingdom Parliament is insensibility to the magnificent surroundings in which one's daily work is conducted. Familiarity breeds not so much contempt as a superficial half-awareness of pictures and statuary which we pass every day but never really look at. Close interrogation by observant visitors can be an embarrassing experience for the official who too lightly assumes that he knows the building in which he works. The first of these two booklets serves as an excellent antidote to this malaise. It is

attractively produced, and the two principal sections comprise a historical introduction by the Honorary Curator of Works of Art in the House of Lords describing the commissioning, execution and later restoration of the principal paintings and sculptural work in the southern half of the Palace of Westminster, and a systematic description, compiled by Jeremy Maule of the House of Lords Information Office, of the works of art along the visitor's normal line of route. The introduction is especially good in its detailed account of the difficulties encountered by the Victorian artists who were persuaded to revive the art of fresco painting and who had to endure the anguish of seeing works to which they had devoted years of gruelling labour deteriorating, in some cases irrevocably, as soon as or even before they were finished.

All the works covered by the description which forms the second part of the booklet are illustrated. The colour plates (sadly, only six of them) are particularly excellent; and one, a reproduction of an oil sketch for part of Maclise's great fresco of the death of Nelson, tantalisingly hints at the splendour of the complete painting before it faded.

The only serious complaint against this book is that it is confined to the House of Lords. A companion volume dealing with the House of Commons is promised; but this is a case where the rigid administrative division between the Lords and Commons, however desirable for constitutional reasons, has irrational and inconvenient results. A single volume, covering the whole of the line of route through the Houses of Parliament, would have made better sense, both practically and artistically.

The second booklet usefully brings together in one volume three admirable articles written by the present Serjeant at Arms of the House of Commons, which were previously available as three separate publications dealing respectively with the Mace, ceremonial, and official dress worn in the House of Commons. The three articles fit well together, although the essay on the Mace is essentially a historical sketch of the development of the Commons' penal jurisdiction and the part played in that development by the Royal Serjeant at Arms and his emblem of authority, whereas the other two sections are more akin to handbooks for present-day practitioners. The descriptions of ceremonial are both detailed and clear and are accompanied by diagrams which bear a disconcerting resemblance to coaching plans for a game of American football, with Black Rod cast in the role of wide receiver. The section on official dress is comprehensive and well illustrated, and covers all contingencies, including state occasions and periods of court mourning; but it does not, alas, answer a burning question which has been much discussed recently in the correspondence columns of "The Times" newspaper: how, now that the Chinese laundries of London have largely disappeared, can one get a stiff wing collar properly pressed and starched?

(Contributed by Roger Sands, a Deputy Principal Clerk in the House of Commons)

Malaysia's Parliamentary System: Representative Politics and Policy making in a Divided Society. By Lloyd D. Musolf and J. Frederick Springer (Westview/Dawson, 1979, £8). This is a detailed, statistical study not of Malaysia's parliamentary system, but rather of the background and working interests of Members of Parliament of that country. It is not an easy book to read, still less to understand. For instance early in the book (p. 15) is this,

"There are persuasive reasons to include parliamentary actors in the Malaysian political elite relevant to regulating communal conflict".

There is much else in a similar vein, and this reviewer feels obliged to criticise the use of language.

The title of the book refers to a "divided society". It is true of course that Malaysia is made up of many different ethnic groups, Malays, Chinese and Indians being the principal ones. But to an outside observer, Malaysia seems to be no more divided, and probably less so, than a number of other Commonwealth countries. Cyprus, Northern Ireland and even Canada all have, or have had, divisions in society – in one case national, in another religious and in the third, cultural and linguistic. It must be the hope in all these countries, as it is in Malaysia, that representative institutions, such as parliament, will play a part in lessening the differences which exist.

From the point of view of readers of The Table, the most interesting chapter should be that dealing with the legislature, the Dewan Rakyat. The authors indicate, however, that there is little interest among MPs in parliamentary procedure, or in the use of parliament to influence events. Malaysian MPs appear to see their role in terms of constituency rather than parliament. The one feature of the parliamentary day which is considered useful is Question Time and this is used mainly to put forward constituency interests.

