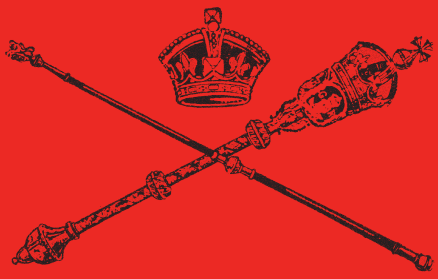

The Table

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

VOLUME 84
2016

£15.00

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EDITED BY
NICOLAS BESLY

VOLUME 84
2016

THE SOCIETY OF CLERKS-AT-THE-TABLE
IN COMMONWEALTH PARLIAMENTS
HOUSE OF LORDS
LONDON SW1A 0PW

ISBN 978-0-904979-41-4
ISSN 0264-7133

CONTENTS

EDITORIAL

This edition of *The Table* opens with an article by Matthew Hamlyn, the Clerk of Bills in the UK House of Commons, about new procedures in that House called "English Votes for English Laws" (EVEL). The procedures are designed to answer the decades-old "West Lothian question" about devolution—the apparent disparity that, for example, an MP representing a constituency in England has no say over the health service in Scotland (it being a matter devolved to the Scottish Parliament) but an MP representing a constituency in Scotland has a full say over the health service in England. In the morning after the Scottish people voted to remain part of the United Kingdom in September 2014 the then Prime Minister undertook to implement EVEL. The mechanism was new House of Commons standing orders. These created new stages during the passage of a bill designed to ensure that where a bill (or provisions in a bill) affects only England (or only England and Wales) then the bill should proceed only if it has the consent of MPs representing constituencies in England (or England and Wales), as well as the consent of all MPs. The above is a simplified description. The new standing orders are extremely complicated. Thankfully Matthew Hamlyn's article is a model of clarity.

In the second article the acting Clerk of the Canadian House of Commons, Marc Bosc, describes the administrative response to the terrorist attack on the Canadian Parliament in October 2014. In what has become a depressingly familiar sequence, the shock and grief which followed the attack was followed by consideration of how to bolster security to try to prevent a repeat. In the Canadian case it meant streamlining the four previous services that had been responsible for security on Parliament Hill. A new Parliamentary Protective Service was created in statute, bringing together the parliamentary and government security forces. The tightening of security had to be balanced against the important objectives of maintaining public access and not hindering members' work.

The next article is the second by Colin Lee, a Principal Clerk in the UK House of Commons, about Archibald Milman. It follows the article in the last edition about Milman's initial career, including his time as second Clerk Assistant. That article described Milman's impatience with the tactics of obstructionism by late-19th-centuty Irish MPs, and his central role in establishing procedural devices to overcome it. These themes continue in this edition's article, which focuses on Milman's time as Clerk Assistant. The article details events during Gladstone's

second Home Rule bill in 1893. Obstructionist tactics by opponents of the bill meant that the procedural devices Milman was so instrumental in creating became prominent. A hapless deputy speaker and a restless House culminated in uproarious claims of bias on the part of the Clerk Assistant, with accusations that the deputy speaker was a puppet unwittingly furthering his aims. All is told in this absorbing read.

Sir Malcolm Jack, the Clerk and Chief Executive of the UK House of Commons from 2006 to 2011, writes about a project he was closely involved in to rewrite the companion to the rules and procedures of the Hong Kong Legislative Council. The Legislative Council has existed since the mid-19th-century. Today its membership comprises directly elected representatives and representatives of sectoral interests. In other jurisdictions those two sets of representatives might be in different Houses, but the Legislative Council is unicameral. This uniqueness is reflected in its procedures, making the work of comprehensively documenting them all the more important.

Finally, Paul Bristow, an adviser to the House of Lords Secondary Legislation Scrutiny Committee, reflects on the first 12 years of that committee. The committee is tasked with scrutinising around 1,000 statutory instruments that are laid before the UK Parliament each year. It performs an invaluable role in identifying which instruments are particularly important, controversial or defective, thus guiding the House as to where it might focus its scrutiny. The committee has grown in significance over its 12 years, and has adapted its working methods to new procedures for delegated legislation and the increased spotlight that has been cast on this area—as recounted in the article.

This edition contains a bounty of interesting updates from various jurisdictions, including explanations of how each legislature holds the head of government to account. The editor hopes the volume makes for useful and entertaining reading, and is much indebted to all contributors.

MEMBERS OF THE SOCIETY

Australia

New South Wales Legislative Assembly

Mark Swinson retired as Deputy Clerk of the Legislative Assembly of New South Wales on 29 January 2016. Mark began his service in the Parliament by joining the Legislative Council in 1979. During his time in the Council Mark was Usher of the Black Rod (1986–88), Clerk-Assistant (1988–89) and Deputy Clerk (1989–90).

In 1990 Mark was appointed as Deputy Clerk of the Legislative Assembly. Among his many achievements during his time as Deputy Clerk, Mark played a major part as assistant editor of the first edition of *New South Wales*

Legislative Assembly Practice, Procedure and Privilege (2007); he was central to adapting public-sector frameworks to the corporatisation and management of the Assembly; and he had a leading role in establishing the Australia and New Zealand Association of Clerks-at-the-Table (ANZACATT) in 2001, serving on the inaugural Executive Committee and later becoming the association's president.

South Australia House of Assembly

David Pegram was promoted to Deputy Clerk with effect from 30 March 2015.

Tasmania House of Assembly

Peter Alcock resigned as Clerk of the House in order to retire. **Shane Donnelly** was promoted to be Clerk of the House. **Laura Ross** was promoted to Deputy Clerk. **Stephanie Hesford** was promoted to be Clerk-Assistant and Sergeant-at-Arms. **Todd Buttsworth** was appointed as Second Clerk-Assistant.

Victoria Legislative Council

Andrew Young formally became Clerk of the Legislative Council in July 2015. The Assistant Clerk–Usher of the Black Rod, **Dr Stephen Redenbach**, went on accumulated leave at the end of August 2015. During this time **Richard Willis** assumed the position of Assistant Clerk Procedure and Usher of the Black Rod, and **Michael Baker** was appointed Acting Assistant Clerk–Committees until 1 September 2016, when Dr Stephen Redenbach returns.

Western Australia Legislative Council

In May 2015 **Dr Paul Lobban** resigned as Usher of the Black Rod. Following a brief period acting in the position, **Grant Hitchcock** was appointed Usher of the Black Rod in July 2015.

On 12 August 2015 Her Excellency the Governor of Western Australia advised the Legislative Council that she had terminated the commission of **Nigel Lake**, former Deputy Clerk of the Legislative Council. Her Excellency's actions related to an address by the Legislative Council pursuant to recommendation 1 of Legislative Council Procedure and Privileges Committee report 36: *Nigel Rodney Lake—Deputy Clerk of the Legislative Council*. Mr Lake had been an employee of the Parliament of Western Australia since 1989.

Following a period as Acting Deputy Clerk, **Paul Grant** was commissioned by Her Excellency the Governor of Western Australia as Deputy Clerk of the Legislative Council in October 2015.

Following a period as Acting Clerk Assistant (Committees), **Suzanne Veletta** was appointed as Clerk Assistant (Committees) in the Legislative Council.

Dr Colin Huntly has rotated from Clerk Assistant (Committees) into the role of Clerk Assistant (Procedure).

Canada

House of Commons

On 30 October 2015 **Audrey O'Brien,** the Clerk of the House of Commons, announced that she would not be returning to her duties and that she would retire at the end of the calendar year. She had served as Clerk since 2005 and had been on leave since August 2014. On 4 December 2015, the second day of the 42nd Parliament, the House ordered that, in appreciation of her distinguished and faithful service, she be designated Clerk Emerita and an Honorary Officer of the House with an entrée to the chamber and a seat at the table. Ms O'Brien was further honoured by her appointment as a member of the Order of Canada by the Governor General on 30 December 2015. The Order of Canada is one of Canada's highest civilian honours, which recognises outstanding achievement to the community and service to the nation.

Marc Bosc continues to serve as Acting Clerk, while **André Gagnon** continues to serve as Acting Deputy Clerk. On 6 July 2015 **Eric Janse** began his new assignment as Clerk Assistant of Committees and Legislative Services Directorate, while **Colette Labrecque-Riel** replaced him as Acting Clerk Assistant and Director General of International and Interparliamentary Affairs.

In December 2015 **Luc Fortin**, Deputy Principal Clerk (Committees) and Table Officer, retired after his 29 years of service. That month it was announced that, starting in January 2016, **Guillaume Laperrière-Marcoux**, Deputy Principal Clerk, Information Management, who had been in an acting position, would be permanently appointed as a Table Officer. **Natalie Foster**, Deputy Principal Clerk, Table Research Branch, was also appointed as a Table Officer. **Scott Lemoine** was appointed Acting Deputy Principal Clerk (without table duty) for Committees.

In February 2015 **Philippe Dufresne** was appointed Law Clerk and Parliamentary Counsel.

In January 2015 **Kevin Vickers** resigned as Sergeant-at-Arms and accepted an appointment as Canada's ambassador to Ireland. Following his departure, the Acting Clerk committed to a review of Parliamentary Precinct Services. As a result of the review the House of Commons Protective Service (formerly Security Services) now reports to the Clerk and **Patrick McDonell**, Deputy Sergeant-at-Arms/Director General, remains responsible for the service.

Senate

Dr Gary O'Brien, Clerk of the Senate, retired in February 2015. **Charles Robert** became Clerk of the Senate in February 2015. **Till Heyde** became

Deputy Principal Clerk, Chamber Operations and Procedure Office, in November 2015. **Jill-Anne Joseph** left the employ of the Senate in March 2015.

Ontario Legislative Assembly
Anne Stokes, Senior Clerk—House Documents, retired from the Legislative Assembly in June 2015.

Saskatchewan Legislative Assembly
Kathy Burianyk became a Table Officer in March. She continues in the role of Senior Committee Clerk.

States of Jersey
Michael de la Haye OBE, Greffier of the States, retired on 18 December 2015 after 13 years' service in that role. He was succeeded by **Mark Egan**, formerly a clerk in the UK House of Commons.

Kenya
National Assembly
J N Mwangi, the Director of Legislative and Procedural Services, was decorated with the award of Elder of Burning Spear, which is a presidential award in recognition of outstanding or distinguished service rendered to the nation in various capacities and responsibilities.

Senate
Consolata Munga, a member of the society, was decorated by the President with the award of Elder of the Burning Spear.

New Zealand House of Representatives
Mary Harris QSO retired as Clerk of the House of Representatives on 3 July 2015, after more than seven and a half years in that position. Mary's career in the Office of the Clerk began in 1987 and involved leadership roles in every business group and a term as the Deputy Clerk. The House marked her retirement with a motion in tribute, which was moved by the Prime Minister. Members commented on Mary's calming presence, support and advice, and her staunch advocacy for the institution of Parliament.

David Wilson was appointed Clerk of the House of Representatives on 7 May 2015, beginning his seven-year term on 6 July 2015. The appointment was made under the Clerk of the House of Representatives Act 1988 by the Governor-General, on the recommendation of the Speaker, after consultation with the Prime Minister, the Leader of the Opposition and other party leaders. David had previously been Clerk-Assistant (House) and Clerk-Assistant (Select

Committees). His parliamentary career began in 1994 as a select committee report writer, and he also held policy roles in the public sector.

Debra Angus ended her seven-year term as Deputy Clerk of the House of Representatives in May 2015. Debbie made a significant contribution to Parliament in her long career in the Office of the Clerk. She joined the office as Legislative Counsel in 1996, and as legal adviser to the Regulations Review Committee she was instrumental in building that committee's position as Parliament's watchdog. Debbie established the Office of the Clerk's Legal Services team in 2006, and led it as Clerk-Assistant until becoming Deputy Clerk in 2008. In the latter role she was at the forefront of developments in parliamentary privilege and the challenge of passing legislation in that area. She was also an enthusiastic champion for parliamentary capacity-building in the Pacific.

Rafael Gonzalez-Montero was appointed Deputy Clerk of the House of Representatives from 27 July 2015. The position of Deputy Clerk is a statutory appointment for seven years, under the Clerk of the House of Representatives Act 1988.

Mr Gonzalez-Montero has extensive senior-management experience at the Office of the Clerk. His former roles include Clerk-Assistant (Organisational Performance and Public Information), Senior Manager (Parliamentary Relations and Policy) and Clerk-Assistant (Select Committees); he retains the latter role. He aims to support the Clerk of the House to create a more engaged, productive and innovative Office of the Clerk, to build public engagement in the work of Parliament and to make the New Zealand Parliament a world-renowned institution.

Seychelles National Assembly

Shelda Commettant became Clerk to the National Assembly of Seychelles. She took the oath of allegiance on 19 May 2015.

Parliament of South Africa

Following the passing away of **M B Coetzee** on 13 June 2014, the post of Secretary to Parliament became vacant. On 20 November 2014, following a recommendation by both the Speaker of the National Assembly (NA) and the Chairperson of the National Council of Provinces (NCOP), the NA and NCOP appointed **Gengezi Mgidlana** as the new Secretary to Parliament. Mr Mgidlana's five-year performance-based contract started on 1 December 2014.

United Kingdom

House of Commons

David Natzler, having served as Acting Clerk of the House of Commons since

the retirement of Sir Robert Rogers (now Lord Lisvane), was appointed Clerk of the House in March 2015. **Ian Ailles** became the first Director General of the House of Commons in October 2015.

Jacqy Sharpe CB, who had served in many senior posts, retired as Acting Clerk Assistant in June 2015. **John Benger** became the new Clerk Assistant.

Sir Clifford Boulton GCB, Clerk of the House of Commons from 1987 to 1994, died on 25 December 2015.

Sir Clifford's successor-but-one as Clerk of the House of Commons, Sir William McKay, writes:

Clifford Boulton died on Christmas Day 2015, at the age of 85. He had retired in 1994, having been Clerk of the House of Commons for the previous seven years and a member of the department since 1953.

In 1953 the House had still to emerge from decades of procedural somnolence. There had been no significant changes since before the First World War, when the Estimates Committee represented a very tentative step towards improved financial scrutiny. Eminent parliamentary Victorians would have found proceedings on the floor very familiar.

When change came, slowly at first, it was supported by a group of exceptionally able and mature recruits, men a little older than peacetime junior clerks had been, whose war service—from Arctic convoys to Imphal—gave them a cachet and confidence in dealing with members. Clifford joined a generation probably as able as the department had ever seen just as work on refashioning procedure to meet present rather than past needs was about to begin. That eventually he became Clerk of the House against such competition was an indication of his ability.

His procedural grasp was developed in the hurly-burly of the Scottish Standing Committee in the 1960s. The key thing was to keep an eye on the epithets used (which for reasons of vocabulary or accent was not always easy). When for example Willie Ross or George Willis denounce the minister as "shoogly Tam", what do you do? You ask the junior clerk for a translation, and then give advice with unflustered sang froid. When promotion removed Clifford from the clerkship of the committee, the congratulations from members in all parts were in no sense a formality.

His ascent from these procedural foothills to the clerkships of the Procedure and Privileges Committees, and the headship of the Overseas and Table Offices—leaving aside promotion to and at the table of the House—demonstrated his ability to arrive at conclusions with common sense as well as close respect for the rules, and so to clothe his advice with both authority and understanding.

Such a balance was particularly essential when—as seemed to fall to Clifford time and again—serious personal charges were made against sitting members. In 1976 he was clerk of the select committee on allegations concerning the

relationship between an architect and three members, one of whom had been a senior Cabinet minister; nearly 20 years later, his advice as Clerk of the House was sought on the "cash-for-questions" allegations; and after retirement he sat on the Nolan Committee on Standards in Public Life.

Clifford was probably happiest as a proceduralist and adviser on privilege, where his clarity of mind and crispness of expression were very evident. Administrative and management responsibilities—fewer then than now—were of course discharged punctiliously, but the centre of Clifford's service to the House was in the upholding and development of its central structure—its practice and procedure.

Scottish Parliament

Paul Grice, Clerk/Chief Executive, was awarded a knighthood in the 2016 new year's honours list.

David McGill was promoted, on a temporary basis, to Assistant Clerk/Chief Executive in 2015.

ENGLISH VOTES FOR ENGLISH LAWS

MATTHEW HAMLYN
Clerk of Bills, House of Commons, United Kingdom

Introduction

In October 2015 the UK House of Commons agreed changes to its standing orders to give effect to proposals from the new Conservative government to implement their commitment to "English Votes for English Laws". This article sets out the background to the changes, the effect of the new standing orders, the process of implementing them and experience to date.

One side-effect of these changes has been to accelerate the introduction of electronic recording of members' votes. This is covered in a miscellaneous note in this volume.[1]

Background

The Conservative party have had a long-standing commitment to address the "West Lothian question"—the apparent paradox by which members of the House of Commons sitting for Scottish constituencies can vote on matters affecting England and Wales, while members sitting for constituencies in England and Wales cannot vote on matters which are devolved to the Scottish Parliament. This issue was raised in the party's 2010 manifesto and resulted, following agreement within the coalition government which was formed after the 2010 general election, in the appointment in 2012 of a commission on the consequences of devolution for the House of Commons "to consider the 'West Lothian question'".[2]

The commission was chaired by Sir William McKay, a former Clerk of the House of Commons. It reported on 25 March 2013. The report called for the adoption of a "constitutional convention", to be approved by a resolution of the House, that decisions at the United Kingdom level with a separate and distinct effect for England (or for England and Wales) should normally be taken only with the consent of a majority of MPs for constituencies in England (or England and Wales). The report proposed a menu of procedural options to ensure that proposals affecting England, or England and Wales, could receive the consent of MPs representing constituencies in those countries, with provision for the UK government to use their majority in the House, if necessary, to override an

[1] See pp 106–07.
[2] HM Government, *The Coalition; our programme for government*, May 2010, p 27.

England (or England and Wales) majority.[3] No action was taken as a result of the report.

The next significant event took place on the morning after the referendum on Scottish independence in September 2014. In the run up to the referendum the main UK political parties made statements promising further strengthening of Scottish devolution. On 19 September 2014 the Prime Minister announced that, partly as a consequence of the planned strengthening of the Scottish Parliament's powers, "The question of English votes for English laws … requires a definitive answer". He announced the formation of a Cabinet Committee on devolution, chaired by the Leader of the House, to address the issue. The committee did not reach a unanimous conclusion, instead setting out a series of possible options. The Conservative party's preferred approach was set out in their manifesto (and the associated "English manifesto") for the 2015 general election, and subsequently included in the Queen's Speech at the start of the new Parliament:

> "My Government will bring forward changes to the standing orders of the House of Commons. These changes will create fairer procedures to ensure that decisions affecting England, or England and Wales, can be taken only with the consent of the majority of Members of Parliament representing constituencies in those parts of our United Kingdom".[4]

The proposed new standing orders

On 2 July 2015 the Government published draft standing orders designed to give effect to their proposals.[5] The package consisted of 16 entirely new standing orders and a further 15 amendments to existing standing orders—in total more than 700 lines of new text. Unusually, the standing orders were not written by the House's clerks, but by Parliamentary Counsel (the specialist government lawyers who prepare all government bills).[6]

The draft standing orders were very complex, as was the version finally agreed by the House, but the procedure they introduced may be summarised as follows.[7]

[3] Report of the Commission on the Consequences of Devolution for the House of Commons, March 2013.

[4] HC Deb, 27 May 2015, col 32.

[5] Cabinet Office, *English Votes for English Laws: Proposed Changes to the Standing Orders of the House of Commons and Explanatory Memorandum*, July 2015.

[6] This decision was later criticised by the Public Administration and Constitutional Affairs Committee in its report *The Future of the Union, part one: English Votes* (5th report, 2015–16, HC523), para 47.

[7] The final standing orders vary slightly from the draft, so for convenience they are summarised here, with later changes noted.

- Before second reading the Speaker considers all government bills and certifies any bill (or any clause of or schedule to a bill) which "relates exclusively" to England or to England and Wales.[8] To be certified, the provision must meet two tests: (i) that it applies only in England (or England and Wales); and (ii) that it deals with a matter on which the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly is competent to legislate. In reaching his decision the Speaker must disregard any "minor or consequential effects outside the area in question".
- Any wholly or partly certified bill is debated on second reading in the usual way, with all members able to participate, and (with one exception) is considered in committee in the usual way. The exception is for any bill the entirety of which relates exclusively to England. The committee stage of such a bill takes place either in a public bill committee composed solely of members sitting for constituencies in England, or in the Legislative Grand Committee (England)—the equivalent of committee of the whole House, but with only members sitting for constituencies in England able to table and move amendments, and to vote.
- After committee stage all wholly or partly certified bills move to report stage, in which as usual all members may take part.
- After report stage the Speaker must re-examine the bill and certify any provisions which relate only to England (or England and Wales) and any amendments made which have had the effect of changing the extent of an existing certification, or removing an existing certification.
- Once the Speaker has announced his post-report certification, a new stage takes place: the Legislative Grand Committee (LGC). This consists of all members sitting for constituencies in England (the Legislative Grand Committee (England)) or for England and Wales (the Legislative Grand Committee (England and Wales)), sitting in the chamber. Other members may participate in debates in the LGC, but may not vote nor move amendments.[9]
- In the Legislative Grand Committee a minister moves a motion that the committee agrees with the certified bill or certified provisions. In other words, the LGC does not discuss the bill itself (and no amendments may be moved to the bill), but expresses an opinion about the certified provisions. It is possible for the minister to move a motion which consents

[8] In the case of finance bills, there is also a category of "England, Wales and Northern Ireland".

[9] In the original proposals such members were not entitled to speak, but this was changed in the final version, in response to a recommendation from the Procedure Committee. This was a relief in particular to Table clerks, who assist the chair in committee when calling members to speak, as it removes the risk of calling a "non-eligible" member.

to some provisions but withholds consent to others (e.g. if a provision is inserted as the result of a government defeat). It is also possible to move an amendment withholding consent to a certified provision.

- If the LGC consents to the bill or provisions, the bill proceeds to third reading, where all members may speak in debate and vote. If the LGC disagrees with some or all of the certified provisions, they have to be re-considered by the whole House, in a new stage called "reconsideration". The intention behind the standing orders is that at this stage compromise can be sought by way of new amendments. After reconsideration, the Speaker must certify any provisions or amendments in the same way as after report stage, and these certified provisions and amendments are sent back to LGC for a further debate on a motion moved by the minister. If there is still disagreement at that point, the offending provisions are automatically removed from the bill (or in the case of a wholly certified bill, the bill falls). Any consequential drafting changes required are made at another new stage ("consequential consideration") before the bill moves on to third reading.
- The standing orders do not affect Lords procedure, but any amendments made to a bill by the Lords have to be considered for certification by the Speaker in the same way as provisions in bills. If there is a vote in the Commons on a certified Lords amendment, it can be passed only if both a majority of the whole House and a majority of those members sitting for English (or English and Welsh) constituencies vote in favour (this is known as the "double majority" vote).
- As well as bills, the Speaker must consider for certification any statutory instrument before it is put to the House for agreement. He has to be satisfied that every provision of the instrument meets both tests set out above, otherwise he may not certify. If there is a vote on the question to approve a certified instrument, the motion must be carried by a "double majority", as for Lords amendments. A similar procedure applies to the "founding" motions on which the House votes at the end of the annual Budget debate, and which set the framework for the Finance Bill (which is concerned with taxation).[10]

The political debate

In his statement on 2 July 2015 the Leader of the House announced that the proposals would be put to a vote of the House on 15 July and come into effect

[10] As with finance bills, it is possible for such motions to be certified in relation to England, Wales and Northern Ireland.

immediately. The proposals were heavily criticised by the official opposition and the Scottish National Party (SNP). Government members generally supported the proposals, although some expressed concerns about details. Issues on which the Government were criticised included:

- making the changes by amending Commons standing orders, rather than by legislation or as part of a wider review to be led by a constitutional convention
- the speed at which they planned to make the changes, and an alleged lack of consultation
- the alleged failure of the proposals to recognise the effect of changes in England on the provision of services, and budgets, in other parts of the UK
- the complexity of the proposals
- the fact that the Speaker would have to decide on the extent of devolved competence which (it was argued) can be politically and legally controversial
- the possibility that decisions of the Speaker on matters of devolved competence would be challenged in the courts.[11]

Following the Leader's statement the Speaker granted an emergency debate on 7 July 2015 on the means by which the Government were introducing the changes.[12] Following this debate the Government announced that a decision on the new standing orders would be delayed until after the summer adjournment. On 13 July 2015 they published a slightly revised version of the standing orders. The main change was to make clear that all members retained the right to vote on supply measures.

A further general debate was held on 15 July 2015. The opponents of the measure were again vocal, although the Government held to the line that the standing orders should be introduced and could be reviewed once they had been in operation for a few months.[13] House officials were relieved to have been given more time to prepare for implementation.

The delay in implementation gave the Procedure Committee an opportunity to announce a short "technical" inquiry into EVEL. The Scottish Affairs Committee and the Political and Constitutional Affairs Committee also announced they would examine the proposals.[14] Sir William McKay gave evidence to all three committees. He was sceptical about the chances of a

11 HC Deb, 2 July 2015, cols 1646–67.

12 HC Deb, 7 July 2015, cols 185–235.

13 HC Deb, 15 July 2015, cols 936–1049.

14 Scottish Affairs Committee press release, 18 August 2015; oral evidence, 8 September 2015 and 13 September 2015 (HC399). The committee did not publish a report.

certificate by the Speaker being challenged in a court of law,[15] and noted the extreme complexity of the standing orders—"a forest in which I lose myself".[16]

The House of Lords also become involved. On 16 July 2015 the Lords held a short debate on EVEL in which many peers called for a joint committee of both Houses to examine the issue. A motion formally calling for such a committee to be established was agreed on 21 July 2015 and a message sent to the Commons. The Government, however, made no provision for the message to be considered by the Commons, for which they were criticised by some peers in a third debate in the Lords on 21 October 2015.[17]

The Procedure Committee's interim report was published on 19 October 2016. It noted the value of "piloting" the procedures on a small number of bills and statutory instruments, a recommendation not accepted by the Government. It suggested some minor changes to the draft standing orders, including a power for the Speaker to consult two senior members of the House on certification issues and allowing all members to speak in Legislative Grand Committees. These suggestions were agreed by the Government. On the question of the justiciability of the Speaker's certificates, the committee was satisfied that certifications by the Speaker in pursuit of standing orders of the House should not be subject to any form of review in the courts, but added that it could not rule out "the possibility that a determined challenger to a certification might be granted leave to apply for judicial review or succeed in the application".[18]

The House debated a motion to adopt the new standing orders on 22 October 2016. The debate was as lively as its predecessors. The Leader of the House argued:

> "Should a future United Kingdom Parliament, or indeed this one, seek to impose something on the English that the English do not want for their constituencies, when it is a matter purely for England, it is surely not unreasonable that they should grant their consent before it happens".[19]

The shadow Leader of the House, on the other hand, quoted the Procedure Committee's description of the standing orders as "over-engineered, complex and rococo", and himself called them "a bowl of soggy, over-cooked spaghetti".

15 Procedure Committee, oral evidence, 8 September 2015 (HC140), Q13: "The Bill of Rights is not only clear on the matter but is supported by judgments. I cannot see any vulnerability".

16 Public Administration and Constitutional Affairs Committee, oral evidence, 27 October 2015 (HC523), Q66. The committee's report was published on 11 February 2016 as *The Future of the Union, part one: English Votes for English Laws*, (5th report, 2015–16, HC523).

17 HL Deb, 2 July 2015, cols 754–66; 21 July 2015, cols 1007–28; 21 October 2015, cols 735–76.

18 Procedure Committee, *Government proposals for English votes for English laws Standing Orders: interim report* (1st report, 2015–16, HC410), p 3.

19 HC Deb, 22 October 2015, col 1177.

He again voiced the opposition's support for a constitutional convention.[20]

The SNP spokesperson said:

> "Never has such massive and significant constitutional change been undertaken on the basis of plans that are so meagre, so threadbare, so inept, and so stupid … I and my hon. Friends will be second-class citizens in the unitary Parliament of the United Kingdom".[21]

Government members, however, generally supported the proposals, with one commenting:

> "No bill will be able to pass this House without the consent of all Members of Parliament ... The proposal is to insert a consent stage into matters that apply only to England. It is the same principle that applied to the arguments that were made to set up the Scottish Parliament in the first place".[22]

The House agreed the package of standing orders by 312 to 270, with the House dividing essentially on party lines. Various amendments were defeated, including one proposing examination by a joint committee.

Implementation

Once it became clear that the Government intended to bring forward proposals for EVEL House officials started work on how to implement them. As readers of *The Table* will know, there is a big gap between agreeing a new procedure on paper and actually making it work—the difference between a script with a few stage directions and a fully fledged theatrical production.

Implementing the changes has required a great deal of work by the House service. Officials have had to address issues such as:

- what exactly the new standing orders mean in practice;
- how the House service (and who in the service) should advise the Speaker on whether bills or parts of bills meet the two tests set out in the standing orders;
- how the Speaker's decisions should be recorded and published;
- choreography in the chamber surrounding the new Legislative Grand Committees;
- how England-only or England-and-Wales-only divisions, or divisions requiring a double majority, should be conducted—which led to the earlier-than-expected use of tablet computers for recording members' votes, as these allow for the rapid calculation of the data needed to confirm the result of a "double majority" vote;
- changes to the House's business papers;

20 HC Deb, 22 October 2015, cols 1186–87.
21 HC Deb, 22 October 2015, col 1198.
22 HC Deb, 22 October 2015, col 1205.

- updating information on the parliamentary website.

This required intensive work by, and close liaison between, the Department of Chamber and Committee Services (especially the Public Bill Office), the Library, the web team in the Parliamentary Digital Service, Hansard, the Serjeant and his doorkeepers, the media service and others.

The first bills and statutory instruments were certified in the days immediately following the House's agreement to the new standing orders. The Clerk of Legislation and the Office of Speaker's Counsel now provide regular advice to the Speaker on whether bills and statutory instruments meet the tests for certification, and his decision is recorded on the order paper.[23] This can vary from a fairly simple certificate that an entire bill relates exclusively to England and Wales, as in the case of the Charities (Protection and Social Investment) Bill, to a complex certificate certifying some clauses and schedules as relating exclusively to England and others to England and Wales, as with the Housing and Planning Bill.[24] At the time of writing (March 2016) the Speaker had wholly or partly certified six bills and 10 statutory instruments.

The next big test of the new procedures came on 12 January 2016, with the first sitting of a Legislative Grand Committee (LGC) on the Housing and Planning Bill. As noted above, after committee and report stage, if a bill has been amended the Speaker must reconsider it and certify (or re-certify) any relevant provisions, taking account of any changes made to the bill since second reading, as well as certifying any amendments which change or remove a previous certification.

The standing order requires the Speaker to announce this certification, if possible, "immediately after" the end of report stage. Obviously this could take some time if he were doing it from scratch, so the Speaker has decided to issue a provisional certification before report stage, based on the changes made in committee and any government amendments tabled for report (but no others). This is usually published the day before report stage starts.

In the case of the Housing and Planning Bill the Speaker provisionally certified provisions in respect both of England and England and Wales, meaning that consent from both the LGC (England) and the LGC (England and Wales) was required. When the report stage had finished the Speaker suspended the sitting for about five minutes in order to complete his formal certification of the bill, and to allow time after that for copies of his certification and the Government's

[23] Until the Speaker has made his decision a note appears in relation to all bills and SIs stating that they are awaiting consideration. Once he has completed consideration a note appears setting out the details (and the certificate is noted in the Votes and Proceedings) or, where there is no certification, no note appears.

[24] For more details see the "Bills in previous sessions" pages of the UK Parliament website.

consent motions to be made available to members. (These papers had been prepared in advance by the House service and were ready to be released to members by the doorkeepers as soon as the Speaker's decision had been announced.)

After the suspension the Speaker resumed the chair, formally announced his certification of the bill and asked if the Government intended to move the consent motions. A whip indicated assent, which triggered the House forthwith resolving itself into the Legislative Grand Committee (England and Wales). A sitting of an LGC is treated as far as possible like a sitting of the committee of the whole House, so the Serjeant put the mace under the Table and a deputy speaker took the chair next to the clerk. The minister moved the first consent motion, relating to England and Wales, and there was a short debate. The standing order provides that when two consent motions are needed they are debated together in the first LGC, although on 12 January 2016 the debate mostly focused on the new procedure.[25]

When the LGC (England and Wales) had consented to the certified provisions and amendments—without a vote—the House moved into the LGC (England) and the minister formally moved the consent motion relating to England, which was put and agreed to without further debate.[26] The House then resumed and proceeded to third reading.

Much thought had been given in advance to the handling of England-only divisions, including discussions with the whips whose job it would be to "police" the rule, and consideration of the consequences of a "non-eligible" member accidentally or deliberately passing through the division lobby. It was agreed that, although it was not for House staff to direct members, they could provide information; and officials ensured that signage in the division lobbies and on the annunciator screens was as clear as possible. In practice, the issue has yet to arise as there have been no divisions in an LGC. Indeed, after the first couple of LGCs proceedings became increasingly routine and *pro forma*: the last sitting of an LGC lasted barely five minutes.

So far it has not been necessary to use the further additional legislative stages available in the new standing orders. At the time of writing (March 2016) the first certified bill from the House of Lords is awaiting its return from that House; at that point the Speaker will have to consider Lords amendments for certification.

The House has also had its first "double majority" votes on certified statutory instruments, where the new system for recording votes electronically

25 HC Deb, 12 January 2016, cols 793–806.

26 The standing orders state that when two LGCs are required the first is always the LGC (England and Wales).

has allowed the division clerks to provide the Tellers more or less instantly with the "England-only" total.[27]

Reviewing the new arrangements

After the House agreed the changes the Speaker made an announcement about how he intended that the new arrangements should operate, adding:

> "We are in experimental territory and I may indeed myself experiment by adjusting these arrangements as the new regime develops".[28]

Officials have continued to consider ways in which the administration of the new system could be improved, mainly through minor "behind the scenes" adjustments. A list of changes that could usefully be made via amendments to standing orders is being kept. The Government have said they will review the EVEL procedure after 12 months (in autumn 2016) and ministers have made clear they are open to suggestions to adjust the machinery, although not the underlying policy. The Procedure Committee has announced "a thorough technical evaluation" of "all practical aspects" of the new procedure, with the intention of reporting to the House early in the 2016–17 session and thus informing the Government's review.[29] The committee is also examining concerns about how the House considers and agrees public spending, which have arisen in the context of EVEL.[30]

The Public Administration and Constitutional Affairs Committee has raised extensive concerns about the new arrangements and called for the 12-month review to be more radical. It expressed "significant doubts" that the standing orders are a sustainable solution, commenting:

> "The Government should use the remainder of the twelve month period in the run-up to their promised review of the standing orders to rethink the issue and to develop proposals that are more comprehensible, more likely to command the confidence of all political parties represented in the House of Commons, and therefore likely to be constitutionally durable".[31]

So further changes can be expected, but it is not yet clear how extensive they will be.

Lessons to be drawn so far from the introduction of the new arrangements include:

27 See, for example, Votes and Proceedings, 10 February 2016, items 9 and 11.

28 HC Deb, 26 October 2015, col 23.

29 Procedure Committee press release, 12 January 2016.

30 Procedure Committee press release, "Scrutiny of the Government's Supply Estimates", 21 January 2016.

31 Public Administration and Constitutional Affairs Committee, *The Future of the Union, part one: English Votes for English Laws* (5th report, session 2015–16, HC523), paragraph 72.

- The new standing orders are extremely complex, reflecting the Government's preferred approach and the inherent complexity of Westminster's bicameral legislative processes; there is additional complexity in integrating those processes, notably with the programming of bills.
- There is a special challenge for parliamentary staff in implementing changes to the House's procedures which are so hotly contested.
- There is extensive disagreement among members, peers and external commentators about some of the big underlying issues, including the justiciability of the Speaker's decisions, how the new arrangements mesh—or not—with the existing devolution settlement and how Parliament approves public spending.

But we have also learned—or have been reminded—that the House service is equipped to rise to the challenge of rapidly and effectively implementing even very complex changes to one of the House's fundamental activities: passing legislation. That is a positive message to take from the story so far.

PARLIAMENT OF CANADA: BALANCING SECURITY AND ACCESS

MARC BOSC
Acting Clerk of the House of Commons

The openness and accessibility of Canada's bicameral Parliament is a source of immense pride and have always been guiding principles for how parliamentary business is conducted. The grounds of Parliament Hill are open to the public and are frequently used for demonstrations or other public activities, such as the weekly "Yoga on Parliament Hill" during the summer. The interiors of the buildings are accessible for those interested in the work of Parliament. There are public galleries in both chambers to observe proceedings, the vast majority of committee meetings are open to the public and tours of the building are provided, even during sitting hours.

However, the events of 22 October 2014 demonstrated that Parliament must be a secure place for members to conduct their business, for the staff supporting these activities as well as for those participating in the democratic process or visiting Parliament Hill. Despite the tragic events of that day, members and Canadians have maintained their resolve and commitment to an open Parliament, which continues to guide the approach to security.