The conclusion to be drawn about this book is that it is an academic study of the work, role and background of a group of people, MPs, rather than a study of the institution in which they work. It may very well be that in a "divided society", institutions are less interesting than those who form them.

Westminster: Palace and Parliament. By Patrick Cormack (Frederick Warne, 1980, £9.95). Patrick Cormack's aim in this volume has been to produce "in one very readable work an account of the exceptional history of the most unusual Palace in the world, a detailed description of it as it is today, and an account of its Parliamentary procedures". The work is not we learn, "another volume about the workings of our democratic system; nor is it "merely a history or an extended guide". The work, in short, is aimed at that mythical character, "the common reader".

Mr. Cormack has in large measure fulfilled these objectives. His is undoubtedly the best non-specialist volume now in print on the Palace of Westminster.

The book starts with a really gripping account of the fire of 1834, full of excellent quotations from eye witnesses and the contemporary press. We are reminded of more recent ravages to the building when we read of the suspicions that alighted on one of the labourers burning the famous tallysticks, who was an Irish Roman Catholic. It is curious to note that despite the substantial rebuilding of the 1820s the demand for a whole new Palace was almost universal.

Unfortunately the book does not continue at the same exciting pace. As so often, Westminster Hall is artificially separated from the rest of the Palace and forms the subject of the next chapter. Mr Cormack continues his history with a survey of the old Palace and with excellent chapters (pp. 77-108) on the competition and building of the new Palace. The last section of the book takes the visitor around the Palace and fills in the artistic and architectural framework with a lively account of the present day work of Parliament. Mr. Cormack's constituents must be unusually lucky to meet with so sympathetic and well informed a guide; the author's membership of the Commons (Services) Committee and the Speaker's Advisory Committee on Works of Art are reflected in a number of wry comments.

This is a useful and lively work, but as it stands it suffers from a number of defects. The history of the building is written purely as a series of ceremonial or constitutional high points. No real idea is given of the daily life of the palace at any time other than the present, while very few of the well chosen quotations which enliven the narrative are attributed – this must surely be as frustrating to the common reader as to the specialist. However, these are faults that can be put right in a second edition; and as Mr. Cormack's book now leads the field as a popular survey, a second edition is surely to be hoped for.

(Contributed by Jeremy Maule, a Senior Clerk in the House of Lords)

'No, Sir'. By P. G. Mavalankar Sannishtha Prakashan, 1979. £4) Professor Mavalankar, son of the first Speaker of the Lok Sabha, is the founder-director of the Harold Laski Institute of Political Studies, Ahmedabad and an Independent member of the Lok Sabha to which he was first elected in 1972. 'No, Sir' is a collection of 24 of the speeches he made in the Lok Sabha between 21st July 1975 and 5th November 1976 during the Internal Emergency in India.

In his first speech, Professor Mavalankar sets out his conception of Parliament as a place where 'the Opposition's function is to oppose and propose [alternatives] and again oppose if they cannot propose, but not obstruct' and wherein Government 'governs, and not dictates and constantly dictates!' His speeches reflect his criticism of the then Government with themes which range from opposition to the

introduction of the Constitution (Amendment) Bill of July 1975 through his contributions on, for example, Demands for Grants and pensions for ex-Members to his final speech in November 1976 against the Bill to provide for a further extension of the Lok Sabha.

In addition to Professor Mavalankar's speeches, 'No, Sir' contains helpful background notes which enable the speeches to be read in context and also offer fascinating insights into facets of procedure with which many of his readers may be unfamiliar – the Lok Sabha's agreement that, for the convenience of Members, divisions on the Constitution (Amendment) Bill of October 1976 could be delayed until 5.30 p.m. each day, is one example.

Within the span of the 314 pages which comprise 'No Sir', Professor Mavalankar has produced a readable and interesting, if perhaps somewhat controversial, work.

XIX. EXPRESSIONS IN PARLIAMENT, 1980

The following is a list of examples occurring in 1980 of expressions which have been allowed and disallowed in debate. Expressions in languages other than English are translated where this may succinctly be done; in other instances the vernacular expression is used, with a translation appended. The Editors have excluded a number of instances submitted to them where an expression has been used of which the offensive implications appear to depend entirely on the context. They have also excluded the words "lie" and "liar", which are invariably disallowed in all legislative assemblies. Unless any other explanation is offered the expressions used normally refer to Members or their speeches.

Allowed

"bullying" (*Gujarat L.A. Procs.*, Vol. 67, c. 304)
"dishonest" (*S.A.H.A. Hans.*, 18.9.80, p. 933)
"dramatically" (*U.P.L.A. Procs.*, Vol. 343, No. 3, p. 260)
"former illegal regime" (*Zimbabwe H.A.*, Off. Rep., Vol. 1, No. 28, col 1364)
"hypocritical" (*S.A.H.A. Hans.*, 18.9.80, p. 933)
"inconsistency of the Honourable Member ... stands out like a shag on a rock". (*Tas L.A. Hans.*, p. 2547)
"nonsense" (*Bermuda Hans.*, 1980)
"parrot, speaks like a taught" (*Gujarat L.A. Procs.*, Vol. 79, c. 322)
"ridiculous" (*Bermuda Hans.*, 1980)
"silly" (*Bermuda Hans.*, 1980)
"untruthful" (*S.A.H.A. Hans.*, 5.8.80, p. 68)

Disallowed

"Arapawa Goat (*N.Z. Hans.*, Vol. 434, p. 4206)
"Ayatollah" (*N.Z. Hans.*, Vol. 432, p. 2409)
"blabber mouth" (*B.C. Hans.*, p. 1634)
"blackmailer" (*L.S. Deb.*, 2.2.80, c. 68)
"... bloody liar." (*Vict. L.A. Hans.*, 2.4.80, p. 7806)
"bonded labour" (*L.S. Deb.*, 12.8.80, c. 350)
"buffoon" (*B.C. Hans.*, p. 1272)
"comrade" (*Zambia Hans.*, 1980, c 501)
"Castro lover" (*Bermuda Hans.*, 1980)
"character in a Tonga play" (*Zambia Hans.*, 1980, c. 1407)
"cheap gutter jibes" (*L.S. Deb.*, 25.3.80, c. 286)
"commie bastard" (*B.C. Hans.*, p. 1457)
"con job" (*B.C. Hans.*, p. 2478)
"corrupt" (*Aust. Sen. Hans.*, 1980)
"cowardly" (*N.Z. Hans.*, Vol. 430, p. 1048)
"cover up" (*Vict. L.A. Hans.*, 16.9.80, p. 415)
"criminal" (*L.S. Deb.* 21.7.80, c. 270)
"crocodile tears" (*Gujarat L.A. Procs.*, Vol. 67, c. 458)