The events of 22 October 2014

On the morning of Wednesday 22 October 2014 a gunman, armed with a hunting rifle, shot and killed a sentry at the Tomb of the Unknown Soldier in front of the National War Memorial located near Parliament Hill. The assailant then used a car that he had parked nearby and drove towards Parliament Hill, abandoning it just outside the Parliament Hill perimeter. Once inside the gates, he hijacked a minister's vehicle by threatening the driver and forcing him out of the vehicle and continued driving to the main entrance of the Centre Block, the building that houses the House of Commons and Senate chambers. He abandoned the ministerial vehicle and entered the building armed with the rifle.

An unarmed member of the House of Commons Protective Service was wounded as he attempted to block the gunman's entrance to Centre Block. The House was not yet sitting and both the governing party and the official opposition were holding their weekly caucus meetings in the large committee rooms located on either side the Hall of Honour, close to the entrance to Centre Block. As intense gunfire rang out in the Hall, the members, not able fully to understand what was happening outside, remained behind the doors of their caucus rooms. The attacker continued to the far end of the Hall of Honour,

pursued by security officials, including the Sergeant-at-Arms, where ultimately he was shot and killed in front of the entrance to the Library of Parliament.

Parliament Hill and downtown Ottawa remained in lock-down for the day and into the evening as numerous unconfirmed reports of additional assailants circulated on traditional and social media. The House of Commons and Senate security personnel, the Royal Canadian Mounted Police (RCMP) and the Ottawa Police worked together to ensure the security of those within the Precinct and within the downtown core. For many, it was a very long and challenging day.

Given the circumstances, it was clear that the House would not meet at its scheduled time of 2 p.m. that day. The Speaker and the House Administration were then confronted with unprecedented procedural dilemmas, including whether the Speaker had power to cancel the sitting or to recall the House at a later time that day. The standing orders were silent on how the Speaker should react in such a situation, with only standing order 1, governing "unprovided cases", allowing the Speaker any potential authority to react to the events of the day. Although the House did not in the end sit on 22 October, as a result of the procedural uncertainty this issue raised, the Speaker later wrote to the chair of the Standing Committee on Procedure and House Affairs urging the committee to consider the matter and to look at similar provisions in other jurisdictions, such as New Zealand and Australia, that would allow the Speaker to postpone a sitting of the House in an emergency.[1]

Even routine tasks like preparing the official House documents and the chamber were made extremely difficult as the building was in lock-down mode and armed security forces continued to make their way through the building to verify that it was safe. Throughout the day, while confined to lock-down rooms, managers and staff used their mobile devices to prepare the required documents in the event that the House was to sit later that day. However, in the end, given the continued lock-down, the House did not meet that day and a revised order paper was finalised offsite later in the evening.

Parliament reconvened the following day. It was important that the sitting proceeded like any other, so it began, as usual, with the Speaker's parade, led by the Sergeant-at-Arms. Exceptionally, the public galleries were opened for journalists and others with access to the Centre Block, and the broadcasting of

[1] At its meeting on 3 February 2015 the Standing Committee on Procedure and House Affairs agreed to the following: "That, pursuant to the letter received from the Speaker of the House of Commons dated Monday, December 8, 2014, the Committee agree to propose a change to the Standing Orders to that effect and that an official draft be prepared." However no changes to the standing orders were adopted in relation to this issue before the dissolution of Parliament in August 2015.

proceedings began before the prayer was read. Members observed a minute's silence, and party leaders spoke about the events of the preceding day. It was a day heavy with emotion as they remarked on the courage of the security personnel and the police, and the determination of the House as a whole not to be intimidated by external threats. The remainder of the sitting unfolded as a normal Thursday would.

Evolution of security on Parliament Hill

22 October 2014 was not the first time that the Parliament of Canada has had to respond to events that have posed a threat to the Precinct. In 1966 a man smuggled sticks of dynamite into the Centre Block of Parliament Hill but was killed when he prematurely exploded the dynamite in a washroom adjacent to the chamber. In 1989 a highjacked bus was detoured to the front lawn of the House of Commons, where a gunman held hostages in an armed standoff with police for several hours. In 1997 a person drove a vehicle up the front steps of the Centre Block and attempted to crash into the front doors of the building. Following each of these incidents new measures were put in place to increase early detection and prevention of security threats.

At the time of Confederation in 1867 the Parliamentary Precinct comprised the Parliament Building, now known as the Centre Block, and two extant departmental buildings styled the East Block and the West Block.[2] As the breadth and scope of government increased, as well as the Canadian population, the number of members also increased. As a result, the size of the Precinct continued to grow in order to support the greater levels of governmental activity and the needs of a modern parliament. Today 34 buildings are considered part of the Parliamentary Precinct. Needless to say, providing the necessary security to meet the operational requirements of a contemporary parliament is an imposing challenge.

Originally, security for Parliament was the responsibility of the Dominion Police, which in 1920 merged with the Royal North West Mounted Police to create a new national police force, the Royal Canadian Mounted Police.[3] At the time of this merger the House of Commons and the Senate decided to create their own security services, to be managed by each House. These separate security services were responsible for security across their respective precincts. Each did so in accordance with the collective privilege that each House has the right to regulate and administer its own affairs within its precinct and beyond the debating chamber, without external interference—that is, without intervention

[2] *House of Commons Procedure and Practice* (2nd edition), p 268.
[3] *History of the House of Commons Security Services 1920–1995*, *Ottawa*, 1995.

from the courts (subject to certain exceptions) or external police forces. These privileges date from the time of Confederation and emulate British practice at that time. They are embodied in the Constitution Act 1867 and were articulated in a statute now known as the Parliament of Canada Act.

As a result of this history, four separate security forces were responsible for ensuring the safety of those in the Parliamentary Precinct in October 2014. The House of Commons Protective Service, headed by the Sergeant-at-Arms, was responsible for the safety of members and staff inside the buildings under House of Commons jurisdiction; and the Senate Protective Service was responsible for buildings under Senate jurisdiction. Within the main Centre Block building, both the Senate Protective Service and the House of Commons Protective Service were responsible for security in their respective areas of the building. The RCMP was responsible for the grounds of Parliament Hill and the Ottawa Police Service for property outside the perimeter of Parliament Hill. This system had been in place for almost 100 years. As security needs evolved and new threats emerged, the Senate, the House of Commons and the RCMP created the Master Security Planning Office (MSPO) in 2007 to facilitate communication so as to enhance prevention, detection and to ensure timely interventions in a coordinated manner.

In June 2010 the Speaker of the House of Commons, on behalf of the Board of Internal Economy, invited the Auditor General to conduct a performance audit of the Administration of the House of Commons for fiscal year 2010–11. The report,[4] which was published in 2012, included recommendations on security, such as improving coordination and communication among the security partners, and unifying the Parliament Hill security forces. Following the report, the partners continued to improve communication with joint drills and simulations, and held regular meetings. Additional steps were taken with a view to enhancing security across the Parliamentary Precinct and to harmonising the work of the various agencies, including new limits to vehicular traffic on the Hill, additional security screening for visitors to the galleries, the installation of vehicle deterrents and increased officer presence.

2014 security review

Following the events of 22 October 2014 it was clear that the security regime needed to be examined anew. As security within the precinct of the House of Commons fell under the purview of the House Administration the then Speaker Andrew Scheer announced that a comprehensive review of security matters

[4] *Report of the Auditor General of Canada to the Board of Internal Economy of the House of Commons—Administration of the House of Commons of Canada*.

would be undertaken.[5] Speaker Scheer also indicated that, while Parliament Hill remained closed to visitors on 23 October, it was imperative that it be reopened to the public as soon as possible, to demonstrate that Parliament Hill would remain open and secure. As a result, just two days after the attack Parliament Hill was again open to the public. On Monday 27 October tours of the Centre Block resumed and the public galleries reopened.

In line with Speaker Scheer's statement, the Joint Advisory Working Group on Security was established, composed of senators and members. In late November 2014 the Working Group announced that it had concluded that it was necessary to unify the protective services of the Senate and the House of Commons, as suggested in the 2012 report of the Auditor General. They recommended that a senior executive should lead this unified service, reporting directly to the Speakers of the two Houses through their respective Clerks.

The Parliamentary Protective Service

However, before this recommendation could be fully implemented, in February 2015 the government proposed a motion recognising the necessity of fully integrated security throughout the Parliamentary Precinct. Rather than simply unify the security forces of the House of Commons and the Senate, the government's motion proposed that these services be integrated with those of the RCMP. Given that security of the House of Commons falls under the purview of the Speaker, as custodian of its rights and privileges, the motion instructed the Speaker, in coordination with the Speaker of the Senate, to invite the RCMP to lead operational security throughout the Parliamentary Precinct, both inside and outside the Parliament buildings, as well as in the grounds of Parliament Hill. The government motion specified that it was not seeking to limit in any way the privileges, immunities or rights of either House.

During debate on the motion members raised several concerns, notably about how the new security regime would be managed in such a way as to respect the separation of powers between the legislative and executive branches. Some members were concerned that the proposal could run counter to the privileges and immunities of the House and its members, as the RCMP did not report to the Speaker but to the executive. The government was of the opinion that the RCMP's role would respect the privileges, immunities and powers of the respective Houses and their Speakers, that the RCMP was best positioned to provide leadership and that this new arrangement mirrored that in other parliaments, such as in Australia and the United Kingdom. The motion was

[5] See Speaker Scheer's statement, *Debates*, 23 October 2014, p 8726.

adopted on 16 February 2015.[6]

In April 2015 the government presented its annual budget in the House of Commons. Security figured prominently. It referred directly to the events of 22 October 2014 and stressed the need for integrated security on Parliament Hill while maintaining access to the Parliament buildings for all Canadians. To support the new security regime $60 million was allocated for enhancements over the next three fiscal years. The subsequent budget implementation bill, Bill C-59,[7] which received Royal Assent on 23 June 2015, amended the Parliament of Canada Act by adding provisions on parliamentary security. Exceptionally, these provisions were drafted with advice from key staff in the House and Senate administrations. The bill also created the Parliamentary Protective Service (PPS), a statutory office that fully integrates the protective services of the Senate and the House of Commons with the services that the RCMP provides in the Parliamentary Precinct. The service is managed by a director from the RCMP. He reports to the Speakers of both Houses of Parliament who, as the custodians of the powers, privileges, rights and immunities of the Senate and the House of Commons, are responsible for the PPS.

With the PPS being a separate and statutory office, the House of Commons established its own Corporate Security Office (CSO) to act as the central point of coordination for corporate security risk management, as liaison with the PPS and as special adviser to the House Administration on corporate security issues. The Corporate Security Officer and Deputy Sergeant-at-Arms currently heads the Office. Its responsibilities include project management of security infrastructure, event coordination, accreditation and security clearances, administrative investigations, parking allocation and enforcement, and ceremonial chamber duties, such as accompanying the Speaker, as mace-bearer, in the Speaker's parade at the opening of the House and in other parliamentary functions, such as for the traditional Royal Assent ceremony.

These organisational changes to security on Parliament Hill complemented many other improvements to the physical security that started shortly after the events of 22 October. These included arming nearly all uniformed personnel, improving communications in critical situations by deploying an emergency notification system, and implementing numerous physical enhancements to security systems and buildings, such as improved lighting for buildings in the Precinct and additional training for security personnel.

[6] *Journals*, Monday 16 February 2015, pp 2127–28.

[7] See Bill C-59, An Act to implement certain provisions of the budget, adopted in the Second Session of the 41st Parliament, specifically Division 10.

Security and access: members and the public

What does all this mean for members and the public? The events of 22 October 2014 accelerated the need to adapt the Protective Service to meet modern threats while ensuring that Parliament remains an independent institution that is open and secure. Access to the grounds has rarely been limited, even in times of national crisis, and every effort continues to ensure Parliament remains open and accessible.

The importance of maintaining access to Parliament in the new security environment was highlighted in April and May 2015, when two members raised questions of privilege in the House of Commons on the subject. Both members declared that, on separate occasions, they had been temporarily stopped by RCMP officers outside Centre Block while making their way to the House of Commons. They expressed concern that the new security measures were impeding their access to the chamber, a concern that goes to the heart of the individual and collective privileges of all members.

Because these issues were of vital importance to all members, Speaker Scheer concluded that the questions of privilege had been *prima facie* demonstrated and warranted immediate debate. In his ruling[8] the Speaker stated that the transition from the old security service to the new regime would undoubtedly present challenges, but he stressed that the implementation of security measures cannot override the right of members to access the Parliamentary Precinct free from obstruction or interference. He assured members that the protection of the rights and privileges of the House and members was indisputable. He indicated that the Commissioner of the RCMP shared this view. The Speaker's ruling emphasised the role of the Speaker as custodian of the privileges and immunities of members of the House of Commons, as well as the importance of an open and accessible Parliament.

Conclusion

Despite the changes to the organisation of security for Parliament and the new procedures following 22 October 2014, Parliament has remained open to the public. On the grounds of Parliament Hill, Canadians continue to meet for public gatherings, demonstrations in support of or against the many subjects being considered in Parliament, or simply to sit on the lawn to eat lunch and admire the neo-gothic architecture. Guided tours continue, including visits to the Peace Tower, the Memorial Chamber and the public galleries of the House, and the public may attend public committee meetings. Parliament continues to host a variety of state visits, celebrations and ceremonies, all the while

[8] See Speaker Scheer's ruling, *Debates*, 12 May 2015, pp 13759–60.

maintaining its openness to parliamentarians and visitors alike.

Plans to develop a new visitor welcome centre are well under way as part of a long-term plan to rehabilitate the Parliament buildings—further demonstrating the commitment to openness and accessibility. While security is paramount, as current Speaker Regan noted during his address to the Conference of Speakers and Presiding Officers of the Commonwealth, "we cannot lose sight of the fact that the openness that makes us vulnerable is the freedom that keeps us strong".[9] It is the duty of all to ensure that Parliament remains open to ensure that the very democratic principles it represents are upheld and on display for all to see.

[9] Speaker Geoff Regan during his presentation on "The Role of Speakers in the Security of Parliaments" at the 23rd Conference of Speakers and Presiding Officers of the Commonwealth, January 2016.

ARCHIBALD MILMAN AND THE 1893 IRISH HOME RULE BILL

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Introduction

Clerks are often at their most exposed when performing their functions in the chamber. Some of the circumstances which give rise to clerks making mistakes, along with individual instances of error, have been explored in a recent article in this journal.[2] However, many of the mistakes examined there were committed in offices away from a chamber; less has been written about when things go wrong for clerks while at the table. Things can rarely have gone so badly wrong for a clerk at the table as they did for Archibald Milman, then Clerk Assistant of the UK House of Commons, on 11 July 1893 during proceedings in committee on the Government of Ireland Bill—William Gladstone's second legislative attempt to provide Home Rule, including a separate legislative body, in Ireland. The advice Milman gave to the chairman led to his name being chanted repeatedly by members, with one referring to his "malicious intrusion" and another calling for him to be dragged from his chair. Following the incident attempts were made to dock his salary and to establish a select committee on his conduct. This article explores the key contributory elements to the uniquely challenging circumstances Milman faced, gives an account of the events of 11 July 1893 and their aftermath, and offers some brief reflections.

The sources for the events of 11 July and their context, and in particular for Milman's involvement with the 1893 Home Rule bill, are exceptionally rich and varied. Milman wrote a series of memoranda for colleagues and occupants of the chair on legislative proceedings and their reform in the late 1880s and early 1890s, copies of which remain among the papers of the Clerk of the Journals in the House of Commons.[3] Milman transformed a printed but unpublished series

[1] The author is indebted to Liam Laurence Smyth for first drawing his attention to the papers and correspondence of Archibald Milman in the office of the Clerk of the Journals in the House of Commons and to Paul Evans for a similar service in respect of *Decisions of the Chair*, and to Sir William McKay, Professor John McEldowney and Dr Stephen Farrell for comments on a draft of this article.

[2] S Reynolds, "'You have committed a great offence and have but a weak answer to make for yourself': when clerks make mistakes", *The Table: The Journal of the Society of Clerks-at-the-Table in Commonwealth Parliaments*, volume 81 (2013), pp 4–17.

[3] House of Commons, Papers of the Clerk of the Journals (hereafter PCJ), Miscellaneous Precedents and Memoranda on Procedure (hereafter Miscellaneous Precedents), 4 volumes.

begun by his predecessor as Clerk Assistant, Reginald Palgrave, on decisions from the chair into a vivid commentary on some key events of the session.[4] In 1894 Milman published two anonymous articles reflecting on how the House could be reduced to scenes of "pantomimic confusion" and advancing the case for further procedural reform.[5] The official records of debate are supplemented by the great range of vivid newspaper reports from the gallery.[6] Four diaries also shed light on the context—those of Gladstone, Prime Minister and Leader of the House;[7] Henry Lucy, the first great parliamentary sketch-writer;[8] Edward Hamilton, a senior Treasury official close to Gladstone and intimately involved in the development of the 1893 bill;[9] and Lionel Helbert, a clerk who had taken up his appointment in January 1893 and recorded his impressions of his first session.[10]

"Marked out as an enemy": Milman's Irish problem

Although contemporary expectations of political impartiality from clerks were not as firm as they were later to become, and Sir Thomas Erskine May's Whig sympathies had been quite evident, Milman's personal partiality on the matter of Home Rule for Ireland is striking. His views were profoundly influenced by the experience of systematic obstruction by Charles Stewart Parnell and

[4] Milman extended the volumes to cover decisions of the Chairman of Committees and added commentary, making the publication sessional from 1893–94: *A Selection from the Decisions from the Chair, Illustrative of the Procedure of the House, 1886–92* …, January 1893 (hereafter *Decisions*, 1886–92) and *A Selection from the Decisions from the Chair, Illustrative of the Procedure of the House, Drawn Mainly from the Session of 1893–4*, March 1894 (hereafter *Decisions*, 1893–94).

[5] "The Peril of Parliament", *Quarterly Review*, volume 178, 1894 (hereafter "Peril of Parliament"), pp 263–88, at p 268; "Parliamentary Procedure *versus* Obstruction", *Quarterly Review*, volume 178, 1894 (hereafter "Parliamentary Procedure *versus* Obstruction"), pp 486–503.

[6] References to *The Times* and *The Sunday Times* are via The Times Digital Archive. *The Daily Telegraph* and *The Manchester Guardian* have been inspected on microfiche in the British Library. All other newspapers have been accessed via the British Newspaper Archive. All articles are from 1893 unless a year is stated.

[7] H C G Matthew, ed, *The Gladstone Diaries With Cabinet Minutes and Prime-Ministerial Correspondence: Volumes Twelve 1887–1891 and Thirteen 1892–1896* (hereafter GD) (Oxford, 1994).

[8] H W Lucy, A Diary of the *Salisbury Parliament, 1886–1892* (London, 1892) (hereafter Lucy, *Salisbury*); H W Lucy, *A Diary of the Home Rule Parliament 1892–1895* (London, 1896) (hereafter Lucy, *Home Rule*).

[9] D W R Bahlmann, ed, *The Diary of Sir Edward Walter Hamilton 1885–1906* (Hull, 1993) and manuscript volumes including many references omitted from the published edition, British Library (hereafter BL) Add MS 48646–48660.

[10] *Memorials of Lionel Helbert, Founder & Head of West Downs Winchester* (London, 1926) (hereafter *Helbert*), also available online at www.westdowns.com/helbert.pdf.

his Irish Home Rule party from 1877 onwards.[11] For Milman, the purpose of obstruction was to make the case for Home Rule by discrediting the House of Commons and "demonstrating its insufficiency to deal with the affairs of the United Kingdom".[12] Writing anonymously in 1878, he had caricatured the case:

> "If seven Irishmen can show themselves unfit for free institutions by making parliamentary government at Westminster impossible, then it follows that a Parliament composed exclusively of Irishmen sitting in Dublin must render Ireland healthy, wealthy, and wise".[13]

For Milman, the decision of Gladstone to back Home Rule for Ireland was a reward for obstruction; Milman considered that the victor and the vanquished in the great contest over obstruction in 1881 were "uniting their forces to carry out the very ends for which indiscriminate obstruction had been devised".[14] Milman saw the 1893 bill as destructive of the institutions of the United Kingdom, contending that it "did not seek to amend or enforce a particular law, but to create a new Constitution".[15] Milman was directly echoing the phrase used by the Liberal Unionist constitutional lawyer Albert Venn Dicey at the opening of his polemical attack on the bill, which Dicey saw as containing "a New Constitution for the United Kingdom" which "subverts the very bases of the existing constitution of England".[16]

Milman's antipathy to the Home Rule cause was not confined to the printed word. A Liberal member with whom he was out riding in Hyde Park in the spring of 1886 recorded in his diary that Milman "was down on me hot for saying a word in favour of Home Rule".[17] On 19 August 1886 an Irish Home Rule member brought a parcel into the chamber containing bolts that had been thrown by a Protestant mob at Catholics during vicious riots in Belfast. After the House rose, Milman "was leaving his seat at the table when he caught sight of a rather bulky parcel on one of the Irish benches. On a close inspection, Mr Milman found the parcel unusually heavy for its size, and he fancied that he heard the sound of clock-work within." Milman had the police

11 C Lee, "Archibald Milman and the procedural response to obstruction, 1877–1888", *The Table: The Journal of the Society of Clerks-at-the-Table in Commonwealth Parliaments*, volume 83 (2015), pp 22–44 (hereafter "Procedural response"), at pp 30–32.

12 *The New Volumes of the Encyclopædia Britannica constituting in combination with the existing volumes of the Ninth Edition the Tenth Edition … Volume 31* (London, 1902) (hereafter *Encyclopædia Britannica*), entry for Parliament written by Milman at pp 477–83, p 477.

13 "The House of Commons and the Obstructive Party", *Quarterly Review*, volume 145, No 289, 1878 (hereafter "The Obstructive Party"), pp 231–57, at p 236.

14 "Peril of Parliament", pp 275–76.

15 "Parliamentary Procedure *versus* Obstruction", p 493.

16 A V Dicey, *A Leap in the Dark or Our New Constitution* (London, 1893), p 1.

17 Sir Alfred Pease, *Elections and Recollections* (London, 1932), p 127.

take the package away, fearing it contained dynamite, causing "considerable excitement in the lobby".[18] Milman's vigilance was perhaps understandable, given that a Fenian bomb had rendered the chamber of the House "a complete wreck" the year before,[19] but his willingness to contemplate the possibility that an Irish member might knowingly have carried a bomb into the chamber was revealing of his reluctance to distinguish between Fenianism and constitutional nationalism. Milman was described by an Irish nationalist newspaper in 1893 as having "always shown the bitterest hostility to the Irish members".[20] Even a more sympathetic account admitted that he "has not been careful in private conversation to conceal his Unionist sentiments".[21] One leading Irish Nationalist member, Tim Healy, writing many years afterwards, recalled that "At first Milman was bitter against Ireland".[22] Another Nationalist member, T P O'Connor, later wrote that he always found Milman "an extremely civil and pleasant man, but somehow or other in the ferocious fight my small party were then carrying on in the House of Commons, he was marked out as an enemy who always was ready to advise the Speaker to hostile action against us".[23]

"The ever-rising flood": new departures in obstruction and new remedies, 1887–92

Parnell had adopted the methods of obstruction not as a parliamentary tactic on individual measures but as a political strategy. Such a wholesale approach had been curbed in part by two profound procedural developments—the transformation of the disciplinary powers of the chair and the introduction of the closure of debate.[24] It had also been rendered less necessary for Parnell's party in strategic terms by Gladstone's decision to support Home Rule in 1886. From 1887 onwards, obstruction was used again in the context of particular measures, but it also took new forms. As Milman was to put it in April 1891, "the old devices of patent obstruction are being superseded by the tactics of veiled obstruction".[25]

As with the obstruction that sparked the transformation of procedure in the early 1880s, the focus of Irish activity in 1887 was coercive legislation

18 *The Sunday Times*, 22 August 1886, p 3. On the Belfast riots, see J Loughlin, *Gladstone, Home Rule and the Ulster Question 1882–1893* (Dublin, 1986), p 227.

19 *The Times*, 26 January 1885, p 10.

20 *Freeman's Journal*, 12 July, p 5.

21 *Sheffield Daily Telegraph*, 13 July, p 4.

22 T M Healy, *Letters and Leaders of My Day* (London, 1928, 2 volumes), I.214.

23 *The Sunday Times*, 23 September 1928, p 15.

24 "Procedural response", pp 30–43.

25 PCJ, Miscellaneous Precedents, volume 1, Memorandum on the Working of the Closure Rule, April 1891 (hereafter Closure Memorandum), pp 248–51, at p 249.

affecting Ireland. In that year Salisbury's Government introduced legislation which allowed for summary prosecution of a range of offences designed to tackle passive resistance to landlord control and associations supporting such resistance.[26] In committee and subsequently on report, the Home Rule party sought to delay this bill and undermine the effectiveness of the closure by tabling what Milman termed an "ever-rising flood of amendments",[27] knowing that, "by multiplying amendments ... a bill can be most easily smothered by persistent obstruction",[28] because, "as fast as one question was closured, a new one could be started".[29] Closure, while effective against obstruction by a few, was "too slow to be applied to successive amendments in committee".[30] The flood of amendments limited the effectiveness of the provision later known as the "kangaroo closure", to leap over certain amendments by proceeding to a stand part debate.[31] The chairman was reluctant to apply this provision to undeserving amendments where it would also penalise "one or two deserving of careful attention".[32] Milman considered that the chairman, in consequence of the direction under the standing order to protect minorities, "felt great difficulty in passing over any amendment and the ingenuity of obstruction has been able in consequence to place him in great embarrassment".[33]

The Government's response to the tactics to defeat the powers of closure on this bill was to introduce an order terminating all proceedings in committee at a given time, later followed by a similar order on report—a process that by 1893 would be commonly referred to as "the guillotine".[34] Proceedings had been brought to a conclusion on legislation in 1881 and 1882, but subject to control by the Speaker and the requirement for an enhanced majority. The use of a simple order of the House was novel in 1887, so that Milman could later write that "to the Conservatives must be imputed the invention of this irrational method of legislation".[35] Milman disliked the "peremptory" nature of the guillotine, which overrode the rules of the House and the powers of the

26 Criminal Law Amendment (Ireland) Bill, bill 217 of session 1887.

27 "Peril of Parliament", p 281.

28 Closure Memorandum, p 249. An almost identical phrase was later used by Milman in published form: "Parliamentary Procedure *versus* Obstruction", p 493.

29 Closure Memorandum, p 248.

30 "Peril of Parliament", p 277; Closure Memorandum, p 248.

31 "Procedural response", p 42.

32 "Peril of Parliament", p 281.

33 Closure Memorandum, pp 248–49. In that memorandum and in "Parliamentary Procedure *versus* Obstruction" at pp 492–93 Milman refers in particular to the chairman's decision to decline to grant the kangaroo closure on 7 June 1887: HC Deb, 7 June 1887, cols 1313–14.

34 HC Deb, 29 June 1893, cols 420, 447. Milman referred to it as "the accepted nickname" in 1894: "Peril of Parliament", p 278.

35 *Encyclopædia Britannica*, p 479; see also HC Deb, 10 June 1887, cols 1597, 1602–05.

chair and so was "like the state of siege, above law".[36] He especially disliked the fact that it "excluded subsequent clauses from all consideration" so that the bill was "deprived of that prestige which a thorough sifting of the machinery and its acceptance by considerable majorities can alone confer".[37]

In a memorandum prepared in 1891 Milman advanced his own proposals, which he felt would overcome new forms of obstruction while avoiding the effects of the guillotine. The overall aim of his measures he summed up as "a means of passing by frivolous amendments to get at genuine amendments, as well as to apportion the time of the House to its allotted tasks".[38] He proposed that the apportionment take place by means of a motion moved in advance by a minister to provide for outstanding questions on particular clauses or other defined parts of a bill in committee or on report to be put at specified times. He also proposed that a member might move that certain amendments be not considered, subject to the same safeguard as for the closure of a duty on the chair to protect minorities. Milman suggested that these rules could be combined, so that motions to exclude amendments from consideration might be moved only when a programme was in place, enabling debate in the allotted time to be concentrated on the most important amendments.[39]

Milman also advanced a different proposition, modelled on a practice in the US House of Representatives to which he had first drawn attention in 1878, whereby promoters of a bill could put down a motion to curtail proceedings on a bill, after which movers of an amendment could speak for only five minutes and no other members would be heard.[40] In 1890 he proposed an equivalent for the House of Commons, which he termed "the Rules of restricted Debate", with the mover of each amendment being allowed to speak for only five minutes followed by the member in charge who would also speak for five minutes.[41] In 1894 he again advocated consideration of the congressional system, with a ten-minute limit. He conceded that such a measure would be "pretty stiff", but thought that "to such a rule, sooner or later, unless a more mild and more pliant but still effective method in the spirit of these suggestions can be devised, the House of Commons must inevitably come".[42] Milman's proposals to tackle

36 "Peril of Parliament", p 279.

37 Closure Memorandum, p 249. The latter phrase later appeared in "Parliamentary Procedure *versus* Obstruction", p 493.

38 Closure Memorandum, p 250.

39 *Ibid.*

40 "The Obstructive Party", pp 251–52.

41 PCJ, Miscellaneous Precedents, volume 3, Control of the House over protracted Debate in Committee of the whole House and on Report, 1890, p 207. The same proposal also appears in Closure Memorandum, p 251.

42 "Parliamentary Procedure *versus* Obstruction", p 501.

new forms of obstruction can be seen as far-sighted, prefiguring the later development of powers of selection and grouping, time limits and advance programming of bills. There is evidence that the proposals were known to some members of the House.[43] However, there is no indication that they gained much traction in the House of Commons during the Salisbury administration up to 1892, and their prospects of adoption seemed even slimmer in the political circumstances that followed the 1892 general election.

"A victory without power": the political context of the 1893 bill

In the 1950s Robert Rhodes James, then a clerk in the Commons, wrote that "it is difficult at this passage of time to recapture the intense passions of the Second Home Rule Parliament".[44] It is still harder now, but necessary as a starting point for understanding why the session of 1893 proved uniquely demanding on the occupants of the chair and on the Clerk Assistant. Gladstone's advocacy of Home Rule for Ireland had divided the Liberal Party, creating what it has been suggested "was, arguably, the bitterest division in nineteenth-century political life".[45] The Liberal Unionists increasingly allied themselves with the Conservatives and from 1891 were led by Joseph Chamberlain, who positively relished his unpopularity among his former colleagues and sought opportunities to goad them.

Despite Liberal divisions, in the autumn of 1890 by-election results and other political indicators gave Gladstone every reason to believe that the next general election would offer him a large majority and considerable authority to introduce a Home Rule measure for Ireland.[46] These expectations were transformed by the exposure in the divorce courts of Parnell's adultery and more so by his attempts to remain as leader of his party. Gladstone felt compelled to disown him.[47] Parnell responded bitterly, with what Gladstone described in his diary a "reckless and suicidal manifesto", which implied that Gladstone was seeking to deceive the electorate on elements of his plans.[48] The circumstances of Parnell's fall fractured relations between Gladstonians and the Home Rule Party and made Gladstone's task in developing a new Home Rule measure immeasurably more difficult. The Home Rule Party had lost a single authoritative leader with

[43] See the speech on a proposal for a select committee on procedure by Sir Charles Dilke in 1894, which refers both to evidence to select committees by clerks at the table and to "the suggestions which have been made by Mr Milman at various times": HC Deb, 3 April 1894, col 1256.

[44] R Rhodes James, *Lord Randolph Churchill* (London, 1959), p 365.

[45] I Cawood, *The Liberal Unionist Party* (London, 2012), pp 1–2.

[46] GD, xii.353.

[47] *Ibid.*, xii.339–40.

[48] *Ibid.*, xii.342.

whom to negotiate; it split into two competing factions, known as Parnellites (or Redmondites after their leader, John Redmond) and anti-Parnellites (or Nationalists). The latter faction was chaired by Justin McCarthy, but its effective parliamentary leaders were Healy and Thomas Sexton. The two factions had to be talked to separately and could be tempted to take different lines to appeal to opinion in Ireland. The circumstances alienated many natural Liberal supporters in Great Britain, particularly Nonconformists, and made the Home Rule cause more closely associated with the Catholic clergy and less appealing to Protestants in Ulster. They contributed to an election result in 1892 which left Gladstone well short of an overall majority, dependent on Irish support, and with a majority among English MPs against Home Rule of 71.[49]

One Liberal Unionist viewed the outcome for Gladstone as "A victory without power! A Government established but too weak to get through their first work."[50] The outgoing Prime Minister, Salisbury, and his nephew and new Leader of the Opposition in the Commons, Arthur Balfour, viewed the slenderness of the Liberal plurality in the popular vote and their minority status in England—seen by both as the "predominant partner" in the United Kingdom whose views should be paramount—as reasons for the Unionist opposition to fulfil that role with unparalleled determination and little scruple.[51] From the outset of the session there was a universal political awareness that the Home Rule bill, if it passed the Commons, faced certain defeat in the overwhelmingly Unionist House of Lords. The conflict in the Commons would be in some sense a "phoney war", but perhaps all the more virulent for that.

"Disorderly scenes must and will arise": the overcrowded chamber

The political circumstances were compounded by the topography of the House of Commons. As a result of the 1885 electoral reform the House had increased to 670 members.[52] The architect Charles Barry had been asked to build a chamber to accommodate 306 members on the floor of the House and 124 in the galleries.[53] In 1893 the House was overcrowded during the debate on the Address, and when Gladstone introduced the Home Rule bill on 13 February it proved necessary "to crowd every vacant space on the floor with chairs".[54] Hamilton recorded that "the House presented an extraordinary spectacle, being

49 Loughlin, *Gladstone*, p 218; GD, xiii.155; Lucy, *Home Rule*, pp v–vi.

50 G P Gooch, *Life of Lord Courtney* (London, 1920), p 296.

51 A Roberts, *Salisbury: Victorian Titan* (London, 1999), p 585.

52 *Encyclopædia Britannica*, p 481.

53 C Barry [junior], "Enlargement of the House of Commons", *Nineteenth Century*, March 1893, pp 541–44, at p 543.

54 Lucy, *Home Rule*, pp 13, 27; "Peril of Parliament", p 268.

absolutely crammed and jammed: chairs all up the floor of the House and the side galleries so full there was barely standing-room".[55] Helbert thought "Drury Lane Pit a paradise compared, as there is a seat for everyone, here there was not, or anything like it".[56] An 84 year old member was knocked over in the "stampede" for seats and fights broke out over seating.[57] One member later complained that "He was not returned to take part in a rowdy scrimmage at the door with the result that one member might be knocked down and others injured, as had happened on that day".[58] Overcrowding was not confined to the great set pieces. Even during the committee stage of the bill most members attended "day after day, and practically all through each sitting".[59] Milman later recorded that "during the protracted sittings of the committee on the ... bill there were between four and five hundred members continuously present".[60] The editor of a leading periodical commissioned a plan from Charles Barry, son of the original architect, showing how the chamber could be enlarged to accommodate all members, arguing that:

> "The existing state of things is almost incredibly absurd, and so long as nearly 250 members—considerably more than one-third of the whole assembly—are deliberately deprived of the accommodation in their own chamber to which they are entitled, disorderly scenes must and will arise".[61]

Tensions were further heightened by where members chose to sit in the chamber. Milman thought that "overcrowding undoubtedly contributes to disorder", but viewed the particular problems in 1893 as "induced by the regrettable determination of the Irish Home Rulers to persist in sitting not on the side of the Ministerialists, with whom they habitually act, but in the very midst of their opponents".[62] Chamberlain had sought before the session started to persuade the Home Rulers to move to the Government side, and Gladstone concurred that the arrangements were "objectionable", but the Home Rulers could not be persuaded.[63] Furthermore, "just in front of the solid phalanx of Irish Home Rulers is ranged the thin Orange line of the Ulstermen".[64] Unionist representation in Ulster had been strengthened at the 1892 election and they were determined to make themselves heard, foremost amongst them the man

55 Bahlmann, ed, *Hamilton Diary*, p 190.
56 *Helbert*, p 34.
57 *Ibid.*; Lucy, *Home Rule*, p 47.
58 HC Deb, 4 May 1893, col 120.
59 Lucy, *Home Rule*, p 134.
60 "Peril of Parliament", p 268.
61 "Enlargement of the House of Commons", p 541.
62 "Peril of Parliament", p 270.
63 GD, xiii.179, 185, 251.
64 *Ibid.*; HC Deb, 12 July 1893, col 799; Lucy, *Home Rule*, p 27.

described by Hamilton as "the hot-headed Orangemen" Colonel Saunderson.[65] For want of space, the Liberal Unionists were forced to sit on the Government side below the gangway, or, as Milman put it, "to camp in the midst of the extreme Radicals".[66] Milman thought that "This promiscuous ranking of squadrons with swords already drawn, or actually engaged in conflict, is one of those absurdities which would not be tolerated in any other chamber".[67]

These arrangements created enormous difficulties for the occupant of the chair in a chamber without sound amplification. All of the contested space on either side of the chamber was below the gangway, furthest away from the Speaker's chair and the table of the House. In some circumstances difficulty in hearing some hecklers could serve the chair well, as Milman noted: "the House ... too often rings with every kind of noisy interruption, and personalities so gross that they could not be passed over, but that in the hubbub they do not reach the not too swift ears of the occupant of the chair".[68] At other times, however, the inability of the chair to hear the incendiary exchanges between sworn enemies below the gangway added to the combustibility of the atmosphere, as Milman observed with reference to Home Rulers' attacks on Ulster Unionists:

> "Their orators are interrupted by frequent and by no means whispered comments and jeers discharged point blank into their backs, and it is notorious that in moments of excitement, though only a small percentage of the cries may be cognisable by the chair, interruptions and personalities, jests and gibes, are bandied about which may at any moment lead to an outbreak that would disgrace the House."[69]

Such circumstances would have tested even the strongest occupant of the chair, but the main burden of chairing the proceedings on the Home Rule bill fell on one of the very weakest.