"crook" (*Aust. Sen. Hans.*, 1980)
"deliberately lied" (*N.S.W.L.A. Hans.*, p. 3652)
"deliberately misled" (*B.C. Hans.*, p. 2428)
"despicable fascist" (*Aust. Sen. Hans.*, 1980)
"... devious actions he has taken ..." (*Vict. L.A. Hans.*, 27.11.80, p. 3776)
"dingoes" (*S.A.H.A. Hans.*, 19.8.80, p. 469)
"ditch the bitch" (*N.Z. Hans.*, Vol. 435, p. 5204)
"dirty" (*B.C. Hans.*, p. 1254)
"... doctored them (documents) up ..." (*Vict. L.A. Hans.*, 12.3.80, p. 6872)
"dogs go on barking" (*L.S. Deb.*, 12.8.80, c. 395)
"English vocabulary is a problem" (*Zambia Hans.*, 1980, c. 2276)
"electoral fiddling" (*Aust. Sen. Hans.*, 1980)
"economic traitor" (*N.Z. Hans.*, Vol. 434, p. 3984)
"false information," (*N.S.W.L.A. Hans.*, p. 2668)
"fascist" (*Aust. Sen. Hans.*, 1980)
"fascist pig" (*Bermuda Hans.*, 1980)
"fiddle, I have never seen a better fiddle in my life than that one", (*N.S.W.L.A. Hans.*, p. 1867)
"filthy" (*B.C. Hans.*, p. 1254)
"foolish" (*L.S. Deb.*, 10.7.80, c. 209)
"frail minded" (*Haryana Deb.*, 7.3.80)
"get stuffed" (*S.A.H.A. Hans.*, 13.8.80, p. 339)
"goon squad" (*B.C. Hans.*, p. 2306)
"grubbiest members" (*N.Z. Hans.*, Vol. 430, p. 1348)
"half-baked" (*Zambia Hans*, 1980, c. 510)
"hollow promises" (*Gujarat L.A. Procs.*, Vol. 70, c. 163)
"Holy Joh" (of a State Premier) (*Aust. Sen. Hans.*, 1980)
"homosexual, He is renowned for his homosexual tendencies", (*N.S.W.L.A. Hans.*, p. 468)
"hopeless" (*Bermuda Hans.*, 1980)
"hypocrisy" (*B.C. Hans.*, p. 1222)
"hypocrite" (*Vict. L.A. Hans.*, 30.9.80, p. 1004)
"illiterate" (*B.C. Hans.*, p. 3406)
"infamy" (*Aust. Sen. Hans.*, 1980)
"infamous eyebrow brigade" (*N.Z. Hans.*, Vol. 433, p. 3172)
"irrelevant and rude" (*U.P.L.A. Procs.*, Vol. 345, No. 7, p. 79-80)
"jackboots" (*B.C. Hans.*, p. 2306)
"jerk" (*B.C. Hans.*, p. 1898)
"keep an eye on the press gallery" (*Gujarat L.A. Procs.*, Vol. 70, c. 697)
"lazy clods" (*B.C. Hans.*, p. 3218)
"leeches and parasites" (*N.Z. Hans.*, Vol. 429, p. 717)
"licence to cheat" (*N.Z. Hans.*, Vol. 430, p. 819)
"... little twerp." (*Vict L.A. Hans.*, 24.9.80, p. 923)
"mafia like" (*L.S. Deb.*, 17.12.80)
"megaphone, as a" (*Zambia Hans.* 1980, c. 2814)