"A rude baptism of fire": the new chairman's ordeal

The post of Chairman of Committees (and Chairman of Ways and Means) was critical to the effective conduct of business in the late-Victorian House of Commons, as well as to the experiences of the Clerk Assistant who sat beside him. Much of the time of the House could be absorbed in the Committees of Supply and of Ways and Means; and all major legislation was considered in committee of the whole House, over which the chairman presided. The enhanced disciplinary powers of the chair and its role in the operation of the

65 BL Add MS 48746, fo 22.
66 Lucy, *Home Rule*, pp 26, 41; "Peril of Parliament", p 270.
67 *Ibid.*
68 *Ibid.*, p 268.
69 *Ibid.*, p 270.

closure gave the post added power and importance from the 1880s.

The post had been held in the Parliaments of 1886 and of 1886–92 by Leonard Courtney. Like many of his predecessors, he had held the post of Financial Secretary to the Treasury, in charge of the day to day conduct of Supply and often seen as the best apprenticeship for the role of chairman, before he resigned from Gladstone's second administration over the cause of proportional representation.[70] Although Courtney's firm Unionism made him unsuitable to join Gladstone's third administration in 1886, the Prime Minister advised him that he was "universally considered to have unrivalled qualifications" for the post of chairman.[71] In a departure from general practice at the time, he was then reappointed to the post unopposed at the start of Salisbury's Government. Lucy concluded that, "though he rules with an iron hand, never once since he took the chair has a breath of suspicion of his impartiality and honesty of purpose floated through the heated chamber".[72] He even became, at least according to his wife, "an extraordinary favourite with the Irish members", despite the frequency with which he suspended or named them.[73] A leading Conservative Unionist later claimed that, "from his ultra-conscientiousness he was much stricter in his application of the rules of order and debate to the Unionist side than he was to the Home Rule Party" and also thought that "his strength of character, intellect and adaptability to unforeseen difficulties were generally recognised".[74] In 1890 Gladstone described Courtney as the best chairman of the 12 he had known, an opinion endorsed by Healy.[75] In 1891 Lucy thought Courtney had "been so successful as Chairman of Committees that his promotion in due time to the Speaker's chair may be regarded as a certainty".[76] Before 1893 Courtney was the only chairman whom Milman had known as Clerk Assistant. Courtney's skills made Milman's job easier. It was later said that, during Courtney's chairmanship, Milman was regarded as an "amiable official who took charge of notices of questions or motions, and sometimes went to sleep through long harangues".[77]

There was some uncertainty as to whether Courtney wished to remain as

70 Gooch, *Courtney*, pp 167–70, 203–11; Lucy, *Salisbury*, p 429. For Courtney's unsuccessful attempt to explain the single transferable vote system to the House in his resignation speech, see HC Deb, 4 December 1884, cols 659–80.

71 Gooch, *Courtney*, p 252.

72 Lucy, *Salisbury*, p 93.

73 Gooch, pp 262–77; Lucy, *Salisbury*, pp 169–71.

74 Lord George Hamilton, *Parliamentary Reminiscences and Reflections 1886–1906* (London, 1922), p 215.

75 Bahlmann, ed, *Hamilton*, p 119.

76 Lucy, *Salisbury*, p 430.

77 *Western Times*, 15 July, p 2.

chairman in 1893, although there were initially suggestions that he would not be opposed if he wished to do so.[78] It was reported that the inclination "amongst responsible Gladstonians" was to treat the post as non-partisan and support Courtney's reappointment.[79] However, with rumours swirling of Radical and Irish opposition to his reappointment, he seems to have resisted Gladstone's overtures to remain.[80] Lucy felt that "the premier would have done well, if the boon were not obtainable on other terms, to go down on his knees and beseech Mr Courtney to retain the chair, at least till the Home Rule bill was through committee" because the challenges of the bill would "tax the energy and probe the knowledge of the most experienced chairman". As a known opponent of the measure, Courtney was likely to show more leniency to supporters of the bill to establish his impartiality.[81]

Gladstone, however, allowed his hand to be forced by Nationalists and Radicals who favoured a new chair drawn from Radical ranks.[82] The chosen successor was John William Mellor. His sole ministerial experience was in the "ornamental" post of Judge Advocate General in 1886.[83] He was a quiet man, who "hardly suggests Mr Courtney's intellectual distinction".[84] Worse still, as Milman noted at the close of the session, Mellor "had been elected chairman after a long absence from Parliament".[85] Having been out of the House between 1886 and 1892, he had not had a chance to see how the powers of the chair had been transformed and how effectively Courtney had used the new powers. It was also noted that Mellor was "necessarily unacquainted with four-fifths of the present House of Commons, and the mere ignorance of names is a great handicap".[86] Another observer considered that his procedural "knowledge is obviously more theoretical than practical".[87]

Mellor made his debut in the chair on 2 March, and he soon gave a ruling to restrict debate on Supplementary Estimates.[88] His approach to the substance of the issue was similar to that of Courtney but, in Milman's eyes, Mellor "a little overstated the restrictions on debate on Supplementary Estimates, which gave

78 Gooch, *Courtney*, p 295; *York Herald*, 24 January, p 4.
79 *The Times*, 9 February, p 10.
80 *Aberdeen Journal*, 28 January, p 5.
81 Lucy, *Home Rule*, p 73.
82 *Ibid.*, p 73; *Sheffield Independent*, 28 January, p 5; *Northern Echo*, 12 February, p 2.
83 *Sheffield Evening Telegraph*, 27 January, p 2.
84 *Illustrated London News*, 25 February (accessed through lookandlearn.com).
85 *Decisions*, 1893–94, p 159.
86 *Bristol Mercury*, 7 March, p 8.
87 *Glasgow Herald*, 4 March, p 4.
88 HC Deb, 2 March 1893, col 900.

rise to an animated conversation on the point of order".[89] The House descended into a "veritable street row" about the ruling. Chamberlain and Balfour egged on the challenge, while Courtney smiled "a very wide smile" and declined to aid his successor.[90] Sensing Mellor's weakness, "the authority of the chair was defied in a way that has not been witnessed for years … The uproar which went on for half an hour was indescribable".[91] Helbert characterised Mellor as "hopelessly ragged".[92] Sexton referred scornfully to "the combined attack that is being made to embarrass and intimidate the chair".[93]

One Unionist observer thought that the supporters of Home Rule had had their comeuppance for having thrust Mellor "into a position for which he is manifestly unfit".[94] Another, reflecting on Mellor's "rude baptism of fire", concluded that "he is evidently not the man to pilot a Home Rule bill through the troubled seas of committee".[95] It was already judged that Mellor was "a conspicuous failure. He has no power over the House, which laughs at him at every opportunity".[96] There were rumours that Mellor might be removed immediately, to enable a firmer hand to supervise committee proceedings on the Home Rule bill.[97] Lucy, as a huge admirer of Gladstone and a supporter of Home Rule, despaired at the decision to appoint "a new and inexperienced man" to the chair faced with "an intricate and important measure, round which party passion boils like geyser pools". He forecast:

> "It will probably turn out that the change of chairmanship will prove a more active agent in defeating, or at least in postponing the passage of, the Home Rule bill than all the speeches now in preparation, or all the amendments that will in due course crowd the paper. Mr Gladstone might have done otherwise, and he has done this."[98]

Mellor's inexperience facilitated what was evidently a premeditated plan by the Unionist opposition. Gladstone acknowledged the "ulterior aims" of the "impudent assault on the chair" related to delaying the Home Rule bill.[99] As Hamilton noted on 3 March, "The game of obstruction has begun to be

89 *Decisions*, 1893–94, pp 159–60.

90 HC Deb, 2 March 1893, cols 900–13; *Sheffield Evening Telegraph*, 3 March, p 2; *London Daily News*, 3 March, p 5; *Dundee Advertiser*, 6 March, p 5.

91 *Birmingham Daily Post*, 3 March, p 5.

92 *Helbert*, p 37.

93 HC Deb, 2 March 1893, col 901.

94 *Western Mail*, 6 March, p 4.

95 *Belfast News-Letter*, 3 March, p 5.

96 *Yorkshire Evening Post*, 4 March, p 2.

97 *Sheffield Evening Telegraph*, 6 March, p 2; *Dundee Evening Telegraph*, 7 March, p 2; *York Herald*, 9 March, p 4.

98 Lucy, *Home Rule*, p 74.

99 GD, xiii.212.

played".[100] With leave granted for the introduction of the bill, the Government wished to secure the second reading before Easter. However, they also needed to secure passage of the Supplementary Estimates before the end of March, and the Unionists spotted an opportunity.[101] In the ensuing days they undertook systematic obstruction of the Estimates.[102] Both on the Supplementary Estimates and later on the Main Estimates the obstruction was led from the backbenches, principally by Robert Hanbury, but there was little doubt that "Mr Hanbury and his friends are acting with the approval if not with the distinct connivance of the Unionist leaders".[103] Lucy felt the Government were faced with "the most resolute and reckless party of obstruction known since Mr Parnell was at the height of his power and the thick of the fight".[104] Even when the Government agreed to delay the second reading until after Easter, the Unionist "baiting" of Mellor persisted in order to weaken his authority for the fight ahead. This reached a climax during the committee stage on the Army Bill, when Hanbury continued a disorderly speech despite repeated interventions from Mellor and "flatly contradicted" Mellor on a matter of fact; Lucy felt that this was "as near to giving the chairman the lie direct as has ever been achieved since Cromwell took away the mace".[105] This led to "the worst noise" that Helbert had then heard in the chamber, but Hanbury resisted all calls to apologise; there was a general feeling that Mellor would have been justified in naming him or at least ordering his withdrawal for the day, but the chairman "refused to take advantage of this chance".[106] He declined to interpret Hanbury as accusing him of mis-stating the facts, which Lucy called "a pathetically charitable construction", and did not secure an apology nor a withdrawal. Lucy had no doubt that, with Courtney in the chair, Hanbury "would have been carried manacled off the field".[107]

The difficulties for Milman sat next to Mellor during this time must have been extreme. After a chairman with natural authority, he had to advise a new post-holder with no such authority, and whom he may hardly have known. The challenge was compounded by the principal source of defiance, because Hanbury was Milman's brother-in-law. Mrs Milman was a prominent socialite, the Milmans often hosted "at homes" at their residence, and it was noted that Mrs Milman was Hanbury's sister.[108] Milman was generally a keen advocate of

100 BL Add MS 48659, fo 132.
101 Lucy, *Home Rule*, pp 75–76; *Helbert*, p 38; BL Add MS 48659, fo 133.
102 Lucy, *Home Rule*, pp 76–79; *Helbert*, p 38.
103 *Manchester Guardian*, 12 July, p 5.
104 Lucy, *Home Rule*, p 80.
105 HC Deb, 24 March 1893, cols 1126–30; *Helbert*, p 39; Lucy, *Home Rule*, p 91.
106 *Helbert*, p 39.
107 HC Deb, 24 March 1893, cols 1127–28; Lucy, *Home Rule*, p 91.
108 *Western Mail*, 13 July, p 4; *Glasgow Herald*, 17 July, p 7.

swift action against those who defied the authority of the chair, and Mellor's reluctance to act in the face of Unionist defiance led by Milman's brother-in-law must have compounded Irish Nationalist and Radical frustration that neither Hanbury nor any of his obstructive colleagues had been subject to the disciplinary powers so willingly dispensed by Courtney against Irish members. As early as 13 March, one Radical MP wrote to a newspaper to protest about "the obstruction of the Tories, and the dilettante indifference with which the highest authorities in the House appear to regard it".[109]

"Seething with excitement": controversy over the closure

The House returned after a week-long Easter recess, with "every one very slack and sick at having to be back so soon" and proceeded to debate the second reading of the Home Rule bill over 12 days and nights.[110] Subsequent Unionist attempts to delay the start of committee stage by tabling three instructions were swiftly dismissed by the Speaker, drawing on advice from Milman.[111] Then began the committee stage, which was to dominate the House's business over the next three months and place extreme pressure on Mellor and Milman, focused for much of the time on the power to accept the closure.

The introduction of the rules for the claim of the closure, and for the chair to grant it unless certain conditions were met, had created new pressures on the occupants of the chair. Courtney's "refusal or ignoring of demand for the closure" was often "angrily commented upon".[112] From 1887 the Speaker was engaged in a running battle with the Radical Charles Conybeare over alleged partisanship in exercising the power of the closure. Conybeare's speeches often became "the cue for the closure" and he was suspended for several weeks for describing its use while he was making what Milman termed "a rigmarole and exasperating speech" as "a public scandal".[113]

In the new Parliament the Gladstonians and Home Rulers, so often the victims of the closure in the previous Parliament, expected to be its beneficiaries. However, by March there were signs that the Speaker had concluded that, "with

109 HC Deb, 13 March 1893, cols 1866–69.

110 *Helbert*, p 39; HC Deb, 21 April 1893, col 912.

111 HC Deb, 8 May 1893, cols 345–48; PCJ, Miscellaneous Precedents, Volume 1, Instructions to a Committee of the whole House, April 1893, pp 292–93.

112 Lucy, *Salisbury*, p 519.

113 *Decisions*, 1886–92, pp 141–2, 187, 345–48; Lucy, *Salisbury*, pp 219–20, 465–66; HC Deb, 19 July 1888, cols 1880–83, 1899–1900; HC Deb, 20 July 1888, cols 48–107; HC Deb, 28 June 1889, cols 1020–23. The feud was cut short when Conybeare was imprisoned under coercive legislation in Ireland, leading Milman to note wryly that "in past times members did not often get three months": HC Deb, 19 August 1889, cols 1650–51, 1669–70; *Decisions*, 1893–94, pp 15–17.

a ministerial majority of 40 the closure may only occasionally be invoked".[114] It was a vital question as to whether Mellor would adopt the same approach. On the first day in committee Mellor granted the closure at 9.45 pm with what was seen by the opposition as unseemly haste.[115] Milman emphasised that this acceptance of the closure had been by "an inexperienced chairman (who having been out of Parliament since 1885 [*recte* 1886], could not be familiar with the conditions on which closure had been hitherto assented to)".[116] Lord Randolph Churchill and Chamberlain were then allowed by Mellor, in Milman's words, "to keep up in a House seething with excitement a two hours' debate upon a Motion of Progress on the propriety of the Motion of Closure". Milman later made clear his frustration that Mellor had failed to appreciate "the absolute necessity of immediate action" to close down debate on his own conduct.[117]

With confidence in Mellor low, his decisions on the closure were bound to attract criticism from one side or the other. On 11 May John Morley, the Chief Secretary for Ireland responsible for piloting the bill through when Gladstone was absent, let his exasperation show during a debate on clause 1 (establishing the Irish legislature) stand part, which seemed to him to revisit principles of second reading: "if upon every clause of this bill you are to raise, and you may raise, the principle you are trying to establish tonight, all these second reading questions which have been raised and discussed tonight, this bill will not be out of committee in 12 months. [Opposition cheers.]"[118] At the end of Morley's speech he claimed the closure, but this was denied and the opportunity for the closure that evening lost. During a subsequent division several senior Liberal members "closed round the chair as they passed out and conferred with the chairman", and Milman was also questioned on the closure procedure.[119] It was later suggested that this was a crucial moment in the hardening of Irish dislike of Milman:

> "They have harboured resentment against him ever since Mr Mellor first took the chair from an idea that he prompts the chairman in a direction contrary to their interests, and after one episode in the early stage of the committee when Mr Mellor, after consulting with Mr Milman, refused to put the closure on the motion of Mr John Morley, Dr Tanner put down a notice to move the reduction of the clerk's salary."[120]

114 Lucy, *Home Rule*, p 80.
115 HC Deb, 8 May 1893, cols 412, 416.
116 *Decisions*, 1893–94, p 85.
117 HC Deb, 8 May 1893, cols 412–23; *Decisions*, 1893–94, p 85.
118 HC Deb, 11 May 1893, col 728.
119 *Ibid.*, cols 728–31; HC Deb, 12 May 1893, cols 789–91; *Decisions*, 1893–94, p 103.
120 *Pall Mall Gazette*, 12 July, p 8.

On the debate on clause 2 (relating to powers of the Irish legislature) stand part, Mellor in contrast granted the closure after a debate of only 2 hours and 50 minutes. This again led to a Unionist attempt to debate the grant of the closure, provoking chaotic scenes more evident in Milman's subsequent account than in the formal record:

> "Several members rose successively to reflect on the application of the closure, and were immediately called to order by the chairman. His ruling, however, was constantly and systematically disregarded, and a sense of confusion followed, during which it was impossible to hear what the several members who rose together were saying."[121]

Despite the Tories being "wild with indignation" over the acceptance of the closure, it was thought on this occasion that Mellor "put his foot down with unexpected vigour" and brought the contention to a close, with Tories left "smarting under the closure which they themselves had brought into existence".[122]

"The mechanical force vested in the majority": causes and consequences of the guillotine

While the closure had the potential to restrict individual debates, it was, as Milman had noted in the early 1890s, inadequate to prevent obstruction by means of tabling a mass of amendments, with procedures which permitted almost all orderly amendments to be separately debated. In March 1893 Milman had made two new proposals to address this problem before proceedings on the bill in committee began. The first would have allowed for a minister to move that identified "obstructive and frivolous" amendments be not considered. The second would have allowed the chair to group together amendments dealing with "substantially the same principle and issue". Milman recorded that these were "submitted to Mr John Morley for Home Rule bill 1893 but not accepted".[123] In the absence of such measures the Unionists needed no second invitation to flood the paper with amendments, as Mellor later recalled:

> "when the Home Rule bill was before the House, amendments were brought to the chairman in bundles, and it was his duty to make up his mind whether they were in order or not, and then to see that those which were in order were properly dealt with. It took a great deal of time, and caused a great deal of anxiety to the chairman because before sitting on such a bill he had to prepare himself by looking at the amendments on the paper, and looking at

121 *Decisions*, 1893–94, p 87; HC Deb, 17 May 1893, cols 1197–1201.

122 *Bristol Mercury*, 18 May, p 5; *York Herald*, 27 May, p 10.

123 PCJ, Miscellaneous Precedents, Volume 3, Obstructive and Frivolous Amendments, Concurrent Amendments and manuscript note by Milman, p 72.

the authorities and rulings of former Speakers and chairmen to see whether the amendments were in order or not."[124]

It might be thought indicative of difficulties in relations between Mellor and Milman that Mellor's later account made no reference to Milman's advisory role. Milman himself perhaps took the acceptance of his advice too much for granted, at least to judge from a revealing slip in a letter he wrote in early July to the Liberal Unionist Sir John Lubbock about an amendment he had tabled to an amendment by the radical Henry Labouchere: "Labouchere's amendment may be ruled out of order. Therefore your amendment will fall."[125] Equally, the conventions of the House dictated that a clerk's role should not be mentioned, and when a Unionist member sought to refer to advice on orderliness which Mellor had given "with the assistance of Mr Milman", he was met with cries of "Order", "Name" and "Withdraw".[126]

The Government and their supporters were relatively satisfied to have disposed of the first two clauses by the end of May, but became dismayed when the pace of progress did not pick up thereafter. Clause 3, which set out exceptions to the powers of the Irish legislature, involved over ten days of debate and, according to Gladstone, "requires incessantly legal interpretation"; and clause 4 (about restrictions on the exercise of powers) was of a similar character.[127] Lucy observed that, if every clause of the bill, comprising as it did 40 clauses and 7 schedules, were "to have a fortnight in committee, the House of Commons, sitting continuously, would be well into the new year before the committee stage of the bill is passed".[128] Lucy partly blamed Gladstone himself, for his habit of making half-hour speeches even on amendments he considered "immaterial, or simply obstructive",[129] but even the more concise responses offered by Morley could do little in the face of the scale of amendments. One clause alone had nearly 100 amendments tabled to it.[130]

Unrest among the bill's supporters was growing. Both Nationalists and Radicals had largely adopted a "self-denying ordinance" during the proceedings, refraining from speaking, but the Irish members—Healy and Sexton in particular—were gradually being goaded into breaking their silence.[131] On 18 June Hamilton recorded that the Government "have had a bad week in

124 HC Deb, 10 February 1902, col 926.

125 BL Add MS 49659, fos 102–102v, Milman to Sir John Lubbock, 7 July 1893.

126 HC Deb, 8 June 1893, col 585; *The Times*, 9 June, p 6. The reference to Milman compounded the fact that the member was in effect challenging the chairman's decision on orderliness.

127 GD, xiii.249.

128 Lucy, *Home Rule*, pp 142–43, 146.

129 *Ibid.*, p 146.

130 *Bristol Mercury*, 31 May, p 5.

131 Lucy, *Home Rule*, p 149.

the House: they make very little progress with the interminable bill and the Irishmen have turned a bit nasty".[132] After the fortnight spent on clause 3, Lucy concluded that opposition obstruction had triumphed and the bill was "in a parlous state". He saw only one solution: "that is to meet mechanical obstruction on the part of the minority with the mechanical force vested in the majority"—the guillotine.[133]

From a quite early stage of proceedings in committee there was pressure from the Government's supporters for proceedings to be curtailed, not least from Radicals concerned that the remainder of the Government's legislative programme would not be delivered.[134] Some argued that a timetable set in advance would allow for more even consideration of the bill,[135] along the lines previously advocated by Milman. For some time Gladstone and his Cabinet resisted such calls, not least because they felt that use of the guillotine would provide an additional justification for the inevitable rejection of the bill by the Lords.[136] Once it became clear that progress on clause 4 was as glacial as that on earlier clauses, so that 27 days had been taken in committee and the situation was "beyond the limits of endurance", the Cabinet decided that a guillotine was essential.[137] The Cabinet considered whether to provide a deadline (or "internal knife" in current parlance) for each clause or a simple exit date; they opted for a middle course, with internal knives for clauses 5 to 8, clauses 9 to 26 and clauses 27 to 40, allowing a week for each compartment, with a final knife on remaining provisions at 10 pm on 27 July. Gladstone's notes illustrated how the quantity of amendments had made the passage of the bill without recourse to this path "impossible": 1,051 amendments had been tabled, of which 327 had already been disposed of and 724 remained on the paper.[138]

The debate on the guillotine further heightened political passions, with Chamberlain accusing the ministerial supporters of "attempting to erect the name and the age of the Prime Minister into a fetish", which led to him being called "Judas", not for the first or last time.[139] The restraint which Nationalists had previously exercised to aid progress of the bill was no longer necessary,

132 BL Add MS 48660, fos 101–02.

133 Lucy, *Home Rule*, p 151.

134 *Yorkshire Post and Leeds Intelligencer*, 16 May, p 4; *Lincolnshire Chronicle*, 9 June, p 6.

135 *Bristol Mercury*, 31 May, p 5.

136 *Royal Cornwall Gazette*, 4 May, p 6; *Birmingham Daily Post*, 2 June, p 5; HC Deb, 8 June 1893, cols 536–39; Bahlmann, ed, p 202.

137 Bahlmann, ed, p 204.

138 GD, xiii.254; Bahlmann, ed, p 205; HC Deb, 29 June 1893, cols 373–80; BL Add MS 44775, fos 40, 53.

139 HC Deb, 29 June 1893, cols 471–72; *Helbert*, pp 43–44. For the earlier occasion, see Lucy, *Salisbury*, p 98.

and the participation of Sexton and Healy became more forthright in view of the Parnellite challenge to their conciliatory approach. For the Unionists, the guillotine on a constitutional measure was an outrage. For Milman, some of the concerns about the guillotine were operational, because amendments to early clauses ruled out of order because they would more properly be considered later in the bill would not now be reached.[140] But his dislike also had a political dimension, to judge by his later criticism of the use of it "to carry a great constitutional innovation to which the majority of English and Scottish representatives were opposed".[141] As the first internal knife affecting clauses 5 to 8 fell in a packed and noisy House, Mellor's words were almost inaudible among the uproar, and the questions were put "accompanied by shouts of 'Gag! Gag! Gag!'."[142]

The application of the guillotine focused attention on the two most controversial aspects of the bill—the financial settlement and clause 9, relating to Irish representation at Westminster. The financial provisions in the bill as published had been deeply unpopular among Irish Nationalists from the outset; their architect, Hamilton, also concluded that they were unworkable.[143] For much of June, Gladstone, Morley and the Chancellor of the Exchequer, William Harcourt, had been absorbed, when not in the House, with the need fundamentally to rewrite the provisions, although Hamilton feared that none of them really understood the "horribly complicated" changes.[144] A new version had been negotiated with Sexton, but the Parnellites opposed them, and threatened to vote against third reading in consequence.[145] In addition to the political risks arising from the clauses, they were immensely procedurally challenging. Milman had to attend a meeting with Gladstone to explain the procedural implications and then gave advice to Parliamentary Counsel on which provisions could be achieved by way of amendment and which would necessitate the negativing of existing clauses and their replacement with new clauses.[146] The guillotine meant that the changes would need to await report stage.

From the outset of proceedings on the bill the Unionists had attached great significance to the prospect of inflicting a defeat on the Government at committee stage and saw clause 9 as their best chance of success. It contained

140 *Decisions*, 1893–94, p 57.
141 *Encyclopædia Britannica*, p 479.
142 Lucy, *Home Rule*, pp 178–79.
143 Bahlmann, ed, pp 183–84, 195, 197–98.
144 *Ibid.*, pp 201–04.
145 *Ibid.*, pp 190–204.
146 GD, xiii.252; BL Add MS 44775, fo 166, Sir Henry Jenkyns to Gladstone, 16 June 1893.

two elements. First, it reduced Irish representation in the Commons from 103 members to 80, a move resented by the Parnellites and opposed by some Radicals. Second, it made complex arrangements for limiting the rights of Irish members of both Houses to deliberate and vote on certain matters relating only to Great Britain, dubbed the "in and out" provisions. These reversed the position publicly advocated by Gladstone and Morley in 1886, but also gave effect to a commitment given by Gladstone before the election. For some, limiting voting rights was an essential condition for their support for the bill. Others opposed the provision, with four Cabinet members including Harcourt and the Home Secretary Herbert Asquith dissenting from the decision to include it.[147] Unionists revelled in the chance to drive a wedge further into government ranks and argue that, in consequence of Home Rule, the House was faced "with two impossible and ridiculous alternatives—namely, the 'in and out' suggestion of the bill and the almost equally ridiculous, and certainly equally impossible, suggestion of allowing the Irish members to come here and meddle with English affairs".[148]

Clause 9 was now to be considered in little over a week. Lucy wrote that "Party feeling runs higher in the House of Commons just now than has been the case since the epidemic of Jingo fever [in 1878]. It centres chiefly around Mr Chamberlain, who, to do him justice, makes no special efforts to smooth ruffled feelings".[149] Chamberlain confessed to Hamilton that he was thoroughly enjoying "the most exciting political fight he had ever taken part in" and he was confident of the Government being defeated.[150] On 10 July Redmond moved an amendment designed to maintain 103 Irish members at Westminster, an amendment known to have support within Radical ranks and which Unionists were happy to support to defeat the Government.[151] Gladstone made a speech in which he appeared to ready himself for defeat, but many Radicals were dissuaded from voting against the Government by Chamberlain's ill-judged speech "which rang with so much crowing over their prospective humiliation that the supporters of the Government could not stand going into the lobby with him". Sexton then announced that the anti-Parnellites would vote against Redmond's amendment, risking a backlash in Ireland for seeming to support a proposal to reduce the nation's representation at Westminster, but avoiding a

147 GD, xiii.178.
148 HC Deb, 20 April 1893, col 853.
149 Lucy, *Home Rule*, p 186.
150 Bahlmann, ed, p 209.
151 HC Deb, 10 July 1893, cols 1168–71; HC Deb, 11 July, cols 1336–37.

defeat which might imperil the bill in the process.[152] In the vote that followed all of the anti-Parnellites voted with the Government, which won with a majority of 14, leading to wild rejoicing within Nationalist and Gladstonian ranks.[153]

"Malicious intrusion": a table clerk's nightmare

Proceedings on the 35th day in committee on the Government of Ireland Bill began with no hint of the drama that was to come. There was a sense of anti-climax after the vote of the day before, "the dangerous channel" having been "successfully navigated".[154] Sir John Lubbock, a Liberal Unionist, moved an amendment drafted with Milman's assistance which would have made Ireland's continuing representation at Westminster proportionate to its financial contribution to Imperial expenditure.[155] His academic speech from a prepared script left the House "dull and spiritless".[156] Gladstone made short work of pointing out the absurdity of representation based on wealth rather than population, and the amendment was negatived without division.[157] The next debate on an amendment from Sir Charles Dilke about the distribution of seats was viewed as "desultory and somewhat inconsequential".[158] Helbert, observing that it was a "dull debate till dinner", went to bed early and later wrote that he had thus "missed one of the most exciting scenes of the last few years in the House".[159]

The next amendment, moved by Henry Seton-Karr, would reduce Irish representation in the Commons to 48 members. Gladstone had left the chamber, and Morley quickly dismissed the proposal as an "arbitrary figure".[160] The first signs of trouble came when Mellor failed to secure the withdrawal of the accusation of "mis-statement" levelled against a Nationalist by a

152 HC Deb, 10 July 1893, cols 1163–93; BL Add MS 48660, fo 125. The effect of the amendment was contested and Sexton contended that voting against the amendment was not incompatible with a later proposal which would allow for 101 Irish MPs at Westminster: see *Freeman's Journal*, 11 July 1893, p 5.

153 *Dublin Daily Express*, 11 July 1893, p 5.

154 *Aberdeen Journal*, p 4; *Northern Echo*, p 3. All newspaper references in this section are dated 12 July 1893 unless otherwise stated.

155 HC Deb, 11 July 1893, cols 1288–91; BL Add MS 49659, fos 102–102v, Milman to Lubbock, 7 July 1893. Milman had proposed a revision because the original version fell with the disorderly amendment to which it was proposed as an amendment: see HC Deb, 7 July 1893, cols 1111–13.

156 *Manchester Courier and Lancashire General Advertiser*, p 5.

157 HC Deb, 11 July 1893, cols 1291–1304.

158 *Ibid.*, cols 1304–25; *Sheffield Evening Telegraph*, p 4; *Bristol Mercury*, p 5.

159 *Helbert*, p 45.

160 GD, xiii.262; HC Deb, 11 July 1893, cols 1325–28.

Unionist.[161] Because of Sexton's role in saving the Government from defeat the day before, and the sense that he was "the real leader and master of the most powerful section of the Irish Home Rulers", Unionists began to provoke him.[162] The Liberal Unionist Sir Julian Goldsmid referred to him in setting out the case against Irish influence at Westminster after Home Rule, in phraseology reminiscent of what in the 1970s would be termed the West Lothian question:

> "if there was to be harmonious working in Parliament in future, the House of Commons ought not to continue to give a preponderating and deciding influence to the Irish members. The member for North Kerry (Mr Sexton) said he did not want to come there to regulate English affairs, but he would have the right to do so, and they, on their side, would have no right to regulate Irish matters. The position, then, was:—If he (Sir J. Goldsmid) had no right to interfere in the regulation of Irish affairs the member for Kerry had no right to interfere in his (English) affairs."[163]

Nevertheless, when St John Brodrick, the Unionist member for Guildford, rose to speak around 10 pm, towards the end of the dinner hour, he did so in a "half-empty and almost sleepy House" which was, according to another correspondent, "sailing as smoothly as a barque upon a summer sea".[164] However, "suddenly the even current of debate turned without a word of warning to a whirl of the fiercest excitement".[165] Brodrick attacked the notion that Ireland should have both a legislature for their domestic affairs and continued representation at Westminster so that representatives of Great Britain might be "outvoted by those gentlemen, who, simply because they represented an impecunious and garrulous race, were to be entitled to control the legislation and actions of Great Britain". This studiously offensive phraseology was met with cries of "Oh!" and "Withdraw", but Brodrick defended the phrase by referring to his own Irish ancestry and continued for some minutes uninterrupted until he made a direct reference to Sexton, to whom he then gave way. Sexton said: "I think the hon. member might, when he appeals to us, abstain from grossly impertinent language with regard to our country", a response which led to "uproarious cheers from the Irish benches".[166] Although Sexton was not called to order by the chair, Mellor conceded under prompting from Balfour and other Unionists that the phrase "grossly impertinent" was out of order if used of the

161 HC Deb, 11 July 1893, cols 1333–34.
162 *London Evening Standard*, p 4.
163 HC Deb, 11 July 1893, col 1336.
164 *London Evening Standard*, p 2; *Aberdeen Journal*, p 4; *Daily Telegraph*, p 4.
165 *Freeman's Journal*, p 5.
166 HC Deb, 11 July 1893, cols 1340–41; *Western Times*, p 4.

language of another member.[167] This position may have stemmed from advice by Milman because, according to a Nationalist account of the evening, Milman had "entered forthwith into earnest conversation with Mr Mellor, and seemed to be laying down the law to him with passionate emphasis".[168] After Sexton confirmed he had used the term in relation to Brodrick's language, and after Milman "eagerly earwigged the chairman", Mellor ruled that the phrase was out of order and ought to be withdrawn, while conceding that Brodrick's reference to a "garrulous and impecunious race" was "unfortunate". Sexton seized on this, making his own withdrawal contingent on Brodrick doing the same.[169]

Up to this point Mellor's approach had taken the form more of entreaty than a formal call to order, not least perhaps because, in the words of one correspondent, stronger language than Sexton's "is often used in the House of Commons without rebuke, especially from the benches where Mr Chamberlain's party sit".[170] However, the temperature in the chamber was rising rapidly: one correspondent wrote that "from one moment to another the heat began to boil and bubble with increasing intensity";[171] another recorded that the House was a scene of "wild tumult and indescribable passion".[172] In the face of such tumult, Mellor was described as being "in a state of hopeless collapse the moment Mr Sexton defied him".[173] The Unionists scented the chance to gain revenge on Sexton, "all crying together on the track like bloodhounds".[174] In Gladstone's absence, Morley sought to assume leadership, but his interventions were met with howls of outrage from the Unionists benches when he first sought to have Brodrick's remarks ruled out of order and then supported Sexton's call for Brodrick to apologise before Sexton withdrew his remark.[175] Mellor seemed to endorse this approach, and "the utter powerlessness of the chairman to control proceedings immediately became manifest".[176] As Leader of the Opposition, Balfour sought to fill the vacuum. His strategy throughout the session had been designed not to quell unrest but, in Lucy's words, to throw "oil on the embers of the fire".[177] This he did again, reinforcing the distinction between an orderly phrase that had no need of withdrawal and a disorderly phrase that had to be

167 HC Deb, 11 July 1893, cols 1341–42.
168 *Freeman's Journal*, p 5.
169 HC Deb, 11 July 1893, cols 1341–42; *Freeman's Journal*, p 5.
170 *Pall Mall Gazette*, p 1; *Nottingham Evening Post*, p 2.
171 *Daily Telegraph*, p 4.
172 *Edinburgh Evening News*, p 4.
173 *Manchester Courier and Lancashire General Advertiser*, p 5.
174 *Freeman's Journal*, p 5.
175 HC Deb, 11 July 1893, cols 1342–45; *Daily Telegraph*, p 4; *London Evening Standard*, p 2.
176 *Ibid.*
177 Lucy, *Home Rule*, p 33.

withdrawn unconditionally as the first step, while Mellor "sat helplessly looking on".[178] Then Mellor "delivered a mild ruling which amounted almost to an entreaty to Mr Sexton to withdraw".[179] Sexton's response was dignified, but explosive:

> "The offence against us has not been withdrawn, and the proposal now is that we, having been subjected to a wanton offence, are to humiliate ourselves. ['Oh, oh!'] With all respect for your high office, Sir, and with all duty to the committee, I must, in duty to myself, decline to do it. [Cries of 'Name!']"[180]

The interpolations in the formal record only hint at the reaction reported by others in the gallery: "The Tories shouted for the chairman to name Mr Sexton, and there was such an uproar that for two or three minutes the House seemed to resemble Donnybrook Fair, except that members were using their tongues instead of their shillelaghs".[181] A Liberal Unionist sought a compromise but, by this time, Healy had come into the chamber to aid his colleague, an arrival which "very quickly aggravated the fires of controversy and riotous dispute", especially when Healy and Saunderson exchanged remarks about the characteristics of the Irish nation.[182]

Gladstone had also now returned to the chamber and intervened. He relied on second-hand information for what had taken place and appealed to Brodrick to take the first step to extricate the House from its dilemma, while also making clear that Sexton should speak first "if the hon. member for Guildford is not worthy—[Cries of 'Oh!']—is not disposed to stand in that place of honour".[183] Hamilton later noted that "Mr G did not show his usual tact in procedural matters", and this "oblique attack" on Brodrick was hardly the basis for reconciliation.[184] One Unionist newspaper regretted Gladstone's "somewhat polemical tone";[185] another thought:

> "Mr Gladstone cut a very sorry figure in the proceedings. On him, beyond all other men, because of his position and unequalled experience, devolved the duty of protecting the chair. He could not very well throw Mr Mellor—his own nominee—over, but he damned him with as faint support as ever a chairman received from the Leader of the House."[186]

178 HC Deb, 11 July 1893, cols 1342–46; *London Evening Standard*, p 2. See also BL Add MS 48660, fos 126–27 for Harcourt's later verdict that "it was very bad conduct on the part of A.B.".
179 HC Deb, 11 July 1893, cols 1346–47; *London Evening Standard*, p 2.
180 HC Deb, 11 July 1893, col 1347.
181 *Bristol Mercury*, p 5.
182 *Daily Telegraph*, p 4; HC Deb, 11 July 1893, cols 1347–48.
183 HC Deb, 11 July 1893, col 1349.
184 BL Add MS 48660, fo 126; *Pall Mall Gazette*, p 1.
185 *Morning Post*, p 7.
186 *Pall Mall Gazette*, p 1.

Neither Sexton nor Brodrick rose, the latter sitting "as silent and unmovable as a Sphinx", Balfour explaining that Brodrick was following his advice in not rising.[187] Mellor then asked Sexton whether he would accede to Gladstone's appeal. Sexton made a long statement, criticising Brodrick for allowing Balfour to speak on his behalf, declining to withdraw the remark and submitting himself to the chairman's judgement "amid defiant cheers from the Nationalists".[188]

Following the reforms of the 1880s the chair had two relevant disciplinary powers. Under Standing Order No. 21 as introduced in 1882, a member could be named for "disregarding the authority of the chair" which, following agreement to the relevant motions, would lead to suspension for one week.[189] However, in 1888 the House had also introduced what became Standing Order No. 27, a summary power for the chair to order a member "whose conduct is grossly disorderly" to withdraw for the remainder of the sitting day without a motion being required.[190] While Sexton was speaking, Milman had been looking through the standing orders, and he placed a copy before the chairman or, as a Nationalist account would have it, "busily interposed".[191] Mellor then stood and ordered Sexton's withdrawal. Sexton said he was unaware of the standing order, at which point Mellor asked Milman to read out the first part of Standing Order No. 27.[192] The decision to order withdrawal for the day rather than name Sexton "fell like a thunderclap on the assembly" and "took everybody by surprise", all members having expected Sexton to be named, and "this action added to the fury and violence of the storm".[193] Mellor, "who was hardly heard above the confusion", tried to shut down argument by claiming that he had no power other than to put Standing Order No. 27 in force, but Sexton stood again and rightly pointed out that Mellor had two choices: to name him, which "would be the more expedient course", or to order his withdrawal, a course, Sexton alleged, "never taken before". Sexton contended that his behaviour had not been "grossly disorderly" and asked that he be named and made subject to the judgment of the House, a plea met with "loud Irish and ministerial cheers".[194] According to one account, "the Nationalists wanted Mr Sexton to be named in

187 *Gloucester Citizen*, p 3; *Northern Echo*, p 3; HC Deb, 11 July 1893, cols 1349–50.

188 HC Deb, 11 July 1893, col 1350; *Northern Echo*, p 3.

189 "Procedural response", p 36; Sir Reginald Palgrave, ed, *Rules, Orders and Forms of Procedure relating to Public Business* (10th edition, 1893), pp 25–27. Suspension was for one week on the first occasion a member was named in a session.

190 Palgrave, R*ules, Order and Forms of Procedure*, pp 27–28; "Procedural response", pp 36–37.

191 *Gloucester Citizen*, p 3; *Freeman's Journal*, p 5.

192 HC Deb, 11 July 1893, col 1351.

193 *Bristol Mercury*, p 5; *London Evening Standard*, p 2; *Dundee Advertiser*, p 5.

194 HC Deb, 11 July 1893, cols 1351–52; *Dundee Courier*, p 3.

order to see whether the majority of the House would support that course".[195] The question of whether the chair's authority would be upheld on division may have been one consideration in the decision not to name Sexton, but a more likely consideration was the delay to business with two possible divisions (one in committee and one in the House after the Speaker had returned) on the motions to give effect to the suspension.

On five successive occasions Mellor called on Sexton to withdraw from the chamber, and on five occasions Sexton declined.[196] During this time "about a hundred members were ejaculating at the tops of their voices" and "the noise and hubbub became almost indescribable". Mellor's voice could just be heard "at every lull in the hurricane of sound".[197] Some accounts imply that Mellor was in need of advice at this stand-off with Sexton—"in hopeless confusion" and "absolutely helpless amidst the seething tumult which raged in the House".[198] Milman then offered advice or, in the words of the *Freeman's Journal*, "Pale as death, and in a condition of venomous excitement, the chief clerk buzzed his counsel in to the chairman's ear".[199] The first to spot Milman's action was Healy, like Sexton a keen observer of Milman's behaviour at the table since the 1880s, who noticed the exchange between Mellor and Milman.[200] Healy jumped up and began "shouting wildly", claiming that the standing order had never been used before and that "it is all through Milman. It is Milman! Who is chairman? Milman! Milman!"[201] In the later recollection of Healy's colleague T P O'Connor, Healy "in a fit of excitement denounced him [Milman] by name. To name a clerk in the House of Commons is like breaking the seal of the confessional; there was a shudder all through the House".[202]

Then, "at the mention of Mr Milman's name, the Nationalists, in angry chorus, shouted 'Milman, Milman'."[203] While the chant continued, "several opprobrious epithets were used towards him [Milman] by excited Parnellites and anti-Parnellites, who seemed to make common cause on this occasion". John Swift MacNeill, who was sitting next to Sexton, shook his fist and shouted that he would drag Milman from his chair, a cry later taken up by others.[204] According to one account:

195 *Dundee Advertiser*, p 5.
196 HC Deb, 11 July 1893, cols 1351–52.
197 *Gloucester Citizen*, p 3; *Manchester Guardian*, p 6.
198 *Manchester Courier and Lancashire General Advertiser*, p 6; *Dundee Advertiser*, p 5.
199 *Freeman's Journal*, p 5.
200 *Morning Post*, p 7; "Procedural response", pp 43–44.
201 *Morning Post*, p 7; *Dundee Courier*, p 3.
202 *The Sunday Times*, 23 September 1928, p 15.
203 *Morning Post*, p 7; *Dundee Courier*, p 3.
204 *Daily Telegraph*, p 4; HC Deb, 11 July 1893, col 1357.

> "This scandalous scene having reached to a height of positive fury, the next few minutes of heat and passion were such as no man can recall. Even the suspension of the Irish members in a batch was child's-play by comparison, and the noisy incidents of the last few months were left far behind."[205]

Another observer wrote that "the language screamed at the Chairman of Committees, and the more abominable because more cowardly, insults shrieked at Mr Milman … make the Commons resemble a large cage of excited and demented cockatoos".[206] Eventually, after standing at the despatch box for some time, Balfour managed to make himself heard and called for the authority of the chair to be respected.[207] At this time, "Mr Milman was pointing with a quill pen at a passage in the copy of the standing orders which lay in front of Mr Mellor" and "a scene of utter and indescribable confusion followed".[208] According to one newspaper, "the full vent of Irish passion was directed with renewed vigour" against Milman.[209] Healy led the charge, pointing to Milman and saying: "the clerk is in the chair, not the chairman; Milman: he is the boss; leave the chairman alone; leave the chairman alone!"[210] The chants of Milman's name resumed, intermingled with a "stentorian cry" from Sexton: "Am I to be made the victim of the malicious intrusion of the clerk at the table?"[211]

At this remark "the Nationalists cheered uproariously" and in the midst of the cheers Healy "excitedly" added "Let Milman take the chair. Who's chairman? He is always governing. Milman is always at it."[212] Then "great disorder followed" and Lord Randolph Churchill attacked the Prime Minister for not defending the authority of the chair.[213] Mellor began again to read from the standing order, this time from the proviso, to which Milman had presumably pointed, which set out that a member refusing to withdraw could be named.[214] Perhaps unaware that he was preventing the course of naming which he had earlier desired, Sexton interrupted Mellor:

> "I am not suspended yet. Am I to swallow an insult to my countrymen at

205 *Daily Telegraph*, p 4. On the suspension in a batch, see "Procedural response", p 39 and sources cited there.

206 *Sheffield Daily Telegraph*, 13 July, p 4.

207 HC Deb, 11 July 1893, cols 1352–53; *Daily Telegraph*, p 4.

208 *Dundee Courier*, p 3; *Western Mail*, p 5.

209 *Daily Telegraph*, p 4.

210 HC Deb, 11 July 1893, col 1353; *Daily Telegraph*, p 4; *Manchester Guardian*, p 6. The quotation is a composite from these sources.

211 HC Deb, 11 July 1893, col 1353; *Glasgow Herald*, p 7.

212 *Glasgow Herald*, p 7; HC Deb, 11 July 1893, col 1353; *Manchester Guardian*, p 6. The quotation is a composite from the last two sources. The first sentence is attributed to another member in some sources: *Dundee Courier*, p 3.

213 HC Deb, 11 July 1893, col 1353; *Manchester Guardian*, p 6.

214 HC Deb, 11 July 1893, col 1353; Palgrave, *Rules, Order and Forms of Procedure*, p 28.

> the dictation of an English clerk? [Renewed Nationalist cheers, and cries of 'Order!']"[215]

By this time "the Tories were growing furious" and calls for Gladstone to act grew. He had "looked on the tumultuous scene deeply moved, but evidently doubtful what he should do". Pressed by Churchill and others, Gladstone "at last rose, pale and saddened, and made one more effort to put an end to this most extraordinary scene".[216] He began by recollecting his earlier plea, lamented the stance adopted by Balfour on Brodrick's remarks and then, heckled by Churchill and others, called for Sexton to obey the order of the chair.[217] Sexton rose amid cheers and agreed to withdraw from the House "in deference to the Prime Minister". As he left, "the Irish members rose in their seats, cheered him as if he had gained a great victory and triumphantly waved their hats". Some, but not all, Liberals joined in the acclamation.[218] Sexton was joined by some of his supporters to be acclaimed in the Lobby, and then received further expressions of sympathy from Irish and Radical colleagues in the Smoking Room, before the Serjeant at Arms clarified that his withdrawal applied to the entire precincts and asked him to leave.[219]

"The wish will not be gratified": the aftermath

Much discussion in the aftermath of the incident centred on Mellor's performance in the chair. Sexton almost immediately tabled a motion of censure of his conduct, although there was no expectation that it would be debated. One newspaper thought that the attacks on Milman showed "how weak the chairman is, when his assistants are called upon to be responsible for his actions".[220] It was said that some of Gladstone's supporters shared the dismay at Mellor's performance; talk of his removal, by appointing him as a judge or even a colonial governor, was revived.[221] Harcourt said to Hamilton privately that Mellor was "becoming more and more impossible every day", although Hamilton had heard such comments previously and was not inclined to take them too seriously.[222] The Unionist press were now ambiguous in their attitudes to Mellor: they were reluctant to see him "bullied out of his place" at

215 HC Deb, 11 July 1893, col 1353.

216 *Dundee Advertiser*, p 5.

217 HC Deb, 11 July 1893, cols 1353–54.

218 *Ibid*., col 1354; *Dundee Courier*, p 3; *Pall Mall Gazette*, p 1; *Daily Telegraph*, p 4; *Freeman's Journal,* p 5; *London Evening Standard*, p 2.

219 *Daily Telegraph*, p 4; *Pall Mall Gazette*, p 1; *The Times*, 14 July 1893, p 4.

220 *St James's Gazette*, 13 July, p 3.

221 *London Evening Standard*, 13 July, p 5; *Western Mail*, 13 July, p 4; *Aberdeen Journal*, 13 July, p 5.

222 BL Add MS 48660, fo 127.

the behest of Nationalists and Radicals, but they expressed dismay that Mellor had not defended Milman.[223]

The main target of Unionist ire in the wake of the events of 11 July was Gladstone. Egged on by Morley, he was thought to have "behaved wretchedly" in scolding the Tories while grovelling to Sexton.[224] He was also criticised for not saying a word in defence of Milman.[225] *The Times* remarked that "it is to be deplored that the Prime Minister made no attempt to sustain the authority of the chairman—his own chairman—and of the rules of the House, or to protect the permanent officials of Parliament, who have to sit dumb when they are rudely assailed, against violent and unmannerly attacks".[226] One Tory MP wrote that "Mr Gladstone and Mr Morley have done more by their action last night to discredit the office of the Chairman of Committees than the most unruly of the Irish members in their worst days".[227]

Many newspapers sought to explain to their readers the role of the clerks at the table, and emphasised that Milman had been discharging his duty in advising the chair. The attacks on him were characterised as "disgraceful", "cowardly" and "ignoble". Milman was described as "one of the most polished, well-read and courteous men employed at St Stephen's" and it was reported that "his courteous manners and unfailing good temper have made him a general favourite with the great bulk of members on both sides of the House".[228] Sexton had claimed at the time of his suspension, and many newspapers had reported the next day, that this was the first use of Standing Order No. 27. It was quietly made known to *The Times* that this claim was incorrect. There was a precedent for its use—on 1 December 1888—recorded in the proofs of the forthcoming edition of Erskine May's *Treatise*.[229] It was acknowledged that Milman's private Unionist sympathies were widely known, but claimed that his impartiality was beyond question. It was, nevertheless, admitted that "there was something of rough brusque truth in Mr Healy's suggestion that Mr Milman is boss of the House".[230] Initially, at least, it was thought that Balfour and leading Unionists would seek to raise the attacks on Milman on the floor of the House,[231] but they

223 *Western Mail*, 13 July, p 4; *Glasgow Herald*, 13 July, p 7.
224 *Western Mail*, 13 July, p 4.
225 *Glasgow Herald*, 13 July, p 7.
226 *The Times*, 13 July, p 9.
227 *Ibid.*, 14 July, p 4.
228 *Morning Post*, 13 July, p 5; *Manchester Courier and Lancashire General Advertiser*, 13 July, p 5; *Western Mail*, 13 July, p 4; *Yorkshire Post*, 13 July, p 4.
229 *The Times*, 14 July, p 5; HC Deb, 1 December 1888, cols 732–34.
230 *Western Mail*, 13 July, p 4; *Morning Post*, 13 July, p 4; *Glasgow Herald*, 13 July, p 7; *Yorkshire Post*, 13 July, p 4; *Aberdeen Journal*, 13 July, p 4.
231 *London Evening Standard*, 13 July, p 5; *Birmingham Daily Post*, 13 July, p 4.

opted not to do so, in part because they felt any support for him would also entail strengthening Mellor's position as chairman.[232]

The Nationalists were determined to pursue their case against both Mellor and Milman. On the night of the suspension Healy raised with the Speaker his concern that Standing Order No. 27 had been invoked, rather than Standing Order No. 21. The Speaker defended the chairman's position, pointing out that the path taken involved a "lesser degree of punishment".[233] At the start of the next sitting day Sexton raised a point of order claiming that Mellor had used the wrong standing order, because his conduct had not been grossly disorderly.[234] On the same day Swift MacNeill, who had called for Milman to be dragged from his chair, tabled a motion for debate on Supply to remove provision for Milman's salary.[235] On 17 July Healy asked a question about the powers of patronage of the clerks at the table. Sexton asked whether their duties were defined in statute and then gave notice that he would "move for the appointment of a select committee to inquire into the powers and duties of the clerk at the table with a view to their precise definition".[236] Newspapers had no doubt that this was targeted specifically at Milman and that the various notices of motion were designed to force Milman's resignation.[237] However, newspapers were informed that "The wish will not be gratified. Mr Milman has been assured that he possesses the confidence of the Speaker, the Chairman of Committees and the majority of the House, so there is no reason he should resign."[238]

When the Estimates containing Milman's salary came to be debated on 5 September, Sexton began in a more conciliatory tone. After restating his desire to press for the establishment of a select committee on the work of the clerks, he said that "it would be ridiculous to attack the officers of the House of Commons, whose duties were onerous, delicate, and exacting". Nevertheless, he wished to ask a question which arose from "the personal experience he recently had in the House". That question was:

> "Whether the ... Clerk Assistant ... had any duty cast upon him, or whether he had any right, when the Chairman of Ways and Means was in the chair, to volunteer advice when the question of the punitive treatment of a member was under consideration? Was the clerk under such circumstances entitled to interfere, and suggest and press a course upon the chairman, or was he, as in

232 *Ibid.*, 13 July, p 4.
233 HC Deb, 11 July 1893, cols 1370–72.
234 HC Deb, 12 July 1893, cols 1373–74.
235 *St James's Gazette*, 13 July, p 3.
236 HC Deb, 17 July 1893, col 1703.
237 *York Herald*, 13 July, p 4; *Pall Mall Gazette*, 21 July, p 3.
238 *York Herald*, 13 July, p 4.

the case of the Speaker, only to give advice when he was asked for it?"[239]
Others made more sympathetic contributions. Unionists focused their attention on the excessive generosity of the salaries of Lords officials, Hanbury pointing out that the Clerk Assistant in the House of Lords was paid more than the holder of the same post in the Commons, who faced more onerous duties (and who happened to be his brother-in-law).[240] Harcourt suggested that any attempt to reduce salaries "would be extremely distasteful to all sides of the House, who have so much reason to be grateful to the clerks at the table for their services and the kindness they exhibit towards us, and especially in a session where there has been a special strain put upon them".[241]

Conclusions

The "special strain" in session 1893–94 was far from over on 11 July. The events of that day might have stood out in another session but were eclipsed in the wider political arena by what Gladstone termed "the sad scene never to be forgotten" on 27 July.[242] As the final knife of the committee stage of the Home Rule bill was about to fall, Chamberlain made a speech which eclipsed even his own previous efforts in its provocative force. Helbert recalled that he "was half grinning the whole time".[243] His final words before the clock struck ten dwelt upon the willingness of Gladstonian Liberals to support Gladstone's abrupt changes of stance over Irish representation at Westminster:

> "The Prime Minister calls 'black,' and they say, 'it is good': the Prime Minister calls 'white,' and they say 'it is better'. It is always the voice of a god. Never since the time of Herod has there been such slavish adulation."[244]

These last words were drowned out in howls of derision,[245] through which T P O'Connor could be heard to call Chamberlain "Judas". Mellor was torn between his duty to put the question and the calls for disciplinary action against O'Connor led by Hanbury, and in the divisions that followed a full-scale fight broke out in the chamber. According to Lucy:

> "In the gangway a tumultuous mass of men clutched at each other's throats. In the vortex of the maelstrom Mr Tim Healy was seen struggling. Colonel Saunderson, his coat half torn off his back, struck out right and left".[246]

239 HC Deb, 5 September 1893, cols 183–84.
240 *Ibid.*, col 165.
241 *Ibid.*, col 181.
242 GD, xiii.271.
243 *Helbert*, p 46.
244 HC Deb, 27 July 1893, col 724.
245 Lucy, *Home Rule*, p 198, has the equally provocative formulation: "Never since the time of Herod have there been such slaves to a dictator".
246 Lucy, *Home Rule*, p 201.

Milman later attributed the "first act of personal violence ... on the sad 27th of July" to the proximity of those seeking to vote to the opposing front benches, so that "two hostile files often encounter in the narrow strait and go hustling by, tripping over the feet of the leaders with whom they are politically at variance".[247] The uproar and skirmishing continued for 20 minutes until the Speaker arrived.[248] Helbert thought that:

> "If the fight had gone on for another five minutes the gallery would have been at it too. The feeling, as one watched it all, was *sickening*: a sort of nausea came over all of us in the side gallery, and yet there were several MPs on the floor of the House laughing."[249]

With the committee stage finally complete, most of a stiflingly hot August was spent over report stage.[250] It took place amid a mood of anti-climax, with the sense of possible defeat in the Commons now passed and certainty from the outset that a guillotine would be imposed. On 17 August the Cabinet considered "Mr Milman's plan" in connection with the guillotine motion.[251] This may have been an attempt to revive his earlier proposals for time limits or selection or grouping of amendments, or it may simply have been concerned with how to adapt the motion to the need for government amendments to be incorporated. On 1 September the curtain fell on the last act of the Home Rule bill in the Commons, with a majority of 34 compared with one of 42 on second reading. It took the House of Lords less than a week to reach its own decision on the bill, rejecting it by a majority of more than 10 to 1—by 419 votes to 41.[252] Gladstone's idea of dissolution over the powers of the House of Lords did not command the support of his Cabinet colleagues, and by the spring of 1894 he had retired. Milman later wrote that the Lords' rejection of the bill took place "with the apparent acquiescence of the country".[253]

The House of Commons finally rose for the "summer recess" on 22 September, having sat continuously since January with one week of recess for Easter and another week for Whitsun, resuming again in November and sitting each week (including the weeks either side of Christmas Day) until mid-January. The strain would have been enormous had table duty been distributed evenly between the three table clerks, but the burden fell principally on Milman. The Clerk of the House was never present for the committee of the whole House

247 "Peril of Parliament", p 271.
248 Lucy, *Home Rule*, p 202.
249 *Helbert*, p 47.
250 On the heat, see GD, xiii.280, 281.
251 GD, xiii.280.
252 Bahlmann, ed, p 211.
253 *Encyclopædia Britannica*, p 482.

(including the committee stage of the Home Rule bill and the vast majority of Supply proceedings) and Milman seems to have prided himself on almost continuous attendance in committee of the whole House, rather than allowing much of the burden to fall on the Second Clerk Assistant, as happened when he held that post.[254] Even during the report stage Milman seems to have taken the lead at the table, judging by one newspaper report in mid-August that "for the sixty-ninth time Mr Milman's shrill piercing voice ran out 'Government of Ireland Bill'."[255] The next day the Speaker returned early from a meal break and Milman "had not finished his chop", so that "there was no one to turn up the sandglass" when a count of the House was called. Milman came in a couple of minutes later "puffing and blowing" and "did not recover his equanimity for the rest of the sitting".[256] Milman's near monopoly at the table for such extended sittings made him more recognisable. It also made it more likely that criticisms of clerkly advice would be personalised.

Although it was claimed that his advice was always impartial, it was perhaps understandable that this claim was doubted by Irish members when he seems to have been less than discreet in making evident his opinions on the case for Home Rule in Ireland. Even so, his advice would have mattered less had it been tendered to an authoritative and experienced occupant of the chair, as was the case with successive Speakers and with Courtney as Chairman of Committees. The problems became acute for Milman because his advice was given to an occupant of the chair who was softly spoken, inexperienced and loath to enforce disciplinary powers. Even this might not have had the consequences it did were it not for the unprecedented heat of political dispute in 1893, the accumulated effects of sustained obstruction by the opposition and the sense of inconsistency in approach to Home Rule and then to Unionist obstruction.

Even taking all these aggravating factors together, the virulence of the personal attacks on Milman on 11 July 1893 were extraordinary, without compare before and probably since. No record of Milman's personal reactions at the time can be traced. A sympathetic account of the incident on 11 July some years later claimed that, while Mellor "looked the picture of misery", Milman, "whose tongue was tied, watched the tumult with composure".[257] T P O'Connor, writing in 1928, thought that Milman had "looked very uncomfortable, though

254 "Procedural response", p 44. See Milman's response in Report from the Select Committee on Estimates Procedure (Grants of Supply), HC (1888) 281, Q 431: "*Chairman*: You are generally in attendance when the House is in Committee of Supply, are you not? — Always; I am Committee Clerk."

255 *Northern Echo*, 16 August, p 3.

256 *Ibid.*, 17 August, p 3.

257 *The Sphere*, 3 March 1900, p 200. I am indebted to Sir William McKay for a copy of this article.

composed".[258] In 1921 he had referred to Milman's "twitching face" during the exchanges.[259]

Relations between Milman and Irish Nationalists mellowed after 1893, perhaps in part because the Home Rule issue receded from the political foreground. Tim Healy, in his memoirs written as Governor-General of the Irish Free State, averred that Milman "had a greater grasp of parliamentary practice" than Erskine May.[260] Healy also recalled his own role in the contest over whether Milman would succeed Palgrave as Clerk of the House in 1900. Healy felt that Milman had "softened so much" that Healy was delighted to offer support for Milman's candidature when it was asked for, and recalled Milman's words to a colleague that "I knew I was safe when dear Tim took my side".[261]

O'Connor's reflections on Milman in the 1920s also hint at admiration, but identified what he saw as Milman's abiding weakness. His reflections in 1921 were on the occasion of the retirement as Clerk of the House of Milman's successor, Sir Courtney Ilbert. He contrasted Milman's table manners with Ilbert's. Of Milman he wrote:

> "I believe that it and some other scenes not unlike it were due to some want of tact on the part of the clerk. Sir Archibald was a very agreeable and a very impartial man; but he had a certain restlessness that seemed to suggest that he was anxious almost to intrude his counsel."

In contrast, Ilbert "sat in his chair, smiling, interested, benign, almost as imperturbable as though he were an idol—except that the expression, though tranquil, was always sweet and always keenly vigilant." O'Connor thought that it would have "almost been an outrage to mention" Ilbert.[262]

Milman's "restlessness" may partly have stemmed from political opinions which now seem wholly inappropriate in a clerk. But it also flowed in part from his commitment to reform and procedural improvement, seen in his stream of memoranda and his proposals to ensure more orderly and better ordered debate even on the 1893 Home Rule bill. In 1912, a decade after his death, Healy acknowledged that Milman "did a great deal for the regularity of our procedure".[263] His proposals on legislative procedure foreshadowed the development of grouping and selection of amendments, time limits on speeches and programming of bills. The events of 1893 may also have been instrumental

258 *The Sunday Times*, 23 September 1928, p 15.
259 *Daily Telegraph*, 16 March 1921, p 6.
260 T Healy, *Letters and Leaders of My Day*, I.214.
261 *Ibid.*
262 *Daily Telegraph*, 16 March 1921, p 6.
263 HC Deb, 15 July 1912, col 124.

in the development of a new disciplinary power for the chair. Late in 1901 he was involved in discussions which led to introduction of the power for the Speaker to suspend or adjourn the House without question put in the event of "grave disorder". Balfour, when he first proposed the change to Cabinet colleagues late in 1901, said that it had two purposes: to protect the Speaker in the event that he was not assured of a majority to give effect to a naming; and for cases where "the House got out of hand".[264] When the proposal was considered by the House, protestations that the power was not needed and would never be used were mixed with acknowledgement that it would have made a difference in 1893.[265] Grave disorder was to arise again in the House in the 20th century,[266] but the chair had an important safety valve available which had been absent when Archibald Milman faced his greatest ordeal on 11 July 1893.

[264] PCJ, Reform of Parliamentary Procedure, 1902, No. 37, Sittings of the House, &c, 18 December 1901, p 12.

[265] HC Deb, 12 February 1902, col 232; HC Deb, 1 December 1902, col 858.

[266] *Erskine May's Parliamentary Practice* (23rd edition, London, 2004), p 306, note 1.

A COMPANION TO THE HISTORY, RULES AND PRACTICES OF THE LEGISLATIVE COUNCIL OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

SIR MALCOLM JACK
Clerk and Chief Executive of the UK House of Commons, 2006–11

Introduction

In November 2012 the Hong Kong Legislative Council Commission decided to produce a manual to provide not only details of the Council's rules and practices but also the historical development of its organisation and procedures. A team under the leadership of Ms Pauline Ng, Secretary General from 2008–12, was appointed to undertake the task.

The manual, renamed *A Companion to the history, rules and practices of the Legislative Council of the Hong Kong Special Administrative Region*, is in three parts; in summer 2016 the third and final part will be published.

The legislature of Hong Kong exercises its powers and functions under a unique procedural system, in accordance with the Basic Law of the Hong Kong Special Administrative Region. The system was developed from the rules and practices of the pre-1997 legislature of Hong Kong (which can be traced back to 1843 when the first Executive and Legislative Councils were established). It has been modified to comply with the requirements of the Basic Law and to enable the legislature to conduct its business smoothly and effectively.

The completion of the LEGCO *Companion*, after more than three years of intensive work, is a major achievement. It puts the Legislative Council on a comparable footing to many overseas jurisdictions in having an exposition of its own procedure and practices, and how they have evolved, in a single, authoritative commentary.

Format and content

The general format and purpose of the *Companion* are set out in the preface, with an explanation of its compilation. In Part 1 there is a logical progression through the chapters from the history of the organisation and its predecessors to the arrangement of business and rules of order, the role of members, the administrative structures, relations with the Chief Executive and the committee system. The principles behind these arrangements are set out against the background of the general framework of the Basic Law and the common law tradition of Hong Kong.

Part 2 provides further detail on the workings of the institution and its

committees, as well as the inevitably complex arrangements for financial business. The information in this section is supported by rulings from the President and chairpersons of committees, as well as precedents in the handling of business and, where appropriate, references to practices in overseas jurisdictions.

Finally, a third part deals with public participation and outreach, which are regarded as highly important activities in all modern legislatures. The system for redress of grievances is set out and the steps taken to engage the public with the work of LEGCO. The important work of establishing an archive is described and explained.

A clear and direct language, free of jargon, is used throughout the text. This is important for clarity and transparency, making the account readable for experts and the general public alike.

Various annexes and appendices provide useful organisational charts and organograms on the workings of the Council and its committees, as well as details of the administrative structure, staffing etc.

Conclusion

During the preparation of the *Companion* various experts were consulted and I was asked to review the entire work as it emerged. As an editor of Erskine May's *Parliamentary Practice* I was well aware of how much work, effort and consultation goes into producing an edition of this nature, with its accurate references to the Basic Law, the Ordinances, the Rules of Procedure, House Rules as well as the precedents and practices that guide day-to-day business. The *Companion* now stands as a comprehensive and authoritative guide to LEGCO which will serve specialists, the general public and honourable members in Hong Kong for generations to come. It will also be an important source for anyone outside the Hong Kong Special Administrative Region who is interested in learning about the legislature's history, procedure and practices.

THE SECONDARY LEGISLATION SCRUTINY COMMITTEE OF THE HOUSE OF LORDS: REFLECTIONS 12 YEARS AFTER ITS ESTABLISHMENT

PAUL BRISTOW
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Introduction

In January 2000 the Royal Commission on the Reform of the House of Lords[1] said that there was a good case for enhanced parliamentary scrutiny of secondary legislation. It recommended establishing a "sifting" mechanism to identify those statutory instruments (SIs) which merited further debate or consideration. The Merits of Statutory Instruments Committee ("the Merits Committee") was set up on 17 December 2003. At the start of the 2012–13 session the Merits Committee was renamed the Secondary Legislation Scrutiny Committee ("the SLSC") to reflect the widening of its responsibilities to include the scrutiny of draft orders laid under the Public Bodies Act 2011.

This article provides an overview of the committee's work over the 12 years, spanning 11 parliamentary sessions,[2] since it was established. Its activity, which has included a number of inquiries into generic aspects of secondary legislation, is firmly rooted in the scrutiny of individual SIs which are subject to parliamentary procedure. From its foundation until the end of the 2014–15 session the committee considered 11,603 SIs; using its power to report, it brought 718 of these SIs to the special attention of the House. It has published a report on its work at the end of each session: taken in their entirety, these reports comprise a unique longitudinal study of the secondary legislation presented to Parliament since the end of 2003.

The strongest theme to emerge from the committee's scrutiny of secondary legislation is the expectation that government departments should offer a well-considered and easily understandable explanation of the justification for an SI, and of its likely impact, at the time that they lay the SI before Parliament. The key vehicle for this is the explanatory memorandum (EM) which accompanies an SI. Before 2003 departments provided EMs only in support of SIs subject to the affirmative resolution procedure—that is, about 20% of all SIs laid before Parliament. As was noted in the 25th report of session 2003–04,[3] the

[1] *A House for the Future*, January 2000, Cm 4534.
[2] The 2010–12 parliamentary session ran from May 2010 to April 2012.
[3] HL Paper 206.

Government agreed in 2004 to the committee's request that EMs should be laid alongside all SIs, including those subject to negative resolution, a development described at the time by the House of Commons Clerk of Delegated Legislation as a "wonderful thing".[4]

The committee has maintained pressure on government departments to ensure that EMs are properly informative: it has not held back from criticising EMs that have fallen well short of this requirement. Despite such pressure, its continuing concern about the poor quality of EMs prompted it in 2014 to request an extension of its power to report SIs to include the ground that the explanatory material in support of an SI provided "insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation". The requested extension was agreed by the House. As is explained later in this article, the committee used that ground to draw nine SIs to the attention of the House, or one in 10 of the SIs reported in the 2014–15 session.

The committee from 2003 to 2005

Under its first chairman, Lord Hunt of Kings Heath, the committee went from being an institutional innovation, via an inquiry into its future working methods, to operating as an important source of advice to the House on the unceasing flow of SIs from Government to Parliament.

At its establishment it was given the power to report SIs to the House (or, more exactly, to draw SIs to the special attention of the House) on four grounds:

- that an SI was politically or legally important, or gave rise to issues of public policy likely to be of interest to the House;
- that an SI was inappropriate in view of changed circumstances since the passage of the parent Act;
- that it inappropriately implemented EU legislation;
- that it imperfectly achieved its policy objectives.

As the committee pointed out in its first end-of-session report,[5] the second, third and fourth of these grounds required it to find that an SI had, or appeared to have, some element of deficiency; and, while the first ground could be seen to suggest that an SI was wholly acceptable in policy terms, the committee considered that its use should be triggered where there was also an element of controversy or contention. In line with this approach, of the 30 SIs formally reported in that session, 25 had been reported using the first ground and only five using the third or fourth ground (none using the second ground). This

[4] Oral evidence to the Select Committee on Modernisation of the House of Commons, 15 September 2004, HC 565–v, Q221.

[5] 25th report, session 2003–04, HL Paper 206.

approach has been maintained by the committee in subsequent years, with the large majority of SIs reported for reasons of public policy interest.

Several of the committee's abiding concerns were mentioned in this first end-of-session report. The need for EMs to be accurate and complete in the information provided was stressed; the committee put particular emphasis on the need for EMs to provide full information about consultation responses. The Government were invited to consider how to reduce the number of SIs introduced to correct mistakes in earlier instruments, given the frequency with which correcting SIs had been laid. Noting the marked peaks and troughs in the laying of SIs through the year, the committee also invited the Government to consider what steps could be taken to ensure a more even flow of instruments. All these issues were to be explored more fully in later work by the committee.

The first end-of-session report also contained several other, higher-level pointers to the future which have enjoyed varying follow-up. On the one hand, the committee noted a recent recommendation by a Leader's Group[6] that delegated legislation might be considered off the floor of the chamber; it welcomed the prospect of greater debate of such legislation. Consideration of SIs in Grand Committee has subsequently become well-established.

On the other, picking up a suggestion in the 2000 Royal Commission report, the committee noted that its terms of reference might be extended so that, if it found that affirmative SIs were of minimal interest, they might be approved without debate. The committee indicated that it was open to such an extension; in the event, it was not the will of the House to agree this. The committee also noted that, in considering wider reforms, the House might wish to pursue another suggestion by the Royal Commission: that the House's "nominal" power to reject SIs absolutely should be replaced with a statutory power to delay. This change has also not been progressed.

The committee from 2005 to 2010

After the 2005 general election Lord Filkin took over as chairman until the end of the 2008–09 session. He was succeeded by Lord Rosser, who was chairman for the final session (2009–10) of that Parliament. The committee maintained its scrutiny of SIs but widened its activity by undertaking several inquiries.

Inquiry into management of secondary legislation

The first inquiry looked at the management of secondary legislation; the committee reported in 2006.[7] The committee noted that over the previous two

[6] Leader's Group, *Review of Working Practices* (session 2003–04, HL Paper 162).
[7] 29th report, 2005–06, HL Paper 149.

years it had scrutinised over 2,000 SIs; although it had reported only about 8% of them to the House, many more had revealed shortcomings in the process of preparing and laying before Parliament or in the quality of the end-product. Its recommendations to the Government included: appointing a senior official in each department with responsibility for the efficiency and effectiveness of the process of preparing SIs and laying them before Parliament; each department preparing an annual plan covering all its projected secondary legislation; and introducing a central mechanism in Whitehall for assessing whether the total programme of SIs could result in congestion at the stage of parliamentary scrutiny and for taking action to smooth the flow of secondary legislation.

The Government in their response to the committee[8] agreed that there was scope for departments to improve their management of secondary legislation, and tied greater responsibility for the quality of secondary legislation to departmental implementation of the Government's Better Regulation agenda. However, the Government resisted the call for a central Whitehall mechanism: given that timetables for secondary legislation often needed to be changed they did not think that departments could produce effective detailed management plans for all projected secondary legislation.

In 2007–08 the committee took further evidence from ministers to follow up its report on the management of secondary legislation, publishing its findings in its 13th report of that session.[9] It welcomed the undertaking by several departments to produce plans for secondary legislation resulting from new primary legislation, and urged all departments to do likewise. At the same time it stressed that departments still needed to improve their handing of SIs; it pointed to recent debates which had shown the House's objection to poorly prepared secondary legislation—notably its rejection of the draft Gambling (Geographical Distribution of Casino Premises Licences) Order 2007[10] which (among other things) would have allowed a regional casino (or "super-casino") to be established in Manchester. The committee saw the House's willingness to challenge bad policy as a necessary incentive to improve government practice.

Inquiry into cumulative impact of SIs on schools

In 2008 and 2009 the committee carried out an inquiry into the cumulative impact of regulation in one part of the public sector, namely schools. It

8 49th report, 2005–06, HL Paper 275.