"Merv the swerve" (*N.Z. Hans.*, Vol. 432, p. 2809)
"monkey tricks" (*L.S. Deb.*, 15.7.80, c. 522)
"mother made a misdemeanour" (*S.A.H.A. Hans.*, 23.9.80, p. 1033)
"murderer" (*U.P.L.A. Procs.*, Vol. 343, No. 7, p. 126)
"nonsensical" (*L.S. Deb.*, 17.11.80)
"Papanui parrot" (*N.Z. Hans.*, Vol. 431, p. 1604)
"parrot" (*Aust. Sen. Hans.*, 1980)
"pathetic little man" (*N.Z. Hans.*, Vol. 432, p. 2288)
"perfidious" (*B.C. Hans.*, p. 2444)
"phony" (*B.C. Hans.*, p. 1826)
"political patronage" (*B.C. Hans.*, p. 2471)
"political prostitutes" (of members of State Assembly) (*L.S. Deb.*, 18.3.80, c. 243)
"porkbarrel" (*B.C. Hans.*, p. 2475)
"Quigley Wiggly" (*N.Z. Hans.*, Vol. 433, p. 3448)
"quisling" (*L.S. Deb.*, 10.12.80)
"racketeering" (*Aust. Sen. Hans.*, 1980)
"ratbag" (*Aust. Sen. Hans.*, 1980)
"rednecks" (*Aust. Sen. Hans.*, 1980)
"ridiculous member" (*B.C. Hans.*, p. 2796)
"rude act" (*U.P.L.A. Procs.*, Vol. 345, No. 9, p. 87)
"sanctimonious crap" (*B.C. Hans.*, p. 2370)
"scurrilous man ..." (*Vict. L.A. Hans.*, 30.9.80, p. 1002)
"shut his mouth" (*S.A.H.A. Hans.*, 25.3.80 p. 1670)
"sick old man" (*Zimbabwe Sen.*, Off. Rep. Vol. 1. No. 54, col. 1858)
"sidetrack the issue" (*Gujarat L.A. Procs.*, Vol. 68, c. 578)
"sinful policy" (of Government) (*Gujarat L.A. Procs.*, Vol. 68, c. 258)
"sleaze and corruption" (*B.C. Hans.*, p. 2980)
"socialist member for" (*S.A.H.A Hans.*, 23.10.80, p. 1409)
"stealing" (*B.C. Hans.*, p. 2305)
"stinks of political patronage" (*B.C. Hans.*, p. 2471)
"street fighters" (*Gujarat L.A. Procs.*, Vol. 68, c. 222)
"tailor's dummy" (*N.Z. Hans.*, Vol. 431, p. 1626)
"tampering with the ballot box" (*N.Z. Hans.*, Vol. 430, p. 796)
"termite" (*Bermuda Hans.*, 1980)
"They had been looking after (him) and his party for years", (*N.S.W.L.A. Hans.*, p. 1886)
"... traitor in their midst" (*Vict. L.A. Hans.*, 23.8.80, p. 801)
"turkeys" (*B.C. Hans.*, p. 3652)
"twister" (*Vict. L.A. Hans.*, 24.9.80, p. 908)
"untruthful" (*B.C. Hans.*, p. 3220)
"vegetable market" (of the House) (*L.S. Deb.*, 19.7.80, c. 167)
"violent activities" (*Gujarat L.A. Procs.*, Vol. 70)
"wallowing in political slime" (*N.Z. Hans.*, Vol. 430, p. 1349)
"web of lies, caught in" (*Aust. Sen. Hans.*, 1980)
"what a nasty little man" (*N.Z. Hans.*, Vol. 432, p. 2307)

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(iii) to publish annually a JOURNAL containing articles (supplied by or through the Clerk or Secretary of any such Legislature to the Officials) upon Parliamentary procedure, privilege and constitutional law in its relation to Parliament;

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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.

Moholisa, M. Mpiti. – Deputy Clerk, National Assembly, Lesotho; *b.* 12th January, 1950, Leribe, Lesotho; *ed.* St. Joseph's Seminary, St. Theresa's Seminary, National University of Lesotho, *m*; 1*s*; Rural Sociologist CIDA Project at Thaba-Tseka in Lesotho, May-August 1978; joined Lesotho Civil Service as Assistant Administrative Secretary Sept. 1978 – May 1979; Deputy Clerk to the National Assembly since June 1979.

Yap, Francis Tai Nyen. – *b.* 2.10.39 at Kota Kinabalu, Sabah; *m*; six children; *ed* at Chung Hwa School and all Saints' School; obtained Senior Cambridge Overseas School Certificate in 1960; pass Criminal, Civil and General Laws; joined Sabah Government Civil Service in 1961; worked as General Clerk, Land Clerk and Chief Clerk in various district offices; promoted Executive Officer in 1964 and attached to Sabah State Legislative Assembly as the first Serjeant-at-Arms/Assistant Clerk of the Assembly promoted Administrative Officer in 1975 and appointed as a Magistrate in 1976; Clerk of Legislative Assembly Sabah 1972; Secretary to the Malaysia States Branches Delegation to the 25th Commonwealth Parliamentary Conference in Jamaica in 1978; attached to House of Commons, Westminster, 1973.

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(Art)=Article in which information relating to several territories is collated.
(Com.)=House of Commons.

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