9 HL Paper 70.

10 The committee drew the draft order to the special attention of the House on the grounds that it gave rise to issues of public policy interest and that it might imperfectly achieve its policy objectives (13th report, 2006–07, HL Paper 67, published on 20 March 2007). The debate on the draft order was on 28 March 2007.

published its findings in its 9th report of 2008–09.[11] The committee noted that in session 2006–07 schools were the subject of around 100 SIs made by the Department for Children, Schools and Families, which had major implications for the whole range of schools' activities. Around one-fifth of those SIs came into force at the start of the school year, but the rest took effect on a wide range of dates throughout the remainder of the school year. The committee made several recommendations for how the department could better handle the effect of secondary legislation on schools. These included adopting 1 September as the commencement date for all schools-related SIs (except in very exceptional circumstances); and giving schools at least one full term's lead-in time between the notification of a new requirement in a statutory instrument and the commencement of that requirement.

The Government in their response[12] accepted the spirit of the recommendations, with limited exceptions. After the 2010 general election, when the department was re-formed as the Department for Education, the commitments given in the response to the committee's inquiry were upheld: the department has continued to accept the default position of allowing one term's lead-in time for substantive new requirements.

Inquiry into post-implementation review

In 2009 the committee conducted an inquiry to assess the extent to which government departments checked whether secondary legislation was working as originally intended. It published its report *What happened next? A study of Post-Implementation Reviews of secondary legislation* in November 2009.[13]

The committee had noted that a significant number of SIs were being laid to amend existing secondary legislation without any apparent evaluation of whether the earlier legislation was working as intended. A survey of the most significant SIs from 2005, carried out for the committee by the National Audit Office, found that 46% of them had not been subject to any evaluation after four years. Drawing on more detailed case-studies, the committee concluded that proper evaluation of an SI was impossible if departments failed to give a clear statement of the policy objective, and to provide baseline data, when laying the SI before Parliament. The committee made a number of recommendations to the Government for improving and extending post-implementation review of SIs; most of these were accepted in the Government response in January 2010.[14]

11 HL Paper 45.
12 18th report, 2008–09, HL Paper 100.
13 30th report, 2008–09, HL Paper 180.
14 8th report, 2009–10, HL Paper 43.

The Government made clear, however, that they intended to focus post-implementation reviews on secondary legislation which had originally been presented with an impact assessment. In its end-of-session report for 2009–10,[15] the committee stated its difference of view on this, pointing out that its scrutiny had shown that it had often been "routine" SIs, laid without impact assessments, which had prompted the most serious questions and which should therefore be reviewed.

Stock-taking in 2010

In the 2009–10 end-of-session report, the last such review before the May 2010 general election, the committee set out a number of concerns which echoed points made in the previous six years and foreshadowed issues which it would pursue in the new Parliament. It referred to the "pre-election avalanche" of SIs: in a truncated session it had considered 660 SIs over four months, just under 60% of the number of SIs considered by the committee in the 12-month 2008–09 session. It criticised departments for not planning ahead and prioritising their production of secondary legislation. It noted that an unusually high number of SIs had been withdrawn and corrections issued: in the first three months of 2010, 26 affirmative SIs had been withdrawn, compared with only four in the last three months of 2009. It urged departments to have sufficient respect for Parliament not to lay defective SIs. It also criticised the extent to which departments had failed to provide evidence to support significant policy proposals; and it was concerned about the number of badly drafted EMs which were particularly weak in setting out the results of any consultation.

The committee from 2010 to 2015

Lord Goodlad chaired the committee throughout the 2010–15 Parliament. An important extension of the committee's role came when it was charged with scrutinising draft orders laid under the Public Bodies Act 2011: Public Bodies Orders (PBOs). By April 2015 the committee had considered 30 PBOs. As well as commenting on each PBO in its weekly scrutiny reports, the committee published three reports reviewing the laying of PBOs under the 2011 Act. These reports were published 12 months, two years and three years after Royal Assent.[16]

[15] 17th report, session 2009–10, HL Paper 113.

[16] See: 19th report, 2012–13, HL Paper 90; 22nd report, 2013–14, HL Paper 98; 17th report, 2014–15, HL Paper 73.

Inquiries into Government consultation principles, and consultation practice

Given the committee's established concern with the issue, it took a close interest in the changed approach to consultation which the Government signalled in July 2012 when they published a new set of consultation principles, replacing the code of practice adopted by the previous administration. In autumn 2012 the committee carried out an inquiry into the new principles, reporting in January 2013.[17] On balance the committee felt that the changes made, particularly to the time allowed to respondents to submit views, had been to the detriment of effective consultation: it looked to the Government's own review of the changes, scheduled to finish in summer 2013, to remedy this detriment.

The committee published the outcome of the Government's review in November 2013.[18] While it welcomed some limited adjustments to the 2012 principles, the committee still saw the underlying approach as prioritising the Government's administrative convenience over the interests of potential respondents, above all in leaving discretion to departments to compress consultation periods and to run them over traditional holiday periods.

In autumn 2014 the committee held a follow-up inquiry, looking at the practical application of these revised principles in a number of case-studies. It reported in January 2015.[19] The committee welcomed ministerial undertakings given in oral evidence that the principles would be revised to ensure that consultation periods would not be compromised by coinciding with holidays, and that departments should publish summaries of responses at the same time as SIs are laid. However, it criticised the Government's failure to carry out systematic monitoring of consultation processes and called for a stronger role for the Cabinet Office to do so. An interim reply from the Government was published in March 2015;[20] a substantive response was expected in the new Parliament.

Revised terms of reference

In its 2012–13 end-of-session report[21] the committee criticised the quality of information provided in support of SIs that session, regretting that it had needed to obtain supplementary material from departments for inclusion in its reports, in order for the House fully to understand the effect of SIs. It stated its

17 *The Government's new approach to consultation: "Work in Progress"* (22nd report, 2012–13, HL Paper 100).

18 17th report, 2013–14, HL Paper 75.

19 22nd report, 2014–15, HL Paper 98.

20 31st report, 2014–15, HL Paper 147.

21 35th report, 2012–13, HL Paper 160.

intention in session 2013–14 to require all inadequate EMs to be re-laid. In its end-of-session report in May 2014[22] the committee noted that more than 6% of EMs (around 60) had been re-laid as a result. In the light of this the House had agreed that from 2014–15 the committee should be able to report SIs on the ground that the explanatory material laid in support provided insufficient information to gain a clear understanding of the SI's policy objective and intended implementation. Also in the 2013–14 end-of-session report the committee noted that, given its continuing concern about consultations, the House had agreed that the committee should be able to report an SI on the ground that there appeared to be inadequacies in the consultation process that related to the SI.

In its final report of session 2014–15 the committee stated that it had drawn 89 SIs (out of 1,153 instruments scrutinised) to the special attention of the House, and that it had used the new reporting grounds in 17 of those 89 SIs. Noting that it had reported only six SIs on the ground of imperfect achievement of the policy objective (as opposed to 13 reported on this ground in the previous session), the committee commented that the new grounds allowed it to highlight administrative defects related to an SI, and that the use of the "imperfect achievement of policy objective" ground might henceforth be seen as a much stronger criticism.

Correcting instruments

In January 2015 the committee published the report *Number of Corrections to Statutory Instruments in 2014*.[23] This set out the committee's concern about the growing volume of correcting SIs: 45 such SIs had been issued in the first six months of 2014, compared with 43 in the whole of 2013 and 48 in 2012. Work by the committee, including tabling questions for written answer, indicated that the error rate for 2014 across all departments was 6%; an analysis of the performance of the 10 departments answering the questions gave an outcome of 13% for affirmative SIs and 4% for negative SIs. The committee described this as unacceptably high. In the 2014–15 end-of-session report the committee welcomed the Government's stated intention to use a specialist team in the Cabinet Office to address the points raised. This response seemed all the more necessary, since the correction rate for the 446 SIs laid in the first three months of 2015 had risen to 7%.

The 2014–15 end-of-session report offered interesting insights into the ongoing work of scrutiny. The committee considered 1,153 SIs in 2014–15, an

[22] 42nd report, 2013–14, HL Paper 186.
[23] 20th report, 2014–15, HL Paper 93.

increase from 998 in 2013–14, which itself was higher than 893 in 2012–13. It commented on the poor planning of secondary legislation by departments: around 160 SIs were laid in February and March 2015, 28% of the session's total, even though it had been known for some years that Parliament would dissolve on 30 March 2015. On the adequacy of supporting information it stated that, as well as using the new reporting ground, it had required 46 EMs to be re-laid.

Consideration of individual SIs

This article has made little reference to the committee's reports on individual SIs, seeking instead to highlight generic concerns that have characterised its scrutiny work over 12 years. Most of the committee's effort has, however, been devoted to scrutiny of individual SIs. Mention of two SIs considered by the committee in recent years may elucidate how its work has become better known, not just within the House but more widely in civil society.

In February 2013 the Department of Health laid the National Health Service (Procurement, Patient Choice and Competition) Regulations 2013,[24] which governed the use of tendering in procuring most NHS services. The committee received 2,000 submissions from professional institutions, trades unions and the public, which all indicated a belief that the regulations did not match up to ministerial undertakings given during the passage of the parent Act, the Health and Social Care Act 2012, in particular because the SI included a requirement that clinical commissioning groups should undertake competitive tendering for the procurement of services, rather than the more general duty not to be anti-competitive that had been expected. The committee reported the SI on the ground that it might imperfectly achieve its policy objective.[25]

In March 2013 the Department of Health laid the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013,[26] which revoked and replaced the first SI. The department had stated its view that both the original and the replacement SIs were consistent with earlier ministerial undertakings, but in the replacement SI the wording of some provisions had been revised to clarify the policy intentions. The committee brought this SI to the special attention of the House on the same ground, criticising the speed with which the department was proceeding with the revised SI, which had left insufficient time for interested parties to understand the new requirements before their implementation.[27]

[24] SI 2013/357.
[25] 30th report, 2012–13, HL Paper 136.
[26] SI 2013/500.
[27] 33rd report, 2012–13, HL Paper 153.

In December 2014 the Department of Health laid the draft Human Fertilisation and Embryology (Mitochondrial Donation) Regulations 2015, to enable mitochondrial donation techniques to be used, under licence, as part of in-vitro fertilisation (IVF) treatment to prevent the transmission of serious mitochondrial disease from a mother to her child. The department intended that the regulations would, in due course, permit the application of techniques that use a third person's mitochondria to replace the defective material from the mother (initially in about 10 subjects a year). The committee drew the draft regulations to the special attention of the House on the ground of public policy interest, setting out the range of concerns that had been put to it in 18 submissions of written evidence, both supporting and opposing the techniques to be permitted.[28] The information and commentary in the committee's report was an important contribution to the debate on 24 February 2015, when the draft regulations were approved.

Conclusion

From its inception in 2003 the role of the committee has been to scrutinise statutory instruments in order to decide which should be reported to the House, either because of policy interest or because the committee has identified a deficiency in the procedures followed by the department or in the likely implementation of the instrument. As this article has shown, in carrying out this role the committee has consistently put pressure on departments to improve their management of secondary legislation and to provide a full explanation of their intentions to Parliament. The process of scrutiny, and the information presented by departments, have become known and studied more widely across civil society. While secondary legislation is rarely stopped in its progress through Parliament, the light thrown on it by scrutiny means that departments must expect their approach to be considered and possibly challenged, both in Parliament and also more widely, by increasingly well-informed stakeholders.

[28] 23rd report, 2014–15, HL Paper 99.

MISCELLANEOUS NOTES

AUSTRALIA

House of Representatives

Resignation of Speaker and election of new Speaker

When the House resumed for the spring sittings on 10 August 2015, the Clerk read a communication from the Administrator to the House: that the Hon. Bronwyn Bishop had tendered her resignation as Speaker, that he had accepted it, and that he invited the House to elect a new Speaker. The House elected the Hon. Tony Smith as Speaker. He acknowledged the honour and took the chair. The Prime Minister, Leader of the Opposition and other members congratulated him, and the Speaker made some remarks in reply.

By-elections

On 10 August 2015 the Speaker informed the House of the death on 21 July of Mr Don Randall, member for the division of Canning (WA) since 2001 and member for the division of Swan (WA) from 1996 to 1998. The Prime Minister moved a motion of condolence which was seconded by the Leader of the Opposition. Members spoke in support of the motion until 7.24 pm, when the House adjourned as a mark of respect. Just before question time the following day the Speaker put the question on the Prime Minister's condolence motion, which was agreed to with all members rising in their places.

On 17 August 2015 the Speaker issued a writ for the election of a member to fill the vacancy caused by the death of Mr Randall. The by-election was held on Saturday 19 September. Before question time on 12 October the Speaker announced receipt of the return to the writ and declared that Mr Andrew William Hastie had been elected. The Serjeant-at-Arms admitted Mr Hastie to the chamber, where he made and subscribed the oath of allegiance. During government business time the following day he made his first speech.

On 21 October 2015 the member for North Sydney and former Treasurer, the Hon. Joe Hockey, made a statement by indulgence on his retirement from Parliament. The Prime Minister, Leader of the Opposition, the Leader of the Nationals and other members, by indulgence, made statements on Mr Hockey's retirement. Further statements were later made in the Federation Chamber. The Speaker issued a writ for a by-election to be held on 5 December 2015. On 22 December the Australian Electoral Commission officially declared that Liberal Party candidate Mr Trent Zimmerman had been elected.

Change in leadership of the Federal Parliamentary Liberal Party of Australia

On 14 September 2015 the Federal Parliamentary Liberal Party of Australia elected the Hon. Malcolm Turnbull as its leader in place of the Hon. Tony Abbott, effectively changing the Prime Minister. A vote was also held for the deputy leadership, which was retained by the Hon. Julie Bishop. The next day Mr Abbott tendered his resignation as Prime Minister to the Governor-General, and Mr Turnbull received from the Governor-General a commission as Prime Minister. The Prime Minister advised the House that the Leader of the Nationals had confirmed the support of the Nationals in the formation of a coalition government under Mr Turnbull's leadership. The Prime Minister then presented a revised ministry list to reflect the new leadership arrangements.

Development of an electronic petitioning system

On 22 October 2015 the Speaker made a statement on developing an electronic petitions website and system for the House of Representatives, in response to a recommendation by the Standing Committee on Petitions in 2009. The Government responded to the report in 2015. The Speaker anticipated that an electronic petitions system would be available in early 2016; once it had been developed he would update to the House. The Speaker noted that the House would need to consider amendments to standing orders to establish an e-petitions system.

Senate

Orders for the production of documents and third-party arbitration of public interest immunity claims

The power to order the production of documents is a manifestation of the inquiry power enjoyed by the Senate under section 49 of the Australian Constitution, which bestows UK House of Commons powers, privileges and immunities as at 1901 on the Houses of the Commonwealth Parliament (with the power to alter them by legislation). Although there is no doubt about the existence of the power, the Senate has always been circumspect in its enforcement, preferring to pursue informal sanctions rather than enforcement through its contempt jurisdiction, which raises the risk that the courts may become involved in settling disputes of an essentially political nature between the executive and legislative arms of government. Informal sanctions, also known as political solutions, can include detailed inquiries by committees to cast light into dark corners, the imposition of procedural penalties involving delays to legislation, or the bad press that comes from censure of unaccountable or unacceptable conduct.

A recent example of the use of a detailed committee inquiry in response to government reluctance to produce information was the Select Committee on

Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru. In October 2014 the Senate sought information about incident reports logged at the Nauru detention centre relating to staff misconduct and complaints of sexual assault, exploitation and child abuse made to case workers at the centre over the previous year. In opposing the motion, the minister referred to such claims in other detention centres being proved to have been fabricated or overstated. In a formal response the following day the order was refused on the basis that it would be inappropriate to provide the information sought. In the meantime, a government-commissioned review into the allegations (the Moss review) found that there was cause for concern. An order for a copy of the completed review, agreed to on 10 February 2015, met the response that the government intended to release a public version of the review on the department's website, noting that many who spoke to the review did so on the basis that their identities would be protected.

Not satisfied with the response, the Senate established the select committee on 26 March to inquire into the responsibilities of the Commonwealth Government in connection with the management and operation of the Regional Processing Centre in Nauru, including the circumstances that precipitated the Moss review and the Government's response to the review, among other matters.

The committee received over 90 submissions and held three days of public hearings during which the extent of sexual and other abuse in the detention centre was confirmed, as were allegations that a committee member had been subject to unauthorised surveillance on a previous visit to the island, conduct for which the service provider apologised.

In another recent example, an order for documents relating to alleged payments to people smugglers to turn around asylum seeker boats, agreed to on 16 June, was met with a public interest immunity claim on grounds of potential damage to national security, defence or international relations and possible prejudice to law enforcement or protection of public safety. Similar grounds and arguments had been advanced in response to earlier orders for production of information concerning Operation Sovereign Borders. A motion rejecting the claims advanced and seeking to defer consideration of any migration legislation until the documents were tabled was agreed in part on 22 June; the second element of the motion was omitted on amendment, possibly because of an agreement between the major parties to deal with urgent legislation to validate certain aspects of the offshore regional processing regime in anticipation of an unfavourable High Court decision. Senator Hanson-Young subsequently had the allegations referred to the Legal and Constitutional Affairs References Committee for inquiry and report.

The pragmatic approach adopted by the Senate differs from that taken by the New South Wales Legislative Council. Faced with a defiant Treasurer

determined to challenge the Council's power to order documents, the Council had its powers confirmed by the courts in a series of landmark decisions in the late 1990s. It then instituted arrangements for third-party arbitration of public interest immunity claims, when governments sought to argue that certain information should not be published on public interest grounds. Crucially, however, successive governments accepted their obligation to produce disputed documents into the custody of the Clerk for subsequent arbitration. Long heralded by clerks and minor parties, in particular, as the Rolls Royce of remedies, third-party arbitration has been used several times in the Senate. Suggestions for systematic adoption as a general remedy have been examined.

In 2009, after the Senate by resolution consolidated the procedures and principles for considering claims of public interest immunity advanced by ministers, the Finance and Public Administration References Committee examined a process for determining such claims. The committee did not at that stage support the adoption of a NSW-style procedure. After the 2010 election the adoption of such a procedure found its way into several of the agreements for parliamentary reform that made minority government possible at the time, but no progress was made on implementing it. Most recently, a report by the Legal and Constitutional Affairs References Committee on a claim of public interest immunity raised over documents (in relation to information about the Government's "on water" border protection activities in Operation Sovereign Borders) recommended that the Procedure Committee examine the process for independent arbitration of public interest immunity claims used by the NSW Legislative Council and the potential for its adaptation to the Senate.

The Procedure Committee reported in 2015 that it had considered the New South Wales procedures but had concluded that they were not readily adapted to the Senate and that the Senate's current procedures, which involved a range of solutions, were preferable. The committee did not reject the possibility of third-party arbitration or assessment in the right circumstances, but considered that such a procedure should not be a remedy of first resort.

The committee issued guidance to ministers on responding to orders for production of documents and undertook to monitor responses to them over the next 12 months, after which it will report to the Senate.

Casual vacancies in the Senate and section 15 of the Australian Constitution

Since the amendment of the Constitution in 1977 to provide for retiring or deceased senators to be replaced by a person from the same political party as the senator represented at the time of his or her election, casual vacancies in the Senate have been relatively common. Section 15 of the Constitution provides two methods for filling casual vacancies by states. (Comparable methods for filling

casual vacancies arising in the territories are provided for in the Commonwealth Electoral Act 1918.) The main method is for the house or houses of the state parliament to choose a person to hold office for the remainder of the term. "But if the Parliament of the State is not in session when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen sitting days from the beginning of the next session of the Parliament of the State or the expiration of the term, whichever first happens." These provisions have been in the Constitution since 1901 and were intended to cover the field so that a state would not be without its full representation in the Senate for any longer than it took for the parliament to choose a replacement or, if the parliament were not in session, for the state governor to make an interim appointment. States have interpreted the phrase "not in session" differently: some in a technical sense, meaning formally prorogued; others using its common meaning of "not sitting". Several jurisdictions no longer prorogue on an annual basis. There is no capacity for the ACT Legislative Assembly to be prorogued at all.

The resignation of Senator Faulkner from the Senate in February 2015, before the scheduled New South Wales election in March, resulted in a long delay in filling the vacancy until after the Houses met in May following the election. The option of having the Governor make an appointment, as contemplated by section 15, was not taken up, for reasons that are unclear. One theory is that because the notification of the vacancy occurred before the Houses were prorogued, they were technically still in session and an appointment by the Governor was not considered appropriate. However, a 1991 precedent provides evidence to the contrary. In that year, the appointment of Senator Tierney by the Governor occurred during a period of prorogation after his predecessor, Senator Peter Baume, resigned before prorogation. The Senate agreed to a resolution on 26 March, reaffirming earlier resolutions on this subject and calling on New South Wales to take all necessary steps to ensure that the people of that state were not denied representation for any longer than strictly necessary.

Senator Faulkner's replacement, Senator McAllister, was chosen by the NSW Parliament when it met after the State election in May 2015.

Electoral matters or when will the next federal election be held?

There is always much speculation about whether a government will run its full term or go to the polls early and, if so, whether the election will be a simultaneous dissolution. A simultaneous or double dissolution involves the dissolution of both Houses. It cannot happen without one or more "triggers" (bills which have satisfied the conditions set out in section 57 of the Constitution) and it cannot happen within six months of the day on which the House of Representatives is due to expire by effluxion of time. It cannot therefore happen after 11 May

2016.

On 17 August 2015 a second trigger was established when the motion for the second reading of the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2] was negatived. That bill now satisfies the conditions in section 57 of the Constitution for a simultaneous dissolution, joining the Clean Energy Finance Corporation (Abolition) Bill 2013.

There are other constitutional rules that influence the timing of elections. Unless there is a simultaneous dissolution, senators serve a fixed term of six years with half of the senators representing the states retiring at three-year intervals according to the rotation established by section 13 of the Constitution. Terms begin on the first day of July after an election, except after a simultaneous dissolution when terms are backdated to begin on the first day of July preceding the election. Any double dissolution poll held before 1 July 2016 would therefore see new Senate terms being backdated to 1 July 2015.

Section 13 also provides that an election for half the Senate "shall be made within one year before the places are to become vacant". In the absence of a simultaneous dissolution, senators' places will next become vacant on 30 June 2017, meaning that a normal half-Senate election cannot be held before 1 July 2016.

Although there is no requirement for elections for the Houses to be held on the same day, popular wisdom is that this is more convenient and less costly. The timing of any election subsequent to a simultaneous dissolution is therefore of some interest. Lengthy backdating of senators' terms can throw future elections for both Houses out of kilter, resulting in either an early election for the House of Representatives or separate half Senate elections. There are examples of both in Australia's electoral record.

Finally, proposals to amend the Senate electoral system to remove registered party tickets and, with them, the dark arts of preference dealing, have been the subject of much discussion, including recommendations from the Joint Standing Committee on Electoral Matters. If the next election is to be run on new rules, legislation will need to be passed in time for the Australian Electoral Commission to adapt its systems.

Australian Capital Territory Legislative Assembly

Second review of Latimer House Principles

On 10 February 2015 the Speaker, pursuant to continuing resolution 8A, presented a report on the implementation of the Latimer House Principles in the Australian Capital Territory. The report was prepared by the Institute for Governance and Policy Analysis at the University of Canberra. The continuing resolution requires the Speaker once each Assembly to appoint a suitably qualified person to assess the implementation of the Latimer House Principles

in the governance of the ACT, with the resultant report referred to the Standing Committee on Administration and Procedure for inquiry and report.

The report made 10 recommendations on enhancing the three arms of government in the Territory. The committee reported in November 2015 with four recommendations.

Member's leave of absence

On 17 March 2015 leave of absence was given to a member from the Assembly and its committees for four months and 18 days, due to maternity reasons. This is the longest period of leave of absence given; the previous longest was one month and 25 days in 2004.

Choosing a senator for the ACT

On 25 March 2015 the Chief Minister advised the Assembly that he had received a notification from the President of the Senate that there was a vacancy in the Senate for the Territory, and moved that his immediate predecessor as Chief Minister be chosen to fill the vacancy. This was only the second occasion that the Assembly had chosen a senator in its 26-year history, and both persons chosen were former chief ministers of the Territory.

Minister appointed to Public Accounts Committee

On 26 March 2015 the Assembly referred the matter of the ACT clubs sector and gambling to the Standing Committee on Public Accounts (PAC) for inquiry and report. At the same time the Assembly appointed a minister to the committee for that inquiry. This meant there were five members of the committee: two government MLAs, two opposition MLAs and one crossbench MLA (the minister). This was the first time a minister had been appointed to the PAC, although in the fourth Assembly the Speaker (then a government MLA) represented the government party on one standing committee and three select committees. The committee is chaired by an opposition MLA.

Appropriation Bill and Office of the Legislative Assembly

On 2 June 2015 the Treasurer presented the Appropriation Bill 2015–16 (the budget). Immediately after delivering his budget speech he presented the Appropriation (Office of the Legislative Assembly) Bill 2015–16. Section 20AA of the Financial Management Act 1996 provides that if the Appropriation Bill for the Office of the Legislative Assembly contains an appropriation less than the recommended appropriation for the financial year, then:

> "(2) Immediately after presenting the bill the Treasurer must present to the Legislative Assembly a statement of reasons for departing from the recommended appropriation."

On 4 June 2015 the Treasurer presented a statement which stated that:

> "As part of the 2015–16 Budget, the Office of the Legislative Assembly sought additional funding for a security manager position and an expansion of Assembly and Library services. The Government considered that security and library services should continue to be provided within the Office of the Legislative Assembly's existing resources."

When Assembly officers appeared before the Select Committee on Estimates in late June the Speaker raised the matter and several questions were asked. The committee reported in August 2015.

Select Committee on Estimates

On 4 August 2015 the chair of the Select Committee on Estimates 2015–16 (an opposition MLA) presented a report containing 141 recommendations, unanimously agreed. The committee comprised two opposition and two government MLAs. During its inquiry the committee engaged an external economic adviser (the Centre of International Economics) to review the ACT budget presented by the Treasurer. The summary of the advice to the committee noted that:

> "The 2015–16 ACT budget pushes out a return to surplus due to higher spending commitments on community infrastructure (including asbestos eradication), without the buoyancy of improved economic conditions. While most economic forecasts seem reasonable, there continue to be downside risks that suggest return-to-surplus expectations might be optimistic without improved local business confidence and a rebound in Commonwealth Government spending in the ACT."

On 11 August 2015 the Treasurer presented the government response to the committee's report, with the government agreeing to 61 recommendations, agreeing in principle to 15, noting 61, agreeing in part to four and not agreeing to seven. Also on the same day the Speaker presented her response to the five committee recommendations concerning the Legislative Assembly, one of which was that the committee recommends that the Speaker investigate future accommodation options for the Assembly.

Travel to Taiwan as representatives of the Legislative Assembly

On 4 August 2015 the Speaker presented a determination that a delegation of members of the Legislative Assembly travelling to Taiwan would be classified as official travel. The Speaker and two other MLAs, as well as her senior adviser, would be travelling. The government of Taiwan would cover all travel and accommodation costs associated with the visit, along with other incidental costs. The next day the Speaker made a further statement indicating that, in some quarters, there had been a conflating of taxpayer-funded members' entitlements

and the acceptance of third-party gifts. She had received conflicting and changing advice about third party-travel, particularly on the question of accompanied travel funded by the Commonwealth Parliamentary Association. The Speaker had requested advice from the Assembly's Ethics and Integrity Adviser on the specifics of her acceptance, and that of her senior adviser, of the invitation from the government of Taiwan. She also asked the Ethics and Integrity Adviser, in consultation with the Clerk, to look at wider issues associated with third-party gifts, including travel.

On 15 September 2015 the Speaker presented a report from the delegation that undertook the trip.

On 27 November 2015 the Speaker presented the advice to her from the Ethics and Integrity Adviser on the matter of travel by her and her senior adviser to Taiwan, and on the acceptance of "third-party benefits" by members of the Legislative Assembly.

Accommodation project—expansion of the Assembly

On 13 August 2015, in accordance with a recommendation of the Select Committee on Estimates 2015–16, the Speaker made a statement on the accommodation project for the expansion of the Assembly from 17 to 25 members in October 2016. The Speaker informed the Assembly that, following agreement between her and the Chief Minister, some of the support staff from the Office of the Legislative Assembly (OLA) would relocate to a nearby building, which would free up space to accommodate the eight new MLAs. A Project Control Group, headed by the Clerk and comprising officials from OLA, and the Chief Minister and Treasury and Economic Development Directorate, with the Chief Minister's and Speaker's senior advisers as observers, would manage the project.

New South Wales Legislative Assembly and Legislative Council (joint notes)

Legislation on the Independent Commission Against Corruption

In May 2015 the Parliament of New South Wales passed the Independent Commission Against Corruption Act 2015, which validated the actions and findings of the Independent Commission Against Corruption (ICAC) before 15 April 2015, when they were based on ICAC's previous understanding of its jurisdiction.

The Government introduced the bill in response to a finding of the High Court of Australia that ICAC had acted beyond its power, based on a misinterpretation of "corrupt conduct" in the Independent Commission Against Corruption Act 1988, in issuing a summons to appear and give evidence to Deputy Senior Crown Prosecutor, Ms Margaret Cuneen (see *Independent Commission Against*

Corruption v Cuneen [2015] HCA 14).

The effect of the High Court decision was that ICAC's jurisdiction was narrower than had been understood in relation to conduct that could adversely affect the discharge of official functions by public officials. The High Court held that only conduct that adversely affected (or could adversely affect) the probity of the exercise of an official function by a public official fell within the Act's definition, not conduct that merely affected the efficacy of the exercise of those functions.

September 2015 saw Parliament pass the Independent Commission Against Corruption Amendment Bill 2015. The bill implemented recommendations made following a review of ICAC's jurisdiction by a former High Court Chief Justice, the Hon Murray Gleeson AC, and an eminent barrister, Bruce McClintock SC. They recommended that the existing definition of "corrupt conduct" in the Independent Commission Against Corruption Act 1988 remain (as limited by the High Court), but that it be supplemented by a new limb to include certain conduct by any person that could impair public confidence in public administration. They also recommended that ICAC's power to make findings of "corrupt conduct" against an individual be limited to cases where the corrupt conduct is serious.

Review of the Code of Conduct for Members

In October 2015 the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics commenced a review of the Code of Conduct for Members. The committee is reviewing the code in accordance with section 72E(5) of the Independent Commission Against Corruption Act 1988, which states that a committee designated by the Legislative Assembly "… is to review a code of conduct adopted by the Legislative Assembly at least once every 4 years".

Northern Territory Legislative Assembly

Use of language other than English

The Speaker ruled on 3 December 2015 that interjections in languages other than English were disorderly because they were a breach of the requirement that there be no "noise or disturbance" (standing order 20) and because the content could not be known by those who did not speak the language. This resulted in considerable community debate about the ability of a member to speak in the Assembly in his or her first language, which in this instance was an Aboriginal language. The matter of contributions to debate and language used has been referred to the Standing Orders Committee for consideration.

Queensland Legislative Assembly

Dissolution of Parliament and election results

On 6 January 2015 the Governor dissolved the 54th Queensland Parliament. The state election was held on 31 January 2015. It resulted in a hung parliament. The Labor party (ALP) held 44 seats and the Liberal National Party (LNP) held 42 seats—45 seats are required for a majority. The crossbenches were held by Katter's Australian Party (KAP) with two seats and one independent member.

Labor gained 34 seats from the LNP plus the seat from an independent who announced her retirement before the election. The former premier lost his seat to a former ALP minister, from whom he won it in 2012. Not since 1915 has Queensland seen a sitting premier lose his seat.

On 13 February 2015 the Governor invited the ALP leader, Annastacia Palaszczuk, to form government with the support of the independent member for Nicklin.

Accessibility

The 55th Parliament welcomed its first quadriplegic member. An accessibility and mobility consultant was engaged to inspect the precinct and liaise with the member on his mobility functioning and accessibility needs. The consultant also liaised with parliamentary staff on the areas and facilities requiring access by members and the occupational tasks to be performed.

New Speaker

Following the swearing in of members, MPs elected the independent member for Nicklin as Speaker. Mr Speaker was formally presented to the Governor on 25 March 2015.

Mr Speaker has been a member of the Legislative Assembly since 1998.

In correspondence between him and the now Premier, the member for Nicklin pledged to support a Labor government on confidence motions and matters of supply and not to abstain from voting on those matters. The member cautioned that his support on motions of confidence was conditional on there being no "gross fraud, misappropriation or like illegal activities".

Party membership changes

On 30 March 2015 a government member resigned from the ALP. The resignation followed allegations of domestic violence and the member's failure to disclose his criminal past to the Premier (though he was legally entitled not to disclose under the Criminal Law (Rehabilitation of Offenders) Act 1986). The member now sits on the crossbenches. His departure from the Labor party reduced the seats held by the government to 43; the minority government relied

on the support of two independent members for the remainder of 2015. The member pledged to support the government in motions of confidence and matters of supply.

Days and hours of sitting and order of business

Sessional orders adopted by the House for this Parliament increased the opportunities and time available for introducing private members' bills and private members' motions by approximately 30 minutes per sitting week for each of those types of business.

Confidence motion

On 26 March 2015, the first day of business of the new Parliament, the Premier moved a motion of confidence in her government. Earlier the same day the Speaker ruled that contributions by a new member to the confidence motion would be regarded as that member's first speech. Fifty members spoke on the motion, which was debated for 15 hours. The question was resolved in the affirmative: ALP 44 ayes, LNP 42 noes. The two KAP members abstained from voting, precluding the Speaker from having to make a casting vote.

Electronic devices in the chamber

On 20 May 2015 the House passed a resolution on members' use of electronic devices. The House permits the use of such devices provided members ensure they are silent, unobtrusive and used in connection with the member's parliamentary duties. Such devices must not interfere with or distract members or proceedings of the House or its committees and must not be used to record proceedings (audio and audio-visual recordings are prohibited).

Social commentary about committee meetings held *in camera* may be a breach of privilege and reflections on the chair made on social media may be treated as contempt, as would such reflections made in or outside the chamber. Communication via electronic devices, whether the member is in the chamber or not, will likely not be covered by parliamentary privilege.

New media access rules

On 21 May 2015 the Speaker tabled new media access rules that again allow television network cameras to film Legislative Assembly proceedings. This followed a change to the 2006 rules by the former Speaker, who refused permission for media networks to access the chamber to film footage of the Assembly in action. In June 2012 a television network filmed a disturbance in the chamber gallery, contrary to the then media access rules, and, despite advice from the Speaker not to do so, broadcast the footage. A further breach occurred in September 2012 when close-up footage of a member's papers was

filmed.

In his first speech Mr Speaker welcomed the media back to the floor of the chamber.

Use of "MP" by former members

Following complaints from current members, in March 2015 the Parliamentary Service conducted an audit of former members' websites and social-media accounts to ascertain if they included references to being a member of parliament, an MP or the member for the electorate they formerly represented. Thirty of the 45 former members of the 54th Parliament had websites or social-media profiles which made some reference to them being a member of parliament. Those former members were requested to remove the references.

In a statement to the House on 20 May 2015 the Speaker advised that falsely holding oneself out to be a current member of parliament may constitute a contempt of parliament. The Speaker acknowledged that some former members had reported difficulties in getting third-party providers to action their requests to remove the offending references. The Speaker asked the Clerk to advise by 4 June 2015 of any sites or other publications that continued to offend before determining if he would send the matter to the Ethics Committee for its consideration.

On 4 June 2015 the Speaker informed the House that as of that date "no former members have personal websites which refer to themselves as being a member of parliament. However, three former members still have a third-party social media site, such as Facebook or Twitter, which might give the impression that they remain a member of parliament. All three former members have indicated that they have taken steps to close or amend those social media sites, including by contacting the third-party providers directly." In light of the action taken by the remaining three former members to resolve the issue, the Speaker did not refer the matter to the Ethics Committee.

Four-year terms

Currently parliamentary terms are three years, non-fixed. On 17 September 2015 the shadow Attorney-General introduced the Constitution (Fixed Term Parliament) Amendment Bill and the Constitution (Fixed Term Parliament) Referendum Bill. Both bills were referred to the Finance and Administration Committee for examination. The committee was asked by the Parliament to consider the bills alongside its general policy inquiry into fixed terms (referred on 16 September 2015).

In its report the Finance and Administration Committee recommended the bills be passed. The committee also recommended a number of amendments to the Constitution (Fixed Term Parliament) Amendment Bill, including

splitting the bill in two. It recommended that one bill contain the provisions that repealed, amended or created entrenched provisions to be approved by voters at a referendum; and the other bill contain the provisions that were consequential amendments to non-entrenched provisions in Acts.

While the majority of the committee's recommendations were not directed at the government, the government responded to all the recommendations "given the significance of the issues and the need for members to have a clear understanding of any amendments to be moved to the bills." The government supported the majority of the committee's recommendations.

On 1 December 2015 the Leader of the House moved a motion without notice to divide the Constitution (Fixed Term Parliament) Amendment Bill into two bills. The motion detailed the components of each new bill. The motion also provided that if the House agreed to split the bill and to the components of each new bills, that the bill would not be further considered until the new bills had been presented and supplied to members.

The motion also stipulated that if the new bills were to be presented, the question before the chair would be that the House accepts the bills as complying with the order to divide the bill and deems the bills to have been read a first time, with the second reading to be moved. The House agreed to the motion.

On 2 December 2015 the shadow Attorney-General tabled the two new bills in accordance with the motion—the Constitution (Fixed Term Parliament) Amendment Bill and the Electoral (Constitutional) Amendment Bill. The Leader of the House then moved that the bills be deemed read a first time and stand as an order of the day for the second reading to be moved. The motion was agreed to.

On 4 December 2015 the Constitution (Fixed Term Parliament) Amendment Bill (the new bill) and the Constitution (Fixed Term Parliament) Referendum Bill were debated in cognate and passed with amendment. The amendments were all moved by the Attorney-General and supported by the opposition.

The Constitution (Fixed Term Parliament) Amendment Bill will now go to a referendum to be held with the local government elections in March 2016.

Victoria Legislative Council

Removal of "Dorothy Dix" questions

Sessional orders were introduced in 2015 to allow only questions without notice to ministers to be asked by non-government party members.

Legislative Council referral under section 16 of Ombudsman Act 1973

On 25 November 2015 a member of the Legislative Council, Mr Barber, moved a motion pursuant to section 16 of the Ombudsman Act 1973 to refer a matter relating to the allegations that ALP members of the Victorian

Parliament misused members' staff budget entitlements. The motion required the ombudsman to investigate and report back to the Parliament on the matter. Section 16 of the Ombudsman Act requires the ombudsman to investigate any matter referred by a House of Parliament or a parliamentary committee, other than a matter concerning a judicial proceeding.

Victorian Parliament House permanently displays Aboriginal flag

On 15 September 2015 the Speaker and the President made a statement to their respective Houses about permanently flying the Australian Aboriginal flag over Parliament House. In a brief ceremony the same day the Aboriginal flag was raised to recognise the contribution of indigenous communities to Victoria and pay respect to the custodians of the land. The Aboriginal flag had been raised only during special events such as National Aboriginal and Islander Day Observance.

Inquiry into allegations against the Auditor-General

On 17 August 2015 the President of the Legislative Council and the Speaker of the Legislative Assembly were notified of allegations against the Auditor-General by a member of the staff of the Auditor-General's office. The presiding officers referred the complaint to the Public Accounts and Estimates Committee, which met on 17 August to consider the matter. On 18 August 2015 the committee recommended the Parliament refer the allegations to the committee for investigation. The same day both Houses did so. The committee reported it findings against the Auditor-General; however, by then the Auditor-General had stepped down, removing the need for Parliament to decide whether to use its statutory power to remove him from office.

CANADA

House of Commons

Dissolution, general election and new Parliament

On 2 August 2015 Parliament was dissolved. The general election was held on 19 October 2015. The Liberal party won 184 of the 338 seats, an increase of 148 seats from the previous election and the largest-ever numerical increase by a party in a federal election. On 4 November 2015 Justin Trudeau (Papineau), leader of the Liberal party, was sworn in as Canada's Prime Minister, along with a new 30-member ministry. Having committed to gender parity, the Prime Minister included equal numbers of men and women in the cabinet. Following the election, former Prime Minister Stephen Harper resigned as Leader of the Conservative party, but continues to sit as the member for Calgary Heritage. On 5 November 2015 Rona Ambrose (Sturgeon River—Parkland) was elected

as interim Leader of the Conservative party and interim Leader of the Official Opposition.

Parliament was summoned on 3 December 2015. As its first order of business the House elected its new Speaker by preferential ballot, the first time this method was used following changes to the standing orders at the end of the previous Parliament. Geoff Regan (Halifax West) was elected the 36th Speaker of the House of Commons, and is the first Atlantic Canadian to hold the position in nearly 100 years.

The following day Parliament assembled to hear the government's Speech from the Throne, delivered in the Senate chamber by His Excellency the Right Honourable David Johnston, Governor General of Canada.

Thirty new seats were contested in the election. They had been created following the enactment of the Fair Representation Act in December 2011. The additional seats, added to the provinces of Ontario, Québec, British Columbia and Alberta, required renovations to the House of Commons chamber to provide additional seating. Members' desks, which are generally arranged in pairs, were arranged in larger sets on the two back rows on each side of the chamber.

With the 30 extra members and the arrival of 214 new members, 199 of whom had not been previously elected to the House, the opening of the Members' Orientation Centre was particularly significant. The centre opened immediately after the election and provided a central location for obtaining information from House officials, who offered advice on all aspects of members' roles. Each member was also provided with a liaison officer to help guide them through their first weeks on Parliament Hill. As part of the "e-orientation" initiative, each new member was provided with an iPad with access to all of the orientation material formerly provided in hard copy only. Two non-partisan orientation sessions were held: one on a members' administrative responsibilities; the other on a member's role in the chamber and committees.

New rules on party caucuses

Changes to the Canada Elections Act and to the Parliament of Canada Act came into effect after the election due to the enactment of Michael Chong's (Wellington—Halton Hills) private member's bill, the Reform Act 2014. The Act restores local control over party nominations, strengthens caucus as a decision-making body and reinforces accountability of party leaders to caucus. In particular, the Parliament of Canada Act was amended to establish four processes to govern caucus decision-making for the expulsion and readmission of a caucus member, the election and removal of a caucus chair, leadership reviews and the election of an interim leader. The Act provided that these processes apply to party caucuses that vote to adopt them at their first caucus

meeting at the beginning of a new Parliament, after which they are binding until the next election. Each party considered the processes and the Liberal caucus rejected all four provisions, the Conservative caucus adopted all the processes except in relation to the leadership review, and the New Democratic Party caucus reserved judgement on all four matters to a future date.

Security matters

On 22 October 2015 ceremonies marked the first anniversary of the attack in which a gunman fatally shot a ceremonial guard posted at the Tomb of the Unknown Soldier and then entered the Parliament Buildings, injuring a House of Commons constable before being fatally shot. The day after the Speaker announced a comprehensive review of security matters. The review resulted in the formation of a Joint Advisory Working Group on Security. Jointly chaired by Speaker Andrew Scheer and Senator Vernon White, the group agreed in November 2014 to create a unified security force for the Senate and the House of Commons.

On 6 February 2015 the House of Commons debated a government motion on security, proposing that the Royal Canadian Mounted Police (RCMP) lead operational security throughout the parliamentary precinct and on the grounds of Parliament Hill. The Government invoked closure on 16 February 2015 and the motion was adopted. On 7 May 2015 the Budget Implementation Act (Bill C-59) was introduced, which included a section amending the Parliament of Canada Act to create a separate office called the Parliamentary Protective Service (PPS).

The PPS was established on 23 June 2015, when Bill C-59 received royal assent. The new statutory office now fully integrates the Protective Services of the Senate and the House of Commons with the services the RCMP previously provided. Under the general policy direction of the Speakers, the service is now responsible for physical security throughout the parliamentary precinct as well as in the grounds of Parliament Hill.

Shortly thereafter, a Corporate Security Office (CSO) was established at the House of Commons. The CSO acts as the central point of coordination for corporate security risk management, as liaison with the PPS and as special adviser to the House Administration on corporate security issues. Under the direction of the Deputy Sergeant-at-Arms and Corporate Security Officer, the office's responsibilities include: project management for security infrastructure, event coordination, parking allocation and enforcement, accreditation and security clearances, administrative investigations and ceremonial chamber duties.

On 3 June 2015 the House of Commons and the RCMP published four reports on the attack, explaining the security response, lessons learned and

the advances that had been made with regard to parliamentary security since the attack. Among the security enhancements was the new parliamentary Emergency Notification System, which communicates urgent information throughout Parliament by email, text message and desktop alerts in the event of an incident or emergency.

Alleged misconduct by members

Allegations in autumn 2014 of the personal misconduct of two members led the House to give a specific order of reference to the Standing Committee on Procedure and House Affairs, which subsequently appointed a sub-committee to study the standing orders with a view to appending to them a code of conduct for members with respect to sexual harassment. The committee's report proposed a new code of conduct, which was agreed to unanimously and came into force on 3 December 2015. The code requires every member to commit to an environment free of sexual harassment and emphasises confidential dispute resolution, facilitated by the Chief Human Resources Officer and/or the party whips, while allowing an appeal, *in camera*, to the Standing Committee on Procedure and House Affairs, and the possibility of consideration of the matter by the House.

New building opens

On 15 June 2015 the renovated Sir John A. MacDonald Building opened. Named after Canada's first Prime Minister, the former Bank of Montreal building is used for ceremonial and parliamentary functions.

Senate

Speakers of the Senate

During 2015 three senators served as Speaker of the Senate. The Honourable Pierre Claude Nolin, who was appointed Speaker on 27 November 2014, passed away on 23 April 2015 after a battle with cancer. He had served as Speaker pro tempore since 2013. Senator Leo Housakos was named Speaker on 5 May 2015 and served in that role until the beginning of the 42nd Parliament, when Senator George Furey was named as Speaker on 3 December 2015.

Administrative structure

In January 2015 Speaker Nolin announced a new executive structure for the Senate Administration. Responsibility for the Senate Administration is now shared by three senior officers, each responsible for a sector: the Legislative Sector, Corporate Services and Parliamentary Precinct Services. These officers are:

- *Legislative Sector*—Charles Robert, Clerk of the Senate and Clerk of the

Parliaments, is responsible for the Chamber Operations and Procedure Office, the Committees Directorate, the Office of the Usher of the Black Rod, and the International and Interparliamentary Affairs Directorate.

- *Parliamentary Precinct Services*—Michel Patrice, Law Clerk and Parliamentary Counsel and Chief Parliamentary Precinct Services Officer, assumed overall responsibility for the Parliamentary Precinct Services Directorate, which deals with issues as diverse as security, building services, messengers and real property planning.
- *Corporate Services*—Nicole Proulx, Chief Corporate Services Officer, is responsible for all services relating to Communications, Finance and Procurement, Human Resources, Information Services, and Internal Audit and Strategic Planning. She is also the clerk of the Standing Committee on Internal Economy, Budgets and Administration.

British Columbia Legislative Assembly

Deputy Speaker

On 28 September 2015 the Legislative Assembly unanimously adopted a motion appointing Richard Lee MLA as Deputy Speaker for the remainder of the session. He replaced Douglas Horne MLA, who resigned on 14 August 2015 to seek election in the October 2015 Canadian federal general election.

Deputy Chair of Committee of the Whole

Pat Pimm MLA was appointed Deputy Chair of the Committee of the Whole on 18 February 2015, replacing Marc Dalton MLA. Mr Dalton resigned from the BC Liberal caucus on 12 February 2015, opting to sit as an independent MLA while seeking the nomination as a Conservative Party of Canada candidate for the riding of Pitt Meadows-Maple Ridge-Mission in the 2015 Canadian federal election. He returned to the BC Liberal caucus in September 2015 following an unsuccessful bid for nomination.

Legislative Assembly Management Committee

As reported in previous editions of *The Table*, in 2012 the Legislative Assembly Management Committee (LAMC) initiated a multi-year programme to strengthen financial management, accountability and transparency at the Legislative Assembly. Work continued on this in 2015, including the publication of an accountability report and an internal audit plan, and the disclosure of members' travel and constituency office receipts online. The latter involved publishing approximately 11,000 pages of receipts. The Legislative Assembly is the second jurisdiction in Canada, after the Alberta Legislative Assembly, to publish copies of members' reimbursable expense receipts.

The LAMC also approved a strategic review of the Legislative Library,

which set out priorities for the next five years.

Prince Edward Island Legislative Assembly

Recognition of leader of third party

At the 4 May 2015 provincial general election a seat was won by the Green Party of Prince Edward Island, a first for the party in the province. On 4 June 2015 the Speaker, the Honourable Buck (Francis) Watts, advised the House that he was in receipt of correspondence from the Green Party member requesting that he be officially recognised as Leader of the Third Party in the Legislative Assembly. In granting the request, Speaker Watts considered that the member was a leader of a registered political party in the province, having served in that capacity since 2012; and the member stood as and was elected in the recent election as party leader. He also relied on the precedent established in 1997 when the provincial New Democratic Party secured a seat. At that time, Speaker Wilbur MacDonald recognised Dr Herb Dickieson as Leader of the Third Party. Such recognition is accompanied by funding for an office and research capacity, along with dedicated opportunities to present oral questions and make statements in the House.

Special committee on democratic renewal

A Special Committee on Democratic Renewal was constituted on 9 July 2015 with the mandate to guide public engagement and make recommendations in response to Government's white paper on Democratic Renewal. The committee undertook an intensive study of electoral systems and hosted nine meetings in communities across Prince Edward Island in October and November 2015, hearing from the public on a variety of topics related to how the province elects its politicians. In its report to the Legislative Assembly the committee proposed that a plebiscite be conducted in autumn 2016 to gauge public opinion on changing the current first-past-the-post electoral system. Further discussion will take place in early 2016 to refine a plebiscite question, which will be presented to the Legislative Assembly at its next sitting.

The Special Committee on Democratic Renewal will continue its public engagement with an emphasis on four options for a new electoral system. These are a first-past-the-post system with the addition of seats for leaders of political parties which receive a certain threshold in the popular vote; the preferential ballot; mixed-member proportional representation; and dual-member mixed proportional representation. The current first-past-the-post system will also be discussed.

The committee made several recommendations in its interim report which specifically concerned a plebiscite: that alternative methods of voting for ease of access and the convenience of the public be explored; that voting in the plebiscite

be extended to residents aged 16 and 17; and that the plebiscite be preceded by a six-month educational campaign on the electoral system options that will appear on the ballot. The committee is also mandated to look at institutional change. Ways to increase the participation of women, Aboriginal islanders, people with disabilities, and visible and linguistic minorities will be examined. Election financing, including possible restrictions on who may donate, caps on individual donations and on campaign spending, and taxpayer subsidies to the electoral process are other matters which the committee may consider. The committee will next report in spring 2016.

Renovation of building

In late 2014 it was announced that the Legislative Assembly would be vacating Province House, its home since 1847, in advance of extensive conservation work on the building. The work to conserve Province House is anticipated to last three to five years. In January 2015 the legislative chamber was relocated to the Hon. George Coles Building, adjacent to Province House. The administrative, security and press offices were also moved there. The Office of the Speaker and the Office of the Clerk of the Legislative Assembly were relocated to a building adjacent to the Hon. George Coles Building. Legislative standing committees are meeting in a satellite location, the J. Angus MacLean Building, which currently houses the Hansard offices. All three buildings are within a city block of one another, in the heart of historic Charlottetown.

Speaker election

The opening of the 65th general assembly on 3 June 2015 saw four candidates vying for the speakership. The election required two ballots, as a clear majority was not achieved on the first ballot. This represented the first time that a subsequent ballot has been required to determine the outcome of the election of Speaker.

Saskatchewan Legislative Assembly

Changes to Legislative Assembly Act 2007 and introduction of Officers of the Legislative Assembly Standardization Amendment Act 2015

Two significant bills passed into law on 14 May 2015. Both passed all stages unanimously in one day. The Legislative Assembly Amendment Act 2015 and the Officers of the Legislative Assembly Standardization Amendment Act 2015 were the culmination of many years of work to ensure the independence of the legislative arm of government, including the Legislative Assembly Service. For the first time, none of the offices of the Legislative Assembly come under the administrative authority of the executive government, except where ministry services are used willingly. The Acts establish the accountability framework for

the legislature.

Under the Acts:

- All officers of the Assembly, including the Clerk, are appointed by the Assembly and not by cabinet, which was the case for some officers, with a uniform process for appointment, reappointment, suspension and remuneration.
- There is direct authority for the Clerk and officers to employ staff. Such staff are employees of the Legislative Assembly rather than the executive government.
- There is direct authority for the Clerk and officers to set policies and processes. There is a requirement for the officers and the Legislative Assembly Service to have human resource and financial administration policies, and for these policies to be tabled with the Board of Internal Economy. Quarterly financial forecasts must also be tabled with the board.
- There is formal recognition of the office of the Speaker along with policy and accountability standards for that office.
- There is authority for the Legislative Librarian to set the number of copies of government publications to be deposited in the Legislative Library.
- The Board of Internal Economy must establish an anti-harassment policy that applies to members of the Legislative Assembly.

Members' Code of Ethical Conduct

On 14 October 2015 the Standing Committee on House Services recommended that a model code of conduct on the collection, use and disclosure of personal information be added to the Code of Ethical Conduct for Members of the Legislative Assembly.

Following an investigation by his office, Saskatchewan Information and Privacy Commissioner Ronald Kruzeniski made recommendations to the committee about the collection, use and disclosure of personal information by MLAs and their staff. The investigation had been launched on 29 April 2015 after a citizen's complaint. The Standing Committee on House Services recommended that the model code of conduct proposed by the commissioner be adopted with minor amendments and added to the Code of Ethical Conduct for Members of the Legislative Assembly.

The addition to the Code of Ethical Conduct includes the following requirements:

1. Members of the Assembly must comply with the Information and Protection of Privacy Act to the extent possible and as circumstances require.
2. Members must protect a citizen's personal information or personal health information which comes into their possession.

3. Members must, when dealing with a citizen, obtain written consent to collect, use or disclose personal information or personal health information and must determine whether the citizen agrees to share in confidence or in a public way.
4. Members must use the consent form outlined in the code with appropriate modifications.
5. Members must provide a copy on request of that consent to other members of the Legislative Assembly, ministers of the Crown or public bodies when requesting information or exchanging information.

The Assembly adopted the revised Code of Ethical Conduct for Members of the Legislative Assembly.

STATES OF GUERNSEY

Structure of government

In November 2015 the States of Deliberation agreed to the proposals in the 3rd report of the States' Review Committee which implement changes to the structure of government in Guernsey. The changes took effect on 1 May 2016. In summary, the number of elected members for Guernsey will decrease from 45 to 38. The committee structure, by which the decisions of the States are implemented and proposals brought to them for consideration, will be reformed. The current ten departments will be replaced by six principal committees and several other bodies to administer other governmental functions. The present scrutiny structure will be reformed.

INDIA

Rajya Sabha

Amended motion of thanks for president's address

The motion of thanks for the President's address was adopted by the Rajya Sabha in an amended form on 3 March 2015. An amendment moved by three members on the failure of the Government to curb high-level corruption and to bring back black money was adopted by the House. This was for the fourth time in the history of the Rajya Sabha that the motion of thanks for the President's address was amended. The earlier occasions were in 1980, 1989 and 2001.

Commitment to constitution debates

At the beginning of the 2015 winter session (November–December 2015) both Houses of Parliament devoted two days to discussing their "Commitment to India's Constitution as part of the 125th Birth Anniversary celebration of Dr B.R. Ambedkar", in celebration of the Constitution Day. The Constitution of India

was adopted on 26 November 1949. In the Council of States (Rajya Sabha), the discussion started on 27 November 2015. Fifty members participated in the discussion, which lasted nearly 18 hours. At the end of an animated discussion both Houses adopted a resolution unanimously.

Reference of bills to select committees

In 2015 five bills were referred by the Rajya Sabha to its select committees for examination and report. This was unprecedented in a single year. The bills were the Mines and Minerals (Development and Regulation) Amendment Bill 2015; the Coal Mines (Special Provisions) Bill 2015; the Real Estate (Regulation and Development) Bill 2013; the Constitution (One Hundred and Twenty-second Amendment) Bill 2015 relating to Goods and Services Tax (GST); and the Prevention of Corruption (Amendment) Bill 2013. Two of the bills had been passed by the Lok Sabha and were referred by the Rajya Sabha to its select committees with instructions to report a week later so as to enable the House to consider the bills during the first part of the budget session.

KENYA

National Assembly

Vetting of nominees to public offices

Committees continued to vet nominees to various public posts. The House considered all the reports on the vetting process, which involved five nominees to the Teachers Service Commission, the National Police Service, Kenya Missions Abroad (Somalia), the Judicial Service Commission, Cabinet secretaries, permanent secretaries, the Central Bank of Kenya, the Salaries and Remuneration Commission, and the Ethics and Anti-Corruption Commission, among others.

Mediation committees

In 2015 a mediation committee was formed to agree a harmonised version of the Division of Revenue Bill 2015, after the Senate had passed a resolution different from that of the National Assembly. Joint committees were formed in a bid to reach consensus on Presidential Reservations to the Public Audit Bill 2014 and the Public Procurement and Assets Disposal Bill 2014.

Consideration of the longest bill

2015 witnessed the passage of the longest bill ever considered by Parliament. The Companies Bill (National Assembly Bill No. 22 of 2015) had 1,027 clauses, took five separate sittings days for second reading, and took the better part of the afternoon of 6 August 2015 for its committee of the whole House. It was

closely followed by the Insolvency Bill 2015, which had 735 clauses, making it the second longest bill.

Vetting of presidential nominee by both Houses

For the first time the presidential nominee to the post of Inspector General of Police was considered by the two Houses. This necessitated the formation of the first joint committee of the two Houses.

Motion to censure Speaker

In March 2015 a member introduced a motion to censure the Speaker of the National Assembly. The motion was defeated after a vote.

Reconstitution of the Public Accounts Committee

For the first time the Public Accounts Committee was disbanded and reconstituted mid-way through its term. In April 2015 the House adopted the report of the Privileges Committee on an alleged breach of privilege and/or breach of code of conduct by members of the Public Accounts Committee. This report called for the reconstitution of the committee. A question of privilege had been raised in March 2015 by the Leader of the Majority in which he sought guidance from the Speaker on claims made by members of the committee against their chairperson and against each other. In his ruling on 5 March 2015 the Speaker suspended the operations of the committee and directed the Privileges Committee, under the chairmanship of the First Chairperson of Committees, to inquire into the issue and report back to the House within 21 days. The report submitted and adopted found the committee members culpable of breaching the privileges of the House pertaining to claims of receiving bribes to influence investigations against certain individuals.

Formalisation of members' censure procedures

Procedures for censuring/reprimanding members were formalised following the adoption of the Privileges Committee's report on Public Accounts Committee members' conduct. As part of the recommendations, and in line with the Speaker's directive, four members of the committee were required to apologise at the Bar of the House for failing to substantiate graft claims in time. One had to apologise for discussing ongoing committee investigations with the media. Failure to do so would lead to a four-day suspension. The apologies would be followed by a reprimand from the chair. Three members duly apologised, were reprimanded and pardoned. However, one member, after refusing to tender his apology at the Bar, was suspended for four days.

Senate

Mediation committees

The constitution provides that where the second House rejects a bill emanating from the other House, or where the originating House rejects some or all of the amendments made by the second House to a bill, the bill shall be referred to a mediation committee constituted pursuant to article 112(1)(a) and (2)(b), to produce a version of the bill which would be passed by both Houses.

Notable bills that underwent mediation in 2015 included:

- The Division of Revenue Bill (National Assembly Bill No. 13 of 2014). This bill was originally passed by the National Assembly on 23 March 2015 and referred to the Senate for its concurrence. The Senate amended the bill and, pursuant to article 112(1)(b) of the constitution, referred the bill back to the National Assembly for its consideration. The National Assembly, however, on 21 April 2015 voted to reject the Senate amendments, leading to the bill being referred to a mediation committee. The report of the mediation committee was adopted by the Senate and the National Assembly on 27 May 2015 and 3 June 2015 respectively, following which the bill was assented to on 8 June 2015 and came into effect on the same day.
- The Public Audit Bill (National Assembly Bill No. 38 of 2014). The mediated version of the bill was approved by both Houses. However, the bill was not assented to by the President, who returned it to Parliament for reconsideration, pursuant to article 115(1)(b) of the constitution. The National Assembly and the Senate considered and approved the President's reservations on the bill on 18 June 2015 and 16 December 2015 respectively, following which the bill was re-submitted to the President for assent.

Eight other bills underwent mediation in 2015.

NEW ZEALAND HOUSE OF REPRESENTATIVES

Pacific leaders submit in person on Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Bill

The Cook Islands Prime Minister and Minister of Internal Affairs, and the Premier of Niue, together with the High Commissioners of both countries to New Zealand, appeared at their own request in front of the Social Services Committee to present a submission on the Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Bill.

The bill, which received royal assent on 22 May 2015, allowed New Zealanders retiring in the Cook Islands, Niue or Tokelau greater access to their superannuation and veterans' pensions. It took into account New Zealand's close constitutional ties with its Pacific neighbours and New Zealand's commitment to support their ongoing economic and social viability. New Zealand, the Cook

Islands, Niue and Tokelau share citizenship and other unique legal arrangements.

The new legislation allows people entitled to New Zealand superannuation (regardless of whether they are of New Zealand, Cook Island, Niuean or Tokelauan ethnicity) to depart New Zealand to live in one of the three countries after the age of 55 and apply for their superannuation without returning to New Zealand. This should also allow the Cook Islands, Niue and Tokelau to attract capital and skills from their citizens who have moved to New Zealand, in addition to other New Zealanders who choose to spend their retirement in warmer climates.

Parliamentary Library reports on 2014 general election

Published in February 2015, the Parliamentary Library's 21-page report contains comprehensive statistics on final voting results for the 2014 general election, the demographic composition of the 51st Parliament, and voter registration and turnout. The numbers are presented in historical context, with most data series starting in 1981.

For the first time, the Electoral Commission has provided a breakdown of voter turnout by age band. The lowest turnout was recorded by those aged between 25 and 29, with fewer than two-thirds of registered voters in this group turning out to vote, well below the national average of 77%. The 60-plus age group was the largest voting cohort, representing 27% of all voters. Over 80% of those not enrolled to vote were aged under 40.

Remuneration Authority (Members of Parliament Remuneration) Amendment Bill passed under urgency

The Remuneration Authority (Members of Parliament Remuneration) Amendment Bill amended the Remuneration Authority Act 1977 to provide a sole criterion for the Remuneration Authority to consider when reviewing the remuneration of members of Parliament. The criterion is the movement of the Quarterly Employment Survey, published by Statistics New Zealand, for the public-sector average ordinary time weekly earnings for full-time equivalent employees.

Since 2003 New Zealand has had an independent authority setting members' remuneration to ensure decisions were independent of the Government. The Government expressed dissatisfaction with the authority's decision for the 2015 determination, believing that it inappropriately increased members' remuneration, disproportionate with other relevant salary movements and inflation. The amendment bill revoked the 2015 determination insofar as it applied to members' salaries. To ensure that members still received salaries the bill reinstated the 2013 determination.

The bill was introduced and passed under urgency in response to a perceived

public outcry over the pay increase. The intention was that the remuneration of members would increase in line with the average public-sector salary.

Opponents of the bill in and outside the House were concerned about the constitutional implications of the executive effectively setting the salaries of members of Parliament, as well as with the removal of criteria that previously applied to the setting of members' salaries. These included having regard to the need to achieve and maintain fair relativity with the levels of remuneration received elsewhere; being fair to the person whose salary package is being determined; being fair to the taxpayer; and having regard to the need to recruit and retain competent people.

Parliament TV and Virtual House app

New web-streaming software for Parliament TV and the launch of the Virtual House app made it easier than ever to engage with Parliament digitally. Intuitive software now detects whether viewers are watching Parliament TV on a tablet, smartphone or computer, and selects the appropriate video player for a streamlined viewing experience.

The Virtual House app aims to make Parliament and its members more accessible to the public. The app features a streaming function that offers easy access to Parliament TV, as well as members' contact details and information on when the House is next sitting. The app will be enhanced and updated over time in response to public feedback. Currently it is available on Apple devices only.

Legislative scrutiny in select committee services

2015 saw the gradual implementation of an initiative to increase the scrutiny that select committees give to legislation referred from the House. The Office of the Clerk instituted this initiative as part of its role as an advocate for parliamentary democracy. The intention is for select committee staff to bring any constitutional or administrative issues in legislation to the attention of a committee in order for the committee, should it so choose, to discuss these matters with departmental advisers and the Parliamentary Counsel Office.

The first step was to increase the capabilities of select committee secretariats to scrutinise legislation. This has been pursued primarily through education and mentoring provided to committee staff by the Office of the Clerk's Legislative Counsel. Staff now examine bills for issues such as retrospectivity, Henry VIII powers and adherence to principles in the Human Rights Act 1983, the New Zealand Bill of Rights Act 1990, and the Treaty of Waitangi and Treaty settlements, among others. Ongoing training and continued mentoring ensure staff are able to fulfil these scrutiny functions.

Celebrating 150 years of Parliament in Wellington

On 25 and 26 July 2015 Wellington celebrated 150 years as New Zealand's capital city. In 1865 the Parliament moved from Auckland, holding its first sitting in Wellington on 26 July. This marked a significant turning point for the young city, which had been founded in 1840. According to one historian Wellington had little going for it economically outside of whaling and flax-weaving; becoming the seat of government radically changed its economy—it was described as "the tithe that leads to fortune". Wellington has become renowned as New Zealand's cultural capital as well as the seat of government.

Parliament has witnessed many significant political events, including the extension of the franchise to women, the declarations of two world wars and protests against the 1981 Springboks tour. The Rt Hon David Carter, Speaker of the House of Representatives, said:

> "People have been drawn to Parliament over the past 150 years to hear the announcements of war and peace, to protest, to celebrate. People come to participate in our democracy, to visit and learn, sometimes just to enjoy the grounds. This accessible precinct has contributed to the development of a vibrant, diverse and culturally rich city."

To mark the 150-year celebrations, Parliament and Wellington City Council organised two major events. The first was an official "Big Birthday Party" held on the parliamentary precincts. This involved a spectacular nighttime light show and a concert, and giant candles surrounding the Beehive. The second was the opening of the doors to the public of more than 30 of Wellington's historic institutions to showcase Wellington's treasures.

Access to subordinate instruments project

In September the Parliamentary Counsel Office (PCO) announced a new project aimed at developing its information and business systems so that all tertiary instruments are available on the New Zealand Legislation website. This will provide a single official source for all New Zealand legislation. Tertiary instruments, in the New Zealand context, are a category of subordinate instruments drafted by government departments or other agencies that are not published in the official Legislative Instruments series nor on the New Zealand Legislation website.

The Regulations Review Committee has for years highlighted issues about the publication, presentation to the House and accessibility of tertiary instruments. The committee has difficulty identifying tertiary instruments for its routine scrutiny of regulations. In its recent commentary on the Subordinate Legislation Confirmation Bill the committee stated: "This is a considerable project that will improve accessibility to the law. We look forward to receiving updates as the project progresses and providing our own input and expertise where

necessary." Plans are in place for the committee and PCO to meet regularly as the project progresses. The project will likely result in new procedures for presenting tertiary legislation to the House.

New Zealand flag referendums

New Zealanders voted in two binding referendums to decide whether to change the flag and, if so, to what. The first referendum used preferential voting to determine which of five alternative designs would run off against the current flag. The winner of the first referendum was "Silver Fern (Black, White and Blue)", designed by Kyle Lockwood.

The first flag referendum generated significant debate in New Zealand. A large number of people opposed changing the flag. This perhaps was reflected in the turnout for the first vote: only 49% of eligible voters voted, and informal or invalid votes made up nearly 10% of all votes cast.

Turnout for the second referendum was considerably higher at 68%. The final result was published on 30 March 2016: the incumbent flag received the most votes, with 57% of the total votes cast. The country's flag thus remains unchanged.

PAKISTAN

Khyber Pakhtunkhwa Provincial Assembly

The Assembly became probably the seventh parliament in the world to install touch-screen computers to assist members in the House with all Assembly business. This was a significant step.

SEYCHELLES NATIONAL ASSEMBLY

Changes to electoral law

In the Elections (Amendment) Act 2015 provision was made for the Electoral Commission to provide registered political parties with an electronic copy and a hard copy of the register of voters as certified by the Chief Registration Officer. Previously the law made provision only for a hard copy to be provided.

In the Elections (Amendment) (No.2) Act 2015 provision was made for the Chief Electoral Officer to provide for special voting stations in special circumstances. Previously provision was made only for special voting stations for essential services and in old people's homes. The Act allows the Chief Electoral Officer to assess any situation that arises and to provide other special voting stations depending on the circumstances.

The Elections (Amendment of Schedule 2) (Regulations) 2015 amended schedule 2 to the Regulations of Elections Act to add to the list of essential

services that are able to vote at a special voting station before polling day. It now includes Air Seychelles and other airlines.

UNITED KINGDOM

House of Commons

General election

In May 2015 a general election was held, returning a Conservative government, with David Cameron continuing as Prime Minister with a small overall majority. This brought to an end the five-year period of coalition government in place since the 2010 election. The leaders of the Labour party (the official opposition) and the Liberal Democrats (formerly the third largest party, who lost dozens of seats at the election) resigned. The new third largest party is the Scottish National Party, which won 56 out of 59 seats in Scotland.

The ensuing months saw the introduction of new standing orders to implement a policy known as "English Votes for English Laws", which is the subject of a separate article in this volume.

Tablet recording of votes

The House of Commons changed its practice for recording votes (divisions) in the House. Members still walk through the Aye and No lobbies to vote but the three division clerks in each lobby now record members' names on tablet computer devices, using custom-made software rather than pen and paper, which was the practice for more than 100 years. The main benefit of tablet recording is that, by capturing members' names digitally, division lists will be published much quicker than at present: some 15–20 minutes after the division has ended rather than the 2–3 hours it takes for the lists to appear in the rolling online Hansard. The data will also be more accessible and usable for the public who will, for example, be able to track more easily how their local MP has voted over time on certain issues.

The Commons built on work already undertaken in this area by the House of Lords, where tablet recording was piloted in late 2014 before being rolled out there. In March 2015 the Commons held a successful week-long trial where tablets were used for some divisions and over 400 members had their name recorded in the new way. Following the trial it was decided to introduce tablet recording for all divisions.

The process was accelerated after the May 2015 general election due to the new Government's commitment speedily to introduce the "English votes for English laws" (EVEL) procedure, which affected voting practice. Some votes in the House now require a double-majority: that is, a majority of members from both (a) UK and (b) English, or English and Welsh, constituencies to

align in the same direction for a motion to be passed or negatived. Immediately after a double-majority division has concluded the clerks extract the English, or English and Welsh, subset number from the tablet devices and pass the number to the tellers, who announce it in the chamber along with the UK number (the tellers remain responsible for counting the overall number of UK members). At the time of writing the new process had been undertaken on three occasions since January 2016.

In early March 2016 tablet recording was introduced for all divisions. It has already settled down to be a routine part of House procedure.

House of Lords

House of Lords (Expulsion and Suspension) Act 2015

From the 1640s to 2009 the House of Lords did not exercise its power to suspend a member. In 2009 it reused that power, following findings that two members had seriously breached the Code of Conduct. The two members were suspended until the end of the session.

The House reaffirmed its power to suspend in 2009 only after careful consideration of the legality of the power. The Privileges Committee sought legal opinions from the then Attorney General and a former Lord Chancellor, Lord Mackay of Clashfern. Based on the latter's advice, the committee concluded that the House possessed an inherent power to suspend its members for misconduct, but such a suspension could not override the member's legal entitlement to receive a writ of summons at the start of each Parliament. The practical effect was that the House could suspend a member only until the end of the Parliament then existing.

This limit on the power to suspend had two main drawbacks. First, it meant that it was not possible to impose a lengthy suspension, or an expulsion, for the most serious misconduct. Second, it meant that the maximum available suspension varied according to how long was left of the Parliament.

To remedy this the House of Lords (Expulsion and Suspension) Act 2015 was passed. It was introduced as a private member's bill in the House of Lords. The Act, and the standing order made under it, allow the House to suspend a member for any length of time, or to expel a member. A suspension or expulsion may occur only following a finding of the Commissioner for Standards that a member has breached the Code of Conduct, and only where the Committee for Privileges and Conduct recommends suspension or expulsion (as the case may be). These safeguards are designed to prevent the power being used arbitrarily.

At the time of writing the new powers under the Act have yet to be exercised (though the House had used its inherent power to suspend 11 times).

Proposal for a joint committee on EVEL

This volume contains an article on the new House of Commons standing orders implementing the Government's proposal for "English Votes for English Laws" (EVEL).

The changes primarily affect the House of Commons, but there was concern in the House of Lords about their effect on that House. In particular, questions arose about:

- whether a constitutional change of this significance should be made by Act of Parliament rather than by House of Commons standing orders;
- whether the requirement for there to be a "double majority" of all MPs and English (or English-and-Welsh) MPs to agree to Lords amendments would reduce the influence of the Lords at ping-pong;
- whether EVEL might have other undesirable effects on the legislative process or the drafting of bills;
- what the ramifications of EVEL might be for members of the House of Lords (though it was hard to see what they might be, given that EVEL is based on the constituencies MPs represent, and members of the House of Lords do not represent constituencies).

As a reflection of these and other concerns, on 21 July 2015 Lord Butler of Brockwell moved a motion proposing to the Commons that a joint committee be established to examine the constitutional implications of the Government's proposals for EVEL, which at that stage were in draft.

The motion was opposed by the then Leader of the House, who argued that the EVEL proposals were an internal matter in the House of Commons which were for that House to decide—the longstanding principle of comity between the Houses provides that each House is the master of its own procedures and so one House does not question the other's internal proceedings.

In spite of the Government's opposition the motion was agreed on division by a large majority. A message was duly sent to the Commons proposing a joint committee.

However, as the long-standing parliamentarian and constitutional expert Lord Cormack said in the debate, "we have one problem in the House this afternoon: we cannot establish a joint committee." Lord Cormack was correctly referring to the fact that joint committees are composed of separate select committees appointed by each House. Each House must agree that it is expedient to appoint a joint committee, and each House must then appoint members and give it the same powers. Normally a joint committee is appointed only if there is agreement amongst the usual channels in both Houses to do so. Normally a motion such as that moved by Lord Butler of Brockwell would be moved by the Leader of the House of Lords. The Commons would then agree that it is expedient to appoint a joint committee, nominate its MP members and

give it powers. The Commons would communicate its decisions by message to the Lords, whose turn it will be to nominate its Lords members and give it powers.
In this case, given the absence of government support for a joint committee, it was unclear what would happen to the Lords' resolution.

In the event an amendment was tabled in the Commons to the Government's motion to pass the EVEL standing orders proposing that they instead be considered by the joint committee suggested by the Lords. The amendment was defeated, so no joint committee was established.

Scottish Parliament

Further powers

The Scottish independence referendum on 18 September 2014 had a record turnout of nearly 85%, with 55% in favour of remaining in the UK and 45% voting for independence. Following the referendum, a commission was established to look at proposals for devolving further powers to the Scottish Parliament. This commission was chaired by Lord Smith of Kelvin and its membership comprised two representatives of each of the five political parties represented in the Scottish Parliament. It was known as the Smith Commission.

The Smith Commission published its report on 30 November 2014, with the UK Government publishing their response in January 2015—in the form of a command paper and a set of draft clauses—which, in their view, would give effect to the agreement reached by the Smith Commission. Following the UK general election, the Scotland Bill was introduced in June 2015 to take forward proposals for further devolution, as follows.

Taxation—the Scotland Act 2012 gave the Scottish Parliament control over landfill tax and stamp duty land tax, and some borrowing powers, and it allowed the Scottish Parliament to introduce a Scottish Rate of Income Tax (SRIT). The UK Government would deduct 10p in the pound from basic, higher and additional rates of income tax and the Scottish Parliament would have power to levy a Scottish rate across those bands. The SRIT came into force on 1 April 2016.

The Scotland Bill 2015 gives the Scottish Parliament power to set the rates and bands for income tax (not including income from savings and dividends) above the UK personal allowance.

It also gives partial assignment of VAT receipts raised in Scotland, power over Air Passenger Duty and power to charge tax on the commercial exploitation of aggregate in Scotland.

Welfare—the Scotland Bill will devolve powers over a number of welfare benefits, with the remainder reserved to Westminster.

The Scottish Parliament will have power to vary the housing cost element of

Universal Credit, top-up reserved benefits, introduce short-term discretionary payments for people whose well-being is at risk and use discretionary housing payments to help people in rented accommodation with their housing costs. The bill also gives power to create new benefits in devolved areas.

Other powers—other matters to be devolved are: consumer advocacy and advice, the Crown estate, power over Scottish Parliament elections and the operation of the Scottish Parliament and Scottish administration, the power to introduce specific equality requirements for public bodies, onshore oil and gas licensing, abortion, employment programmes, gaming machine licencing powers, energy efficiency and fuel poverty scheme, road signs, speed limits and functions of British Transport Police and administration of tribunals.

Underpinning the transfer of powers through the Scotland Bill is the fiscal framework. This is the set of rules and institutions that will set and co-ordinate fiscal policy following the passing of the bill.

Parliamentary scrutiny—convention requires that a bill which affects the legislative competence of the Scottish Parliament and the executive powers of the Scottish Government is subject to the consent of the Scottish Parliament before being passed into law by the UK Parliament.

In November 2014 the Scottish Parliament established the Devolution (Further Powers) Committee to scrutinise the output of the Smith Commission, the UK's government's response to it and the Scotland Bill. This committee also played a co-ordinating role with other committees who had been scrutinising areas in their remit—particularly the Finance Committee with the proposed fiscal framework and the Welfare Reform Committee.

The fiscal framework was agreed by the UK and Scottish governments on 23 February 2016 and published on 26 February 2016. Both the Finance and Devolution (Further Powers) committees took evidence on the agreement in the limited time available to them; the committees' findings formed part of the Devolution (Further Powers) Committee's final report on the Scotland Bill. This was published on 11 March 2016 and the Scottish Parliament gave its legislative consent to the Scotland Bill on 16 March 2016.

Lobbying

The Scottish Parliament's rules give members the right to introduce a member's bill (following a period of consultation) where there is sufficient cross-party support and no indication has been given by the Scottish Government that it will initiate legislation in the same session on the member's proposal. In 2013 the Scottish Government gave such an indication in relation to Neil Findlay MSP's proposal for a bill on lobbying.

The Scottish Government introduced a bill to establish a register of lobbying activity. Subsequent there was an inquiry by the Standards, Procedures and

Public Appointments Committee. The committee heard no evidence of wrongdoing by politicians in Scotland involving lobbyists; the focus of the bill was on increased transparency around lobbying.

Passed on 10 March 2016, the bill places a duty on the Clerk of the Parliament to establish and administer a lobbying register. The register is likely to be operational from early in the fifth session of the Parliament.

Members' interests

The Standards, Procedures and Public Appointments Committee introduced the Interests of Members of the Scottish Parliament (Amendment) Bill in May 2015. The aim of the bill was to ensure that information about MSPs' financial interests is transparent and accessible, and to streamline the reporting process to assist MSPs in complying with requirements to report donations.

The bill, as passed at the end of 2015, strengthened the sanctions available to the Scottish Parliament to deal with breaches of the rules on interests, widens the scope of the offence of paid advocacy and amends the requirements for the Scottish Parliament to retain members' registers of interest. The new regime will be in place for the start of the fifth session.

National Assembly for Wales

Draft Wales Bill

On 20 October 2015 the Wales Office published the Draft Wales Bill. This is the overture to the next phase of legislation on devolution for Wales, drawing on the recommendations of the Silk Commission's second report and the St David's Day talks.

The Draft Wales Bill proposes a number of significant changes to the constitutional law of Wales. For example, it:

- provides for the recognition of an Assembly for Wales and a Welsh Government as permanent parts of the UK's constitutional arrangements;
- gives statutory recognition to the existing convention that the UK Parliament will not normally legislate with regard to devolved matters without the consent of the Assembly;
- gives the Assembly control over many of its internal operational affairs including: the ability to change the name of the Assembly (subject to a supermajority); rules relating to the positions of Presiding Officer and Clerk; participation of the Secretary of State in Assembly proceedings; and the ability to determine the composition of the Assembly's committees;
- gives the Assembly control over electoral arrangements, such as the number of AMs, the manner in which they are elected, including the franchise and the electoral system and the length of Assembly terms;
- proposes a change from the conferred powers model of legislative

competence to a reserved powers model;
- confers new executive functions on the Welsh ministers. Some of these functions fall within areas of new legislative competence for the Assembly; others are in areas in which the Assembly has no legislative competence (e.g. building regulations).

An Assembly bill to implement certain of the changes would be subject to the agreement of a supermajority: two-thirds of all Assembly members.

The Assembly's Presiding Officer said that the model proposed by the Draft Wales Bill should meet three criteria: clarity, workability and no roll-back on the current competence of the Assembly. It should also provide greater breadth and certainty to the Assembly's legislative powers, and mean there should no longer be frequent referrals to the Supreme Court for interpretation. The Assembly's Constitutional and Legislative Affairs Committee recommended that the UK Government should "use the principle of subsidiarity as a starting point".

Following publication of the draft bill, the Presiding Officer expressed disappointment that, as drafted, the reserved powers model did not meet those criteria and was unlikely to deliver a lasting constitutional settlement for Wales.

The Presiding Officer and the First Minister both responded to the Secretary of State setting out detailed concerns. These include the following fundamental issues:

- the number and complexity of tests that must be applied to assess legislative competence;
- four of the new tests being based on the term "necessary" create a new area of legal uncertainty that will likely require elucidation by the Supreme Court;
- the general restrictions in schedule 7B represents a significant roll-back in competence. For example, it removes the ability of the Assembly to remove or modify a function of a UK minister or a reserved authority without ministerial consent. This is a significant roll-back of the Assembly's current competence and reverses the effect of the Supreme Court judgment on the Local Government Byelaws (Wales) Bill;
- paragraphs 3 and 4 of Schedule 7B shrink the Assembly's current competence in the fields of civil and criminal law.

In written evidence to the Constitutional and Legislative Affairs Committee and the Welsh Affairs Committee the Presiding Officer presented alternative drafts relating to the tests of competence with the intention of demonstrating that the tests could be rationalised and simplified, thus making the settlement clearer and more workable.

The draft bill provides for the move to reserved powers (clause 32(4)) to occur two months after the passage of the Act. This will mean that Assembly Acts not passed before that will have to be checked under the new competence

provisions, as they could be outside the new competence.

Review of legislative procedures

The Assembly's Constitutional and Legislative Affairs Committee published its report on Making of laws in the Fourth Assembly in October 2015.

The committee reviewed the legislative procedures adopted since the Assembly gained primary legislative powers in 2011.

The committee recommended that the Welsh Government undertakes a thorough review and overhaul of how it manages its legislative programme; ensuring that mechanisms are in place to allow fully thought-through and complete bills to be introduced.

The report proposes a presumption in favour of publishing government and members' bills in draft. The Welsh Government should also review its approach to explanatory memoranda and publish the outcome of that review in readiness for the fifth Assembly in May 2016. The committee called for explanatory memoranda to explain how and why an introduced bill has been amended from the draft bill, and for more comparative financial information on the costs arising from legislation.

It recommended that, in the context of the Assembly being a unicameral legislature, its standing orders should provide for a compulsory report stage for every bill, unless the Assembly decides otherwise by a two-thirds majority.

It also proposed that the Welsh Government collaborates with the Law Commission to develop a long-term plan for consolidating law in Wales.

The Assembly agreed standing order changes in March 2016 in relation to the scrutiny process; however, it will be for its successor to give further consideration to other recommendations. At the time of writing a response from the Welsh Government is expected imminently. A plenary debate on the report is scheduled for 20 January 2016.

English Votes for English Laws: Presiding Officer's evidence

While several Westminster committees have been conducting inquiries on "English Votes for English Laws" (EVEL), the chair of the House of Commons Procedure Committee invited the Assembly's Presiding Officer to submit evidence on the certification of legislation within devolved competence. The Presiding Officer provided detailed evidence in response.

In addition to setting out factual details about Assembly procedures when a bill is introduced, the evidence highlighted concerns and queries about the potential for unintended consequences from EVEL—in particular as regards the role of the Speaker in determining legislative competence.

A particular concern is the potential for perceived conflict between the Speaker and the Presiding Officer—and indeed the Assembly—should there

be disagreement as to whether a bill, clause, schedule or statutory instrument is within legislative competence. There is also potential for conflict between the opinion of the Speaker and a judgment of the Supreme Court.

The evidence states that possibly the most concerning aspect is how the procedure draws the Speaker into debate about what is devolved across the UK. This has potentially far-reaching consequences and may exacerbate difficulties in what is already an uneven playing field, a point raised during evidence to the Assembly's Constitutional and Legislative Affairs Committee by Professor Thomas Glyn Watkin on 22 June 2015.

COMPARATIVE STUDY: ACCOUNTABILITY OF HEADS OF GOVERNMENT

This year's comparative study asked, "What arrangements are there in your chamber/parliament for questioning or otherwise scrutinising the prime minister/premier/first minister/chief minister etc., if he or she is a member of parliament? If your chamber is an upper house, are there arrangements for it to scrutinise the prime minister/premier/first minister/chief minister etc. if he or she is a member of the lower house? If your system includes a president with executive power who is not a member of parliament, are there arrangements for questioning or scrutinising the president?"

AUSTRALIA

House of Representatives

Questions without notice (question time) in the House of Representatives takes place each sitting day at 2 pm. The Prime Minister and other ministers are called on to answer questions and to explain government decisions and actions. During question time the call alternates between government and non-government members. In 2015 approximately 36% of questions without notice were directed to the Prime Minister.

Members may also seek information from the Government by asking questions in writing to ministers, including the Prime Minister.

Senate

The Prime Minister, although traditionally a member of the House of Representatives, may be questioned and held accountable by members of the Senate through several procedures. This is made possible by a system whereby ministers who are members of the House of Representatives are represented by ministers in the Senate, and vice versa. Thus all members of the executive, including the Prime Minister, may be questioned directly or via a representing minister by members of either chamber. These representational arrangements are determined by the Government.

Senators may direct questions without notice and questions on notice to the minister representing the Prime Minister. The regular examination of the Government's budget estimates by the Senate's standing legislation committees provides a further means by which senators may question the minister representing the Prime Minister.

The Senate has no power to appoint or remove ministers. Nevertheless, ministers must account for their actions and policies to the Senate. The Senate

has censured ministers representing ministers in the House of Representatives for failing to meet these accountability obligations. The Senate has also directly censured ministers in the House of Representatives, including the Prime Minister. Although such censure motions have no direct constitutional or legal consequences, they can bring political pressure to bear on the executive.

Australian Capital Territory Legislative Assembly

There is a designated question time each sitting day whereby each non-executive member may ask one principal question and one supplementary question. Questions may be directed to the Chief Minister or any other minister. Other non-executive members may also ask up to two supplementary questions that are relevant to the original principal question or the response by the minister.

There are also opportunities for non-executive members to question the Chief Minister through the Select Committee on Estimates hearings and the inquiry hearings into annual and financial reports, as well as specific inquiries that arise from time to time.

New South Wales Legislative Assembly

New South Wales has a system of "responsible government" in which the executive is accountable to the Parliament for its policies and performance.

One of the system's most recognisable features is question time, which is held each sitting day. Questions without notice may be asked of the Premier in relation to his or her portfolios and "whole of government" matters. The Premier may also answer questions on behalf of other ministers.

In addition to asking questions without notice, members may ask written questions for answering by the Premier and other ministers. Members may ask nine questions each sitting week, with the Leader of the Opposition able to ask 12.

Standing orders provide for the Premier and ministers to appear before committees of the Legislative Assembly, either at their request or at the direction of the House. This is not the most likely means by which an Assembly committee would seek evidence from the Premier given that it is the House where the government is formed. Rather, information relating to the Premier's or a minister's portfolios is usually obtained through taking evidence from public servants.

New South Wales Legislative Council

There are several mechanisms by which the Legislative Council scrutinises the New South Wales Premier, who is, by tradition, a member of the Legislative Assembly. The first is through the Council's annual budget estimates process, by which the Council's general purpose standing committees scrutinise the

expenditure proposals of the executive. Under section 4 of the Parliamentary Evidence Act 1901 members of the Assembly, including the Premier, may not be summoned to attend and give evidence before a Council committee. However, they may be invited to appear, and the Premier (and other ministers) by convention appear voluntarily to give evidence at the budget estimates hearings. Since examination of the estimates by the Council's general purpose standing committees began in 1997, no Premier (or minister) has refused to attend and give evidence. On occasion, the Premier also accepts invitations to give evidence to other Council committee inquiries.

There is no legal restriction on a Council committee inviting or summoning members of the Premier's staff (or other ministerial staff) as witnesses. At times it has been asserted that there is a convention that ministerial advisers should not appear before a parliamentary committee. This claimed convention appears to have some support in other jurisdictions. In New South Wales the convention has been asserted but not accepted, as demonstrated in the 2004 "Orange Grove" inquiry, when several ministerial staffers, including the Premier's Chief of Staff, appeared voluntarily to give evidence, and one staffer was summoned after declining the committee's invitation several times. It is, however, generally recognised that ministerial staff should not be held accountable for the actions or policy decisions of ministers or their departments.

Another mechanism by which the Premier may be scrutinised by the Council is through written questions and questions without notice (question time). The Premier is represented by a minister in the Council for the purposes of answering questions with and without notice, and is required to respond to all questions within 35 calendar days.

Finally, the Council may pass a motion of censure or no confidence in a minister, including the Premier. A censure motion is typically used to criticise a minister and/or governments, while a no-confidence motion is used to call for the resignation of a minister or for the dissolution of the Government. While a vote of censure of an individual Premier would have no legal or constitutional effect, it could have a considerable political impact. However, these types of motions have been considered infrequently by the Council, and never in respect of a sitting Premier.

Northern Territory Legislative Assembly

Apart from oral and written questions, the Chief Minister and all minsters are subject to five additional days of scrutiny each year through the Estimates Committee's examination of portfolio responsibilities and budget proposals.

Queensland Legislative Assembly

In the Queensland Legislative Assembly the Premier may be asked questions

without notice by members during question time and on notice each sitting day. The annual estimates/budget examination is another opportunity for the Premier to be questioned on his or her ministerial portfolio.

Question time

In accordance with the sessional orders, question time lasts a maximum of one hour each sitting Tuesday, Wednesday and Thursday. If the House sits on any other day question time is reduced, depending on the duration of other preliminary business.

There are no limits on the number of questions that may be put to the Premier in question time. Standing orders provide that each member may ask a minister one question without notice, except for the Leader of the Opposition who may ask two. Questions are alternated between government members and non-government members. Answers may not exceed three minutes.

In 2015, 132 questions were directed to the Premier in question time (approximately 25% of the questions asked).

Questions without notice

Standing orders provide that members may ask a minister (including the Premier) one question on notice each sitting day. The questions are lodged with the Clerk at the end of question time each sitting day and placed on the notice paper for written reply. The minister is required to answer within 30 calendar days.

In 2015, 45 questions on notice were directed to the Premier (3% of the total questions on notice).

Annual estimates

The Premier's ministerial portfolio is included in the annual budget estimates examination by portfolio committees. The relevant committee may ask up to 20 questions on notice to the Premier (of which 10 must be allocated to non-government members).

The relevant committee holds a public hearing at which the Premier (and certain senior public servants and officers) is questioned on the proposed expenditures for the portfolio area. Members who are not members of the committee may also ask the Premier questions, with the leave of the committee. The time allotted for Premier's portfolio hearing in 2015 was 3 hours 45 minutes.

South Australia House of Assembly

The Premier is a member of the House of Assembly (the lower House). The Premier may be scrutinised during question time, which lasts for one hour

each sitting day. Any member of the House of Assembly may ask the Premier a question during question time.

Members of the Legislative Council may also ask questions of the Premier through the minister who represents the Premier in the Legislative Council. These questions, if not answered by the minister representing the Premier, are referred to the Premier for written response.

Members may also seek information from the Premier by asking questions in writing (questions on notice).

The Premier may also be scrutinised during estimates hearings each year. The Premier and the portfolios he or she is responsible for are subjected to a day or half a day of questioning. These questions come predominately from members of the opposition, but there is provision for government members to ask questions ("Dorothy Dixers"). As in question time, these questions are without notice, yet questions may be taken on notice for a written response to be provided at a later date.

Tasmania House of Assembly

The standing orders of the House of Assembly provide that the Premier, Deputy Premier and other ministers of the Crown may be asked oral questions without notice on each sitting day by private members during question time. Standing orders provide that the Speaker shall ensure that a minimum of seven questions without notice shall be asked by the opposition, four by government private members and two by other members.

There is a sessional order which allows for the participation (by leave of the Legislative Council) of members of the Council who are ministers of the Crown to attend the House of Assembly during question time so that they may answer questions on their ministerial portfolio.

Members may also scrutinise Premier, Deputy Premier and other ministers through questions on notice, which are added to the notices of question paper. The relevant minister provides their response in writing and it is tabled in the House.

Victoria Legislative Council

There is no provision in the upper house for directly scrutinising the Premier.

Western Australia Legislative Council

No Premier of Western Australia has ever sat in the Legislative Council. As an upper chamber in a Westminster-model parliament, there are no conventions and no standing orders that would permit routine direct questioning of the Premier in the Legislative Council. By convention the Premier is represented in the Legislative Council by a minister or parliamentary secretary, and questions

are addressed (and answers provided) through this indirect method.

Section 5 of the Parliamentary Privileges Act 1891 (WA) provides that a House or one of its committees may call for persons or papers by means of a summons in the terms of an order of the House or a committee. No summons has been addressed to the Premier by the Legislative Council or any of its committees.

CANADA

House of Commons

The proceeding most often used to scrutinise the Prime Minister and his or her ministry is question period, during which 45 minutes are devoted to oral questions each sitting day. Members may ask brief questions seeking information about any matter that lies within the administrative responsibility of the Government. Each question and each answer is limited to 35 seconds, a practice not codified in the standing orders.

Participation in question period is managed to a large extent by the various caucuses and their whips, and can be the subject of negotiations among the parties. Lists of names, allocated proportionately to each party in the House, are provided to the Speaker who uses them as a guide, although he is not obliged to. Opposition members ask the vast majority of questions, though a few members representing the governing party are also recognised. Independent members are occasionally recognised.

The Prime Minister and ministers are not informed in advance of the content of questions, often resulting in unhindered and spontaneous exchanges. The Prime Minister (or any other minister acting on behalf of the Prime Minister) may answer any or all questions, but members customarily direct them to specific ministers. Practice is for the Prime Minister usually to answer questions asked by a leader of a party in opposition. It is the prerogative of the Government to designate which minister responds to which question; a minister to whom a question is addressed is not obliged to answer it, and a question may remain unanswered.

Any member who is dissatisfied with the response to his or her question during question period may give notice to speak on the subject matter of the question during a 30-minute period reserved at the conclusion of every sitting day, the Adjournment Proceedings.

Other tools are used to hold the Government more generally to account for their actions and policies, including written questions, which must be answered within 45 calendar days, and procedures related to scrutinising government expenditures by the appropriate standing committee or in committee of the whole. Certain sitting days are also allotted to each opposition party.

Senate

Traditional practice during question period was that senators could ask questions of the Leader of the Government in the Senate, who has not always been a minister; another senator with a ministerial portfolio; or the chair of a committee about that committee's work.

Since the opening of the 42nd Parliament in December 2015, there has not been a Leader of the Government in the Senate and, as a result, the Senate did not hold question period for the six days it sat in December 2015. The Senate did, however, adopt a motion on 10 December 2015 about the participation of ministers who are member of the House of Commons in Senate question period.

Senators may also submit written questions to the Government. These questions appear on the order paper and notice paper until answered.

Alberta Legislative Assembly

Oral question period is the means by which the Premier of Alberta is questioned in the Assembly. It takes place daily (Monday to Thursday) during session for 50 minutes. Although the Premier answers many questions put by private members, other members of the Executive Council regularly respond to such questions.

British Columbia Legislative Assembly

In the Legislative Assembly a daily 30-minute oral question period allows opposition and independent members to question the Premier and members of the executive.

In addition, written questions seeking information from ministers of the Crown on public affairs may be placed on the order paper. Written questions require two days' notice. Written answers are entered in the journals and no debate is permitted on the answers. Since the adoption of the oral question period, written questions are regularly submitted but the number of written answers has considerably diminished. The last journal record of a minister providing a written answer was in 1993.

The estimates process also provides an opportunity for scrutinising the executive, including by asking questions about the planned expenditure of the Office of the Premier. In 2015 the Legislative Assembly spent four hours reviewing the estimates of the Office of the Premier.

In the provincial general election of May 2013 British Columbians elected a BC Liberal government headed by Premier Christy Clark. However, the Premier was defeated in her seat of Vancouver-Point Grey. Following a by-election on 10 July the Premier was re-elected and sworn-in as the member for Westside Kelowna on 30 July. The legislature was recalled at the beginning of

July and the Premier regularly attended question period as an observer in the gallery. No provision was made to permit questions to the Premier during the period when she was not a member.

Manitoba Legislative Assembly

Manitoba has a unicameral legislature and the Premier is an elected member of the Legislative Assembly.

There are several methods by which the Premier answers questions in or is scrutinised by the legislature. Each sitting day there is a 40-minute question period, and the Premier is present nearly every day to answer questions. No notice is given of the subject matter of questions.

During consideration by the Committee of Supply the estimates for the Executive Council are questioned and debated, and the Premier is present to answer questions on government policies, spending and programmes. In the fourth session of the 40th Legislature, over 23 hours were spent on 11 sitting days considering the Executive Council estimates.

The Premier may be asked questions during the concurrence process held to agree the estimates passed in the Committee of Supply. The Premier may also be questioned during committee of the whole consideration of supply bills.

If the Premier proposes legislation in his or her name, he or she may be questioned during a 15-minute question period after moving and speaking to the second-reading motion on the bill. The Premier may also be questioned during committee hearings after second reading, particularly during clause-by-clause consideration.

The Premier is present and may be asked questions in committee when annual reports from Elections Manitoba and reports on the conduct of elections and by-elections, and annual reports of Elections Financing, are considered.

Ontario Legislative Assembly

In Ontario the Premier and cabinet are chosen from members of the Legislative Assembly. The Premier and the cabinet are held to account during the daily question period, which lasts for an hour each sitting day. It begins with so-called "lead-off" questions by the Leader of the Official Opposition. Leaders of other recognised opposition parties are given two "lead-off" questions, each with two supplementary questions.

Following the initial "lead-off" questions, a rotation of questions takes place for the rest of question period, beginning with the official opposition. Members may ask one question and one supplementary question.

Though the Premier and ministers are not obliged to answer any question, it is unusual for them not to. The Premier or a minister may answer a question on a future sessional day or refer the question to another minister who has

responsibility for its subject matter.

Prince Edward Island Legislative Assembly

Each sitting day oral questions may be put without notice to ministers of the Crown, including the Premier, seeking information on public affairs or any bill, motion or other public matter connected with the business of the Assembly. The oral question period is limited to 40 minutes, not including time required for ministerial responses to oral questions taken on notice. During a typical question period 30–35 questions are asked by members of the opposition and private members of the governing party. "Questions put by members" has been part of the daily routine of the House since at least 1894, when it first appeared in the printed Rules with regard to Management of the House. It remains one of the chief ways that the Premier and his or her government are held to account.

Although infrequent, the Premier may appear as a witness before a standing or special committee of the Legislative Assembly. On 25 January 2005 the then-Premier, the Honourable Pat Binns, appeared before the Standing Committee on Public Accounts to answer questions on the government's investment in a seafood processing company which resulted in a significant loss of public funds.

Québec National Assembly

In Québec there are several arrangements for questioning and scrutinising ministers, notably oral question period and debates upon adjournment in the Assembly, and interpellations in standing committees. Furthermore, a committee that wishes to hear from a minister on a matter shall so notify him in writing not less than 15 days before he is to be heard.

All of these may be addressed to any minister, including the Premier. However, based on the principle of ministerial solidarity, a minister may always act on behalf of another minister. This principle is codified in standing order 189. Thus, the reply to a question addressed to the Premier may be given by another minister. Similarly, if he is interpellated by an opposition member or if he has been asked to take part in a debate upon adjournment, the Premier may be replaced by another Cabinet member.

That said, there are situations in which the Premier himself answers questions asked by members of the National Assembly. For instance, in keeping with tradition, the Premier generally answers questions from the Leader of the Official Opposition during oral question period. The same holds true for questions from the Leader of the Second Opposition Group. Also, the Premier generally answers questions about the estimates of his department, the Department of the Executive Council.

The Premier has appeared before a standing committee following an order

of the Assembly. For example, on 29 April 2008 the Premier accepted an invitation from the Committee on Public Administration to be a witness during its hearings on the dismissal of Québec's former delegate general in New York.

Saskatchewan Legislative Assembly

When the Legislative Assembly is in session each day for 25 minutes during question period members may direct questions to a minister of the Crown or the Premier. In addition, during consideration of estimates for the Executive Council, the Leader of the Opposition questions the Premier for three to four hours. This exchange is arranged between House leaders, and it occurs near the end of the legislature.

Yukon Legislative Assembly

The Premier of Yukon is, almost always, a member of the Legislative Assembly. On two occasions (March to May 1985 and June to October 2011) an unelected person was Premier. In each instance the Commissioner of Yukon (Yukon's federally appointed head of state) appointed the individual as Premier because that person had won the leadership of the governing party. In neither case did the House meet prior to the new head of government being elected to the Legislative Assembly.

In addition to his or her duties as head of the government, the Premier is the minister responsible for the Executive Council Office. This latter title includes responsibility for relations between the government and First Nations (indigenous peoples), as well as the territory's youth directorate. The Premier is typically also the Minister of Finance and may hold other ministerial portfolios.

The Legislative Assembly has three main methods for scrutinising the Premier's actions. The first is the 30-minute oral question period that occurs each sitting day, during which members of the opposition (and on rare occasions a government private member) ask questions (and supplementary questions), without notice, to cabinet ministers, including the Premier. The Premier is expected to be present for question period on all days when the House is in session (Monday to Thursday; a maximum of 60 sitting days per calendar year).

A second method of scrutiny is debates on government or private members' bills and motions. Bills stand referred to a committee of the whole once they have received second reading. A third method of scrutiny, therefore, is committee of the whole consideration of government bills—particularly those sponsored by the Premier. As the Premier is typically the Minister of Finance, he or she will lead general debate on appropriation bills in committee of the whole. The Premier will defend the estimates for those entities for which he or she is responsible when the committee of the whole considers each departmental or

corporate vote in an appropriation bill.

CYPRUS HOUSE OF REPRESENTATIVES

The President of the Republic in Cyprus has executive power as vested in him by the constitution, which also provides for complete separation of powers between the executive, legislative and judicial branches of power.

The President of the Republic is not a member of parliament and there are no formal arrangements in place for questioning or scrutinising him. However, the President may brief the House on issues of national interest. Scrutiny is exercised through the debate of government bills by parliamentary committees; in this context, government ministers or their representatives may be summoned for discussion of a bill.

GUERNSEY STATES OF DELIBERATION

The Chief Minister, whose post will be renamed "President of the Policy & Resources Committee" from 1 May 2016, is a member of the States of Deliberation in Guernsey's unicameral system. The holder of that office may be questioned orally by any other member during a period at the start of each States' meeting. The questions cannot seek information which is readily available in the public domain, nor can they relate to the business of the day. A question may not take longer than one minute to ask. The question must be submitted in advance to the person to whom it is addressed and to the Presiding Officer and H.M. Procureur (H.M. Attorney-General) at least five days in advance of the meeting. The answer must be provided to the questioner on the day before the meeting. The answer when read out cannot exceed 90 seconds in duration. Every member, including the asker of the original question, may ask up to two supplementary questions, which must arise out of the reply to the principal question.

There is provision for asking urgent questions, which must meet certain criteria but are not then subject to the timescales set out above.

Members are permitted to ask written questions to the Chief Minister (and all other committee chairmen) in respect of the business of the committee which that office-holder chairs.

INDIA

Lok Sabha

In view of the constitutional provisions on the collective responsibility of the Council of Ministers to the Lok Sabha, a motion of no-confidence may

be moved only against the Council of Ministers as a whole and not against an individual minister. However, a censure motion may be moved against a single minister. Censure motions may be moved in respect of a minister or ministers' failure to act or not to act, or for their policy; they may express regret, indignation or surprise.

Rajya Sabha

There is an arrangement for questioning the Prime Minister in the Council of States (Rajya Sabha), the upper House of Parliament of India. Members of Parliament may raise questions on the portfolios/ministries under the purview of the Prime Minister on the "Prime Minister Day" in the Council of States, which occurs every Thursday during a session. The Prime Minister may be questioned even if he is a member of the lower House—i.e. the House of the People (Lok Sabha). The Prime Minister has to be a member of one House. As India has a parliamentary system of government the President has no role in this regard.

Rajasthan Legislative Assembly

Rajasthan has a unicameral Legislative Assembly. State legislatures, apart from exercising the usual power of financial control, use all normal parliamentary devices like questions, discussions, debates, adjournments, no-confidence motions and resolutions to keep a watch over the day-to-day work of the executive.

The ultimate way of ensuring the accountability of the head of government is by a member moving a motion for want of confidence in the Council of Ministers, whose head is the Chief Minister.

STATES OF JERSEY

The Chief Minister is elected by the Assembly after each general election. Questions are the primary mechanism for scrutinising his actions. The Chief Minister answers written and oral questions on matters for which the Council of Ministers is responsible. He also answers oral questions without notice at alternate sittings of the Assembly. The Chief Minister may lodge propositions for debate on matters for which the Council of Ministers is responsible, put the case for those propositions in the Assembly and deal with any points which then arise. He may also speak in debates on other propositions, whether lodged by ministers or backbenchers. The Chief Minister's actions are also scrutinised by the Corporate Services Scrutiny Panel, including in quarterly public hearings on his work.

KENYA

Senate

Article 96(1) of the constitution, which sets out the primary role of the Senate, states: "The Senate represents the counties, and serves to protect the interests of the counties and their governments."

In performing this role the Senate established the County Public Accounts and Investments Committee. In 2015 the committee, guided by the Auditor General's report on the accounts of county governments, summoned a number of county governors to answer queries on their accounts.

The Senate holds the Government to account through statement requests on issues of national importance. The Senate further participates in the oversight of state officers by considering and determining any resolution to remove the President or Deputy President from office in accordance with article 145 of the constitution. This provision was not invoked during the third session.

NEW ZEALAND HOUSE OF REPRESENTATIVES

The Prime Minister of New Zealand must be a member of Parliament; traditionally he or she is also the leader of the parliamentary party with the largest representation in the House of Representatives or, in the case of a coalition arrangement, the largest representation in the House amongst the parties that make up the Government.

New Zealand has a unicameral Parliament. Its House of Representatives has a number of mechanisms by which its members hold the Prime Minister to account.

Questions for oral answer

Question time is given significant coverage by the news media and is the first substantive item of business in the House each sitting day. It allows members to question the Prime Minister on public affairs with which he or she is officially connected, or any matter of administration for which he or she is responsible. Therefore, the scope of matters on which the Prime Minister may be questioned is wide, including the performance or conduct of government ministers, government policy, and his or her own performance or conduct as Prime Minister.

Questions to ministers for oral answer are put down on notice in the morning of the sitting day on which they are to be answered. Generally the maximum of 12 questions are lodged. During question time members may ask supplementary questions, which must relate to the question on notice. There is no specific category of "Prime Minister's questions"; questions to the Prime Minister are

included in the 12 questions to ministers.

Parties are allocated a number of primary questions and supplementary questions based on their proportion in the House.

Questions for written answer

Like any other minister, the Prime Minister may be asked written questions by members of Parliament. Members are not limited in the number of written questions they may ask a minister but, like oral questions, there must be ministerial responsibility for the subject matter of the question. Ministers have up to six working days to provide a written reply. Both questions from members and responses from ministers are lodged with the Clerk of the House of Representatives.

Debate on Prime Minister's statement

There are several debates during the parliamentary term that relate to the whole sphere of government activity, and which frequently involve declamations about the Prime Minister's performance. The most obvious of these is the debate on the Prime Minister's statement.

The debate on the Prime Minister's statement begins on the first sitting day of each year, as long it is not the day of an Opening of Parliament or soon thereafter. The statement itself is in the form of a paper setting out in detail the Government's legislative and other policy intentions for the coming year. The Prime Minister presents the paper to the House and immediately moves a motion relating to it, usually seeking the House's endorsement, which is a confidence motion. Following the Prime Minister's speech on the motion, the Leader of the Opposition speaks in response and usually moves an amendment that would effectively convert the motion into a motion of no-confidence. A wide-ranging debate ensues, covering any aspect of government activity and public affairs. Many members speaking in the debate focus their speeches on the performance of the Prime Minister.

Scrutiny of the estimates for which the Prime Minister is the responsible minister

The Prime Minister is invited to appear before a select committee to justify the funds sought for the annual appropriations relating to Vote Prime Minister and Cabinet, for which the Prime Minister is the responsible minister. The Prime Minister also faces scrutiny during the committee of the whole House debate on Vote Prime Minister and Cabinet, which is part of the committee stage of the main annual Appropriation Bill. During select committee and committee of the whole House scrutiny members may ask the Prime Minister to justify his requests for appropriations to fund Vote Prime Minister and Cabinet.

SEYCHELLES NATIONAL ASSEMBLY

Seychelles has a presidential system with a strict separation of powers, meaning that the President and his Cabinet ministers are not members of Parliament.

Provision has been made by the National Assembly to scrutinise the President in Parliament. Any matters pertaining to the portfolio of the President are sent to the Office of the President (including bills/questions/statements), but it is the Vice President who represents the President in the House and is scrutinised on his behalf.

The same principle applies to committee hearings. The Vice President is questioned or scrutinised in committees on behalf of the President on matters pertaining to the President's portfolio.

The President delivers a State of the Nation address in the Nation Assembly at the beginning of each year (article 65 of the Constitution of Seychelles). This address is followed by debates by members.

PARLIAMENT OF SOUTH AFRICA

The President has executive powers and is not a member of Parliament.

Under the Assembly Rules, questions to the President must be scheduled for a question day at least once per term. They are limited to matters of national and international importance. All other questions relating to the Presidency must be directed to the Deputy President or the minister in the Presidency. The number of questions to the President is limited to six per question day. Replies by the President are followed by four supplementary questions. Supplementary questions are taken in the order determined by the Presiding Officer, ensuring political diversity among the parties.

UNITED KINGDOM

House of Commons

The Prime Minister (who in modern times has been a member of the House of Commons) comes to the House of Commons to answer oral questions from members once each sitting week (about 36 weeks a year). Prime Minister's Questions (PMQs) are on a Wednesday from 12 noon to 12.30 pm. As with oral questions to other ministers, priority is established by ballot. Members wishing to participate table a question in advance and 15 names are picked out by electronic shuffle the previous Thursday. While it is possible to table a specific question to the PM, most members use a generic formula "if she will list her official engagements" for that day, allowing them to ask whatever they wish. The Prime Minister gives a standard uninformative reply to the generic

question asked formally by the first member to be called; procedurally all the subsequent questions are dealt with as supplementary questions. Members other than those who came out of the ballot may be called, as time allows and at the discretion of the Speaker, who will take into account factors such as party balance, major events in a member's constituency and how many times the member has intervened in PMQs this Parliament. The Leader of the Opposition is customarily allowed to ask six questions of the Prime Minister; the Leader of the second largest opposition party (currently the Scottish National Party) two; and a leader of one of the smaller parties, by rotation, one. (The exact arrangements are at the discretion of the Speaker and are modified from time to time.) The exchange between the Prime Minister and the Leader of the Opposition is often seen as the highlight of the parliamentary week, attracting a full House and widespread media attention. The rowdiness of PMQs is criticised in some quarters as projecting a bad image of Parliament.

There is an expectation that the Prime Minister will report to the House on significant policy developments or events, such as following international meetings of heads of government, by means of a statement to the House. Statements are typically followed by around an hour of questions, at the discretion of the Speaker.

The Prime Minister will on occasion participate in major debates, typically by opening the debate. This includes the annual debate on the Queen's Speech (the statement of government policy set out at the beginning of each annual session, by which the House expresses its support for the Government).

It is possible for non-ministerial members to table written questions to the Prime Minister on matters within her responsibility. Like other ministers, the Prime Minister may make written statements to the House.

In addition to scrutiny in the chamber, the Prime Minister appears three times a year before the Liaison Committee, a select committee which brings together the chairs of the various scrutiny and other select committees. These sessions last for around 1½ hours, and focus on one or two topics chosen by the Liaison Committee.

House of Lords

It has become constitutional practice for the Prime Minister to be a member of the House of Commons. The last Prime Minister to lead a government from the House of Lords was the 3rd Marquess of Salisbury, who retired in 1902. (Before then it was as standard for a prime minister to be a member of the House of Lords; more 19th-century prime ministers were peers than commoners.)

No mechanisms exist in the House of Lords for questioning the Prime Minister (or any other minister who is an MP) in the chamber. In 2008–10 it was explored whether a minister who is a member of one House could be

questioned in the other House, but this was in the context of MPs wishing to scrutinise secretaries of state who were members of the House of Lords. No change resulted.

In theory a House of Lords select committee could take evidence from the Prime Minister, but this has not happened in modern times (and a committee from one House cannot compel the attendance of a member of the other House). However, the then Prime Minister David Cameron appeared before a joint committee of both Houses (the Joint Committee on National Security on 30 January 2014).

The broad equivalent of the Prime Minister in the House of Lords is the Leader of the House. She repeats statements made by the Prime Minister in the House of Commons and moves equivalent motions moved by the Prime Minister. She may answer oral or written questions which if asked in the Commons would be asked of the Prime Minister.

Scottish Parliament

Members may ask questions to ministers in the chamber at four different question times during the parliamentary week.

As a result of reforms brought in by the Presiding Officer, the Rt Hon. Tricia Marwick MSP, early in session 4, members may ask topical questions of portfolio ministers during Tuesday sittings. Questions are submitted the previous day and are subject to selection by the Presiding Officer.

Members may also to ask portfolio and general questions to ministers on Wednesdays and Thursdays respectively. For these question times members' names are drawn by ballot and questions are submitted a week in advance.

First Minister's Question Time takes place on a Thursday. Questions are submitted the previous Monday and are subject to selection by the Presiding Officer.

The Scottish Parliament's rules also allow for emergency questions, although these are rare: only two have been selected during the fourth session.

The First Minister also appears before a group comprising conveners of all mandatory and subject committees on an annual basis to answer questions about the Scottish Government's legislative programme.

National Assembly for Wales

Oral questions to the First Minister

Assembly members may table questions for oral answer in plenary to the First Minister about matters falling within his area of responsibility, as well as on any matter falling within the responsibility of another Welsh minister:

The First Minister's responsibilities include:

- strategic and corporate planning in the Welsh Government;

- the legislative programme;
- policy development and coordination of policy;
- international affairs;
- the Welsh language, including oversight and coordination of general Welsh language policy;
- oversight of the Welsh Government's relationship with the Wales Audit Office;
- overall responsibility for public appointments.

Oral questions to the First Minister are required by standing orders to take place during a designated question time once a week for a maximum of 60 minutes in plenary (although, since 19 February 2013, the government has allocated 45 minutes to questions to the First Minister). First Minister's Questions is usually the first item of business on a Tuesday afternoon. If the First Minister is unable to answer oral questions on a day when he or she would normally do so, standing orders permit another Welsh minister to answer them.

The Table Office conducts a ballot to determine the names of members who may table questions to the First Minister. Each member may enter the ballot once for the First Minister (twice for other ministers). The member selected must then table his or her oral question at least three working days before the question is due to be answered. Questions must relate to the responsibilities of the First Minister. A computer randomly selects the order in which the questions are to be asked in plenary and they are published on the Assembly website.

By convention individual oral questions are allocated four minutes each. This is an indicative timing and, depending on the number of members seeking to ask supplementary questions, it may be allowed to run beyond four minutes at the Presiding Officer's discretion.

Once the First Minister has replied to the tabled question, the Presiding Officer calls the member to ask a supplementary question which is related to the tabled question.

Other members may be called to ask a related supplementary question at the Presiding Officer's discretion. The minister replies to each supplementary question in turn.

Leaders' questions

In the fourth Assembly (2011–16) the Presiding Officer adopted a practice of calling party leaders to ask questions without notice to the First Minister after the second tabled question to the First Minister is answered each week. Each leader of the opposition parties is permitted to ask one question to the First Minister, followed by two supplementaries. The order in which the leaders are called from week to week is rotated. No other member may ask a supplementary

question during this time.

According to evidence gathered for the Assembly's Business Committee Legacy Report, the introduction of leaders' questions has provided Assembly members with more opportunity to scrutinise the First Minister on matters of current importance.

Urgent questions

Assembly members may make a request at any time to ask an urgent question to a member of the Welsh Government, including the First Minister, during plenary meetings. Urgent questions are allowed only if the Presiding Officer (or the Deputy Presiding Officer) is satisfied that the question is of urgent public importance.

Committee for the Scrutiny of the First Minister

The Committee for the Scrutiny of the First Minister was established on 2 May 2012 with a remit to scrutinise the First Minister on any matter relevant to the exercise of the functions of the Welsh Government. The committee is chaired *ex officio* by the Deputy Presiding Officer and each party group has a single representative. During the fourth Assembly the committee met once in each Assembly term, usually for around 2½ hours.

The committee agreed at an early stage that in each meeting it would examine one broad topic related to the strategic vision of the Welsh Government, as well as a specific subject that is central to the Welsh Government's programme. It has tended to confine itself to matters that are specific portfolio responsibilities of the First Minister or where the First Minister has a clear cross-cutting, co-ordination or leadership role.

PRIVILEGE

AUSTRALIA

Senate

CCTV surveillance and the rights of senators—sequels

Volume 83 included an account of an inquiry by the Senate Privileges Committee into the possible misuse of the CCTV system in Parliament House by officers of the Department of Parliamentary Services (DPS).[1] Rather than recommend that a contempt be found, the committee proposed that remedial action be taken to address policy and accountability shortcomings through a wide-ranging review of the administration of the CCTV system. The committee also recommended that possibly misleading and contradictory evidence by the then secretary of DPS be drawn to the attention of the committee to which the evidence had been given (the Finance and Public Administration Legislation Committee).

The Senate adopted the recommendations on 12 February 2016. The President of the Senate, in a response presented on 2 March 2016, agreed—with the Speaker—to establish a working group to develop a new code of practice for the CCTV system to recognise the primacy of parliamentary privilege in its operations. A revised code of practice, with stronger accountability controls on the use of CCTV images, was adopted and implemented later that year. Senior officers of DPS involved in the administration of the CCTV system were required to undertake structured training in the principles of parliamentary privilege.

The Finance and Public Administration Legislation Committee, in the context of a wider inquiry into the operations of DPS, concluded that it had been misled by the secretary and that the misleading evidence had had a substantive impact on the committee's work in the context of its broader inquiry into DPS. In view of the termination of the secretary's employment the committee concluded that it had pursued the matter as far as practicable.

Possible imposition of a penalty on a witness before a committee

An employee of the Civil Aviation Safety Authority (CASA), who had given *in camera* evidence to the Rural and Regional Affairs and Transport References Committee, made a complaint that the authority was taking disciplinary action against him which he alleged was connected to his giving evidence. This action involved CASA initiating proceedings for the investigation of a potential breach

[1] *The Table*, volume 83 (2015), pp 128–31.

of its code of conduct. The witness made a further complaint when CASA broadened the code of conduct proceedings to encompass other allegations. A preliminary investigation by the references committee and its paired legislation committee (the allegations also involved hearings of that committee) concluded that the witness may have been subjected to a penalty in respect of his evidence.

While the Privileges Committee was conducting its inquiry into the allegations the employee and CASA were negotiating a settlement; the committee considered it appropriate to allow them to conclude that process before making its findings. The code of conduct proceedings were settled on terms acceptable to both parties and the committee reported to the Senate its conclusion that contempt should not be found in this case.

Without cogent evidence of an improper motive on the part of CASA supervisors for initiating the code of conduct proceedings against the employee, the committee was unable to conclude that there was a causal connection between the disciplinary action and the employee giving evidence, particularly given that CASA had no knowledge of the *in camera* hearing. The committee considered that CASA's initial actions were reasonable in the circumstances. Having been alerted to the situation by the references committee and having given assurances to that committee that it would respect the employee's rights as a witness, the committee considered that CASA was entitled to proceed on the basis that its assurances to the committee had been accepted.

At the end of its report the committee commented on the nature of the protection given to witnesses by parliamentary privilege.

Government guidelines for official witnesses before parliamentary committees

Last updated in 1989, the *Government guidelines for official witnesses before parliamentary committees and related matters* were revised in February 2015, after the Privileges Committee in its 153rd report (presented in June 2013) urged the Government to bring them up to date to reflect current practice. Although they have no procedural standing, the guidelines are widely relied on by public servants appearing before committees. In their final form the guidelines adopted suggestions made by the Privileges Committee to address earlier deficiencies. The guidelines now refer to a range of Senate resolutions that reflect the evolution of committee practices and requirements since 1989.

New South Wales Legislative Council

Orders for papers: Greyhound Racing NSW

On 9 September 2015 the Legislative Council agreed to an order for the production of state papers from Greyhound Racing NSW. Whereas other orders for the production of papers are routinely complied with, on this occasion no

return was received. Correspondence from the Department of Premier and Cabinet, received on 14 September, noted that section 5 of the Greyhound Racing Act 2009 provides that Greyhound Racing NSW does not represent the Crown and is not subject to direction or control by or on behalf of the Government.

This was the second time that Greyhound Racing NSW may have failed to provide papers in response to an order of the House. In 2013 documents sought from Greyhound Racing NSW and the Office of Liquor, Gaming and Racing were seemingly supplied only by the Office of Liquor, Gaming and Racing. On two previous occasions in 2011 and 2005 there was a suggestion that orders of the House were not complied with, seemingly based on the concept that certain statutory bodies are at arm's length from the Government and therefore immune from orders made by the House. The failure to provide the required papers on this occasion, however, was clear and unambiguous.

On 18 November 2015 the President made a statement on the matter in the House, noting the seriousness of non-compliance with an order of the House and indicating that the Clerk, with his concurrence, had sought advice from Mr Bret Walker SC on legal issues raised by the matter. The President then tabled the advice of Mr Walker, received that morning.

Mr Walker considered that bodies with public functions, such as Greyhound Racing NSW, are amenable to orders for papers addressed to them directly by the Council, and are compelled to comply with such an order. Failure to do so would result in the responsible officer being in contempt of Parliament. Mr Walker advised that the order for papers should be sent directly to Greyhound Racing NSW, rather than adopting the normal approach of communicating the order through the Department of Premier and Cabinet.

The following day Dr John Kaye MLC gave notice of a motion reaffirming the original 9 September 2015 order for papers and ordering that the Clerk communicate the terms of the order for papers directly to the chief executive officer of Greyhound Racing NSW. The motion is listed for consideration when the House sits again on 23 February 2016.

Statutory secrecy provisions and committee inquiries

The Legislative Council select committee inquiry into the conduct and progress of the Ombudsman's inquiry "Operation Prospect", completed in February 2015, was significant in its use of committee powers to obtain evidence under privilege that was subject to statutory secrecy provisions.

In 2012 the NSW Ombudsman began "Operation Prospect", an inquiry into the alleged illegal surveillance of more than 100 New South Wales police officers during several police corruption investigations initiated more than 15 years ago. A few months before the Ombudsman's inquiry began questions

about an earlier police inquiry into the alleged illegal bugging were raised at a Legislative Council budget estimates hearing. The relevant police witness refused to answer the questions on the ground that to do so would put her in breach of statutory secrecy provisions, which made it a criminal offence to disclose the information. While the chair emphasised the power of the committee to pursue such questions, the committee desisted, initially to give the witness an opportunity to seek legal advice, and subsequently because the minister announced that the Ombudsman was to investigate the allegations. The Government assured the chair that the Ombudsman would complete his investigation within six months.

Almost two years later, in November 2014, a select committee was established by the Legislative Council to inquire into progress on and the conduct of the still-incomplete Ombudsman's investigation. In anticipation that statutory secrecy issues could prove a significant hurdle to the inquiry, the inquiry's terms of reference explicitly stated: "That the House makes clear its understanding that a statutory secrecy provision in statute does not affect the power of the House or of its committees to conduct inquiries and to require answers to lawful questions unless the provision alters the law of parliamentary privilege by express words". The committee obtained legal advice from Mr Bret Walker SC in which he confirmed earlier advice that "there are no words or necessary implication to be seen in [the relevant] statutory provisions that amount to the abrogation by Parliament of this aspect of parliamentary privilege".

The inquiry was remarkable for the amount of information provided by witnesses which, in any other context, would be prohibited by statutory secrecy provisions. Instead of objecting to the committee's powers to seek this highly sensitive information, as had happened previously, senior public servants, including police officers and the Ombudsman, fully co-operated and provided information in public under parliamentary privilege.

The select committee's report noted the Executive Government's acceptance of the Council's power to seek such information, stating:

> "This inquiry is one of the most significant in any Australian parliamentary jurisdiction in its use of committee powers to obtain evidence under privilege that is subject to statutory secrecy provisions. The Legislative Council will not accept attempts by future state governments and their agencies to hide behind statutory secrecy when the Council or its committees are seeking to comply with the key role of scrutiny of the executive."

Northern Territory Legislative Assembly

Two privilege motions sit on the notice paper, having been introduced but not debated. Both motions refer members to the Committee of Privileges for investigation. One refers the former leader and deputy leader of the opposition

in relation to Code of Conduct matters; the other refers the Chief Minister for alleged contempt. The motions remained on the notice paper and did not proceed in 2015.

Queensland Legislative Assembly

Alleged inducement offered to a member

This matter concerned an allegation that a member of the public offered a member an inducement to join the Palmer United Party during a telephone conversation that was recorded by the member.

Given that the allegations may have constituted a criminal offence, under section 60(1)(a) of the Criminal Code (Qld), the Ethics Committee of the 54th Parliament asked the Queensland Police Service (QPS) whether they were investigating the matter. The QPS advised that it had determined there was insufficient evidence to prosecute the matter under the Criminal Code.

At a private hearing of the Ethics Committee it was claimed that the recording of the telephone conversation in question had been edited or tampered with. This claim was disputed by the member, who had made the recording on his iPhone. However, as the member had subsequently changed phones the original recording was not available.

The Ethics Committee requested that the QPS forensically analyse the copy of the audio recording provided by the member. The QPS advised that there was no evidence of removal of sections of speech or any other editing or tampering with the recorded audio or file data. The Ethics Committee considered that the results of the QPS' forensic analysis raised a suspicion that a contempt of deliberately misleading the committee may have occurred.

The Ethics Committee of the 55th Parliament took up the inquiry and reported on 4 June 2015. The committee found that there was evidence that the member was offered a benefit—albeit unspecified—to change his political allegiances and join the Palmer United Party. The committee found, however, that there was insufficient evidence that the offer was intended to influence the member in the performance of his duties as a member or that the offer was improper in that it had some element of public mischief, corruption or breach of trust.

The committee noted that as it did not have access to the original recording of the telephone conversation it had insufficient evidence to reach a definitive conclusion on whether the statement that the recording had been tampered with or edited was misleading.

The Ethics Committee recommended that the House take no further action on the matter.

Alleged use of broadcast of proceedings in contravention of terms and conditions

This matter concerned an allegation that the Together Union used footage from the broadcast of the proceedings of the Parliament in an advertisement, in contravention of the Parliament's Broadcast Terms and Conditions. The advertisement in question was broadcast on commercial television and was available on YouTube.

The Clerk of the Parliament wrote to the Together Union's secretary to draw his attention to the terms and conditions and urge him to take immediate action to withdraw the footage from the advertisement. However, despite further correspondence with the Together Union's legal representatives, the footage was not withdrawn.

The former Speaker referred the matter to the Ethics Committee of the 54th Parliament, in accordance with standing order 268(2). The matter had not been fully investigated before the dissolution of the 54th Parliament, so the Ethics Committee of the 55th Parliament resolved to continue considering the matter, in accordance with section 105 of the Parliament of Queensland Act 2001.

The terms and conditions provide that the further publication of the broadcast of proceedings shall be used only for the purpose of fair and accurate reports of proceedings and shall not be used for:

- political party advertising or election campaigning;
- satire or ridicule;
- commercial sponsorship or commercial advertising.

The terms and conditions also state that reports of proceedings shall provide a balanced presentation of differing views and that excerpts of proceedings are to be placed in context.

The Ethics Committee reported on 29 October 2015. The committee found that the Together Union's use of the footage did not constitute a breach of the Parliament's Broadcast Terms and Conditions.

However, the committee noted that in other circumstances, such as where there was evidence of activity during an election period to draw people's attention to an advertisement containing parliamentary images on the internet, the committee might find a breach of the terms and conditions.

The Ethics Committee recommended that the House take no further action on the matter.

The committee suggested that the Committee of the Legislative Assembly review the terms and conditions with a view to ensuring that they:

- meet the current and future needs of Parliament;
- are enforceable in light of the continuing technological revolution of media and social-media platforms;
- do not unnecessarily hinder the rights of the public to participate in

democratic processes and express a point of view;
- are clearly understood by the public and broadcasters and other like organisations; and
- are more readily enforced by the Speaker, the Ethics Committee and the House.

On 12 November 2015 the House amended the Broadcast Terms and Conditions House to include the following condition:

> "The material must only be used for the purposes of fair and accurate reports of proceedings and must not in any circumstances be used for:
> i. political advertising, election campaigning or any advertising campaign that would normally require at law a broadcaster to announce who has authorised the material; …"

Alleged failure by member to respect to confidentiality of committee proceedings and deliberate misleading of committee

The inquiry undertaken by the Ethics Committee concerned two matters. The first was an allegation that a member failed to comply with the rules adopted by the former Parliamentary Crime and Misconduct Committee (PCMC) in relation to the confidentiality of its proceedings by not emptying her Parliamentary Crime and Corruption Committee (PCCC) electorate office safe nor returning the safe's keys to the secretariat.

The second matter concerned an allegation that the member signed an incorrect statement in relation to the destruction of documents that were in her PCCC electorate office safe, with the signed statement then tendered to the PCCC.

The committee reported on 3 December 2015. On the allegation of failing to comply with the rules adopted by the former PCMC on the confidentiality of its proceedings, it found that that it was arguable that a reasonable person with knowledge of the circumstances could find that the actions of the member were not inappropriate in the circumstances, and therefore did not amount to an improper interference with the authority of the PCCC.

On the allegation of deliberately misleading the PCCC by signing an incorrect statement, the committee found there was no evidence the member intended to mislead the committee.

The committee recommended no finding of contempt be made on either matter.

However, it noted that despite its finding that the technical elements of contempt were not made out in respect of either allegation, the evidence before the committee across the two allegations demonstrated a pattern of reckless conduct by the member. Accordingly, in the interest of maintaining standards of conduct by members, the committee recommended that the member at the

earliest opportunity make a statement in the Assembly acknowledging that her conduct was not of the standard expected of a member of Parliament and of a minister of the Crown, and apologising for not complying with the rules adopted by the former PCMC on the confidentiality of its proceedings and for signing an incorrect statement which was tendered to the PCCC.

On 3 December 2015 the member rose on a matter of privilege and apologised to the House "unreservedly and sincerely" for "any conduct that was not of a standard expected of a person" in her position.

On 4 December she resigned as a minister.

CANADA

House of Commons

Access to the parliamentary precinct

The Standing Committee on Procedure and House Affairs concluded its study of the question of privilege found *prima facie* and referred to it on 25 September 2014. On that day Yvon Godin (Acadie—Bathurst) and other members had been briefly denied access to the parliamentary precinct while proceeding to a vote in the House by a Royal Canadian Mounted Police Officer. The incident had occurred during the arrival of a motorcade during the visit of the President of Germany.[2]

The report, presented to the House on 26 March 2015, reasserted members' privileges, including their right to unimpeded and unfettered access to the parliamentary precinct. It reviewed similar incidents in 1999, 2004 and 2012, and recommended improved planning, greater coordination between partners, and increased education and awareness of security services and members; notably, that security personnel should be better trained on parliamentary privilege. It further recommended that the Sergeant-at-Arms provide to members through communiqués as much relevant information as possible to reduce the possibility of a member encountering an otherwise avoidable delay, and that a telephone number be provided to members to call in the case of an emergency related to an obstruction of their access. No motion was moved for concurrence with the report.

The issue arose again on 30 April 2015, when Nathan Cullen (Skeena—Bulkley Valley) raised a question of privilege to allege that he and other members had experienced delays in gaining access to Parliament Hill. On 8 May 2015 Craig Scott (Toronto—Danforth) raised a similar question regarding another incident. They questioned whether additional incidents would arise due to the

[2] Please see *The Table*, volume 83 (2015), p 137.

changing nature of security on the Hill. On 12 May 2015 the Speaker ruled on both questions of privilege. In his ruling the Speaker stated that the transition from the old security service to the new regime would undoubtedly present some challenges, but he stressed that the implementation of security measures could not override the right of members to access the parliamentary precinct free from obstruction or interference. He assured members that the protection of the rights and privileges of the House and of its members was indisputable. Speaker Scheer indicated that the Commissioner of the Royal Canadian Mounted Police shared this view. He concluded that the broader subject matter of the rights of access of members merited immediate consideration, and found the questions of privilege *prima facie*. Mr Scott then moved that the matter be referred to the Standing Committee on Procedure and House Affairs. After debate, however, the question was put and negatived.

Senate

Confidentiality of draft Auditor General report on members' expenses

On 9 June 2015 Senator Hervieux-Payette raised a question of privilege about alleged leaks of information from a report of the Auditor General on senators' expenses before it was tabled in the Senate. The Speaker ruled, the same day, that a *prima facie* case of privilege had been established, and a motion was adopted for the Standing Committee on Rules, Procedures and the Rights of Parliament to study the matter. The committee did not issue its report before the dissolution of the 41st Parliament, so on 8 December 2015 Senator Hervieux-Payette again raised the complaint as a question of privilege. The Speaker took the matter under advisement. In early 2016 he ruled that there was a *prima facie* case of privilege.

Review of privilege

On 12 May 2015 the Standing Committee on Rules, Procedures and the Rights of Parliament tabled an interim report on parliamentary privilege in the Senate. The report resulted from a review of privilege in the Canadian context, especially since the constitutional entrenchment of the Canadian Charter of Rights and Freedoms. This marked the first time a parliamentary body in Canada has completed a comprehensive study of parliamentary privilege.

Alberta Legislative Assembly

On 28 October 2015 the Official Opposition House Leader raised a question of privilege alleging that the President of Treasury Board and Minister of Finance presupposed a decision of the Special Standing Committee on Members' Services (Alberta's equivalent to a board of internal economy) when the minister issued a news release stating that the 2015 Alberta budget provides for

a salary freeze for Cabinet ministers, members and political staff for the entire term of the legislature (i.e. until 2019). This news release was issued at the same time as the minister was presenting the Budget Address to the Assembly, at which he stated that the Government would propose that members of the Assembly agree to freeze such salaries.

In his decision on the matter Speaker Robert E. Wanner stated that while the statement made by the minister in the Budget Address accorded the Assembly and the Members' Services Committee the appropriate deference in terms of respecting those bodies' decision-making authority, the press release arguably did not. Nevertheless, the Speaker found that no *prima facie* case of privilege had occurred because there was ambiguity between the minister's statements in the Assembly and the press release; since both statements were communicated at virtually the same time, could the news release prejudice the actions of the Members' Services Committee while the statement in the House during the Budget Address did not?

The Speaker noted that a similar set of events took place in 2013, when the then Government advertised wage freezes for members that were not within the jurisdiction of the Government but were in the purview of the Special Standing Committee on Members' Services. In that case, Speaker Gene Zwozdesky found that the Government was in contempt of either the Assembly or one of its committees.

Manitoba Legislative Assembly

On 10 October 2015 the Opposition House Leader raised a matter of privilege about the Government's alleged lack of disclosure of untendered contracts. The member stated that the Government had breached the existing rules on disclosure when contracts related to flood control were not disclosed on the computer in the Manitoba Legislative Library. The member claimed that the result of this lack of disclosure was that members of the Assembly were not able to fulfil their parliamentary duties—specifically the duty to scrutinise government acts—and, accordingly, their privileges as members were breached individually and collectively. The member cited rulings from Speakers of the House of Commons and of the Legislative Assembly of Manitoba which found that failure to disclose information was a *prima facie* case of privilege and that interference or obstruction was a breach of privilege if it obstructed the member in his or her parliamentary work. In his ruling Speaker Reid referred to the ruling from the House of Commons mentioned by the member to indicate that the failure of the Government to table a document as required by statute constituted a *prima facie* case of privilege. The failure to post information on a government computer would constitute a breach of members' privileges. In his submission the member had not supplied proof that any member of

the Government had set out deliberately to mislead the House. The failure to disclose untendered contracts in violation of an Act was a matter of law and not procedure, and the chair decides only whether the Assembly is following its own rules and procedures. The matter under consideration was not intended for release in the House and therefore did not involve a proceeding of Parliament. In conclusion, the Speaker ruled that a *prima facie* case of privilege was not established.

Québec National Assembly

The chair was called upon to rule on several questions of privilege in 2015.

Obligation to table a document

In a notice sent to the President, the Official Opposition House Leader alleged that the Ethics Commissioner was in contempt of Parliament by failing to comply with the legal obligation to submit a report on the implementation of the Code of Ethics and Conduct of the Members of the National Assembly by the deadline prescribed by law.

The Code of Ethics and Conduct of the Members of the National Assembly, adopted unanimously in December 2010, affirms the values of the National Assembly and sets out the rules of conduct which members must observe. It entrusts the Ethics Commissioner with part of the role traditionally assigned to the Assembly under parliamentary privilege of handling complaints about conflicts of interest and offices incompatible with membership of the Assembly. The Ethics Commissioner may conduct an inquiry to determine if a member has violated any provision of the code. He must then submit a report to the House in which he may, if he finds a breach of the code, recommend that one or more sanctions be imposed. The Assembly decides whether to follow such a recommendation. The code provides that no later than 1 January 2015, and every five years thereafter, the commissioner must submit a report to the President of the Assembly on the carrying out of the code and the advisability of amending it. This was the report referred to in the point of privilege raised by the Official Opposition House Leader.

Before ruling on the question the President had to determine whether the section concerning the tabling of the report on the carrying out of the code had been complied with.

The President concluded that the section had not been complied with as it clearly states that the commissioner was required to submit a report no later than 1 January 2015 and the President still had not received the report when he handed down his ruling on 12 February 2015.

Having reached that conclusion, the President had to determine whether failure to submit the report by the prescribed deadline constituted a *prima facie*

contempt of Parliament.

This section of the code, as with all those concerning the tabling of documents in the Assembly, constitutes a permanent order of the Assembly. The privilege of requiring documents to be tabled is fundamental and essential for the proper conduct of parliamentary proceedings. The chair of the Assembly has ruled that failure by certain departments and agencies to table their activity reports by the deadline prescribed by law constituted a *prima facie* contempt of Parliament. The information in the reports that the departments and agencies were legally obliged to file was important for the exercise of members' parliamentary duties; failure to table the reports could hinder fulfilment of such duties.

In this case the information in the Ethics Commissioner's report primarily concerned parliamentarians. In entrusting certain responsibilities to the commissioner parliamentarians delegated part of their parliamentary privilege that concerns conflicts of interest and incompatible duties of office. Moreover, the code provided that the report, once tabled, must be reviewed by the competent standing committee. Therefore, failing to table the report hindered a parliamentary committee from fulfilling the mandate given to it by law.

Furthermore, the fact that lawmakers chose to impose the legal obligation to file a report on a specific date showed the importance they placed on the information in it. The obligation could not be taken lightly; in similar cases the utmost vigilance was required of government departments and agencies. This vigilance was even more important for a person designated by the Assembly—a person in whom the Assembly had placed its trust

For these reasons, the President was of the opinion that the facts adduced constituted, at first glance, contempt of Parliament. However, as the Official Opposition House Leader had not indicated her intention to move a motion for sanctions to be taken, the procedure did not go any further. Nevertheless, the President invited the commissioner to explain why he did not meet his legal obligation to submit the report, and to submit it as soon as possible. On 17 February 2015 the commissioner wrote to the President, explaining his failure to submit the report by the prescribed deadline. The commissioner's report was finally tabled on 24 February 2015.

Invoking legislative provisions which had not yet been passed

In a notice sent to the President, the Official Opposition House Leader alleged that the Minister of Municipal Affairs and Land Occupancy and the minister's department were in contempt of Parliament for having invoked sections of a bill before it was passed by the Assembly. The sections in question concerned the dissolution of regional conferences of elected officers and the creation of transition committees mandated to oversee the transfer of responsibilities belonging to these organisations.

According to the Official Opposition House Leader, the minister and his department had acted as though the bill had force of law and Parliament had no role to play. She claimed that some of these organisations had closed and personnel lay-offs had taken effect while the bill providing for their dissolution had not yet been passed. She emphasised the irreversible nature of these actions and maintained that the impression was given that the legislative process was merely cosmetic and that passage of the bill was a *fait accompli*.

In response, the Government House Leader argued that departmental communications had clearly stated that the measures in question would be implemented subject to passage of the bill by the National Assembly. He claimed that the actions taken fell within the existing powers of the organisations and the department. They were taken within a planning framework which encompassed the eventual passage of the bill. Lastly, he argued that parliamentarians would still decide the matter as they were free to examine the bill and amend it.

The President began by recalling that invoking legislative provisions that were under consideration by the National Assembly may constitute an act akin to contempt of Parliament. This could be the case if a communication inferred that a bill had force of law or if legislative provisions under consideration in the Assembly were invoked to take action that would result from a bill's enactment. Jurisprudence recognised the Government's responsibility to make their decisions known to the public, even if the decisions were intended subsequently to translate into legislative provisions. In return, it was important to avoid giving the impression that the role of Parliament and its members was merely cosmetic. Advertising or communications must not only contain a reference to the legislative process, but also a sufficiently explicit reference to the role of the Assembly and its members in considering and passing bills.

In a letter informing the organisations of their impending dissolution, the minister mentioned that the legislative measures required for the policy's implementation would soon be introduced in the National Assembly and that disbursements would be limited to cases deemed essential to the transition. A subsequent letter from the department mentioned that any future cash advances would be limited to essential cases related to the organisation's closure plan. This letter made no reference to legislative measures that were to be introduced in the Assembly and passed before the proposed changes could be implemented.

The President concluded that these communications did not appear to have been explicit enough to curb the enthusiasm of some actors in the organisations' dissolution process. It appeared that the organisations understood that their closure was inevitable, to the extent that they proceeded with lay-offs.

In another letter the minister mentioned that committees mandated to prepare for taking on new economic and regional development responsibilities would be established. The names and composition of the transition committees

were identical to the transition committees provided for in the bill.

Although the Government House Leader had specified that these committees had none of the powers provided for in the bill, that they had an advisory role only and that the minister already had power to create such advisory committees, there had been no demonstration of this. The crux of the matter, according to the President, was that a bill that was still before the Assembly was behind the actions taken.

The President was therefore of the opinion that there was, *prima facie*, a connection between the facts submitted and the sections of the bill. The information communicated by the department and the organisations' resulting actions appeared to be connected. In light of this, the President ruled that the facts were convincing enough that, should a motion be made to this effect, the Assembly could be mandated to conduct an inquiry to determine whether there had been contempt of Parliament.

As guardian of the rights and privileges of the Assembly, the President must protect the institution's independence, autonomy and dignity. Under the circumstances, the President considered it his duty to give the Assembly the opportunity to clarify the matter.

In conclusion, the chair recalled that the fact that a complaint of breach of privilege or contempt had been raised with respect to a bill could not prevent the Assembly from examining the bill and assessing its content. In this case the bill had been introduced in the Assembly and the legislative process could continue.

Subsequently, the Official Opposition House Leader presented a motion asking that the Assembly rule on the conduct of the minister. A debate was held on the motion and the Committee on the National Assembly was instructed to inquire into the matter without special reference, as provided for in the standing orders. Several months later the motion and the committee order were withdrawn at the request of the Official Opposition House Leader, before the inquiry had begun.

Alleged misleading the House

In a notice sent to the President a member of the official opposition alleged that the Minister for Rehabilitation, Youth Protection and Public Health acted in contempt of Parliament by knowingly misleading the House in a reply she gave during oral questions and answers. The member alleged that the minister's answer was inconsistent with a document that was released the same day. The minister gave two contradictory versions of the same facts.

The President said that the facts invoked did not constitute, *prima facie*, contempt of Parliament. In such a case the deliberate nature of the act must be clear in order to conclude that a member had knowingly misled the House.

Parliamentary jurisprudence contained a fundamental principle that no member shall refuse to take another member at his word. This assumption could not be reversed unless the member, when speaking, misled the Assembly and subsequently recognised having deliberately misled it, thus acting in contempt of Parliament. In this case, nothing allowed the chair to conclude that the minister admitted having deliberately misled the House. Where it is alleged that contradictory versions had been given, the member speaking must have given two contradictory versions. In this case, two members had differing interpretations of a given situation.

Invoking legislative provisions which had not yet been passed (No. 2)

In a notice sent to the President the Official Opposition House Leader alleged that four school boards had acted in contempt of Parliament by invoking the provisions of a bill in order to increase their childcare fees before the bill permitting the increase was passed by the Assembly.

The Official Opposition House Leader quoted a letter from an Assistant Deputy Minister at the Department of Education, Higher Education and Research showing the connection between the bill and the increase in childcare fees. In the letter he mentioned that, in the event the bill was not passed before 31 March 2015, it would be appropriate to delay the increase in childcare fees until it was passed, in order to avoid any protests by users.

In response the Government House Leader said that the bill contained no provision about school boards and therefore the increase in the fees did not arise from the application of this bill. The fees for childcare in school were not established by this bill or by the regulation made under the bill, but under another Act. The fees for childcare at school were the responsibility of the school boards.

Jurisprudence has established that invoking legislative provisions still under consideration in the National Assembly may constitute an act akin to contempt of Parliament. The question is whether legislative provisions under consideration were invoked to take action that would result from application of the bill.

According to the President the facts submitted in this case did not constitute *prima facie* contempt of Parliament.

In determining whether legislative provisions under consideration were invoked, the President must find out if an existing enabling power may have been invoked instead. The President noted that the bill amended the Educational Childcare Act, while the fees for childcare in school were not established by that Act nor by the regulation made under that Act, but under the Education Act. Fees for childcare in school were therefore the responsibility of the school boards.

The connection that the Assistant Deputy Minister made between the bill and

school childcare fees was based on budgetary rules made under the Education Act. Such rules determined the amount of the allowance to which the school boards were entitled for each child enrolled in childcare. The payment of that allowance was subject to certain conditions, including a requirement that the financial contribution asked of parents for childcare should not exceed the amount established for services provided for in the Educational Childcare Act. Though there was a link between fees for childcare in school and those referred to in the bill, the fees were not established by provisions amended by the bill.

Accordingly, despite the Assistant Deputy Minister's communication referring to the passage of the bill, the President could not conclude that the school boards that increased their childcare fees before passage of the bill did so under the provisions of the bill.

INDIA

Rajya Sabha

There were no significant cases of breach of privilege or contempt of the House in 2015.

However, on 6 May 2015 the 61st report of the Committee of Privileges on the matter of breach of privilege regarding alleged monitoring and surveillance of mobile phones of Shri Arun Jaitley, the then Leader of the Opposition in the Rajya Sabha, was presented to the House. The next day a member raised a point of order in the House asking to withdraw the report and to review the recommendations therein. The Deputy Chairman said he would come back to the House after examining the matter. On 13 May 2015 the Deputy Chairman gave the following ruling on the issue:

> "Honourable members may recall that on 7 May 2015 Shri Naresh Agrawal raised a point of order with regard to certain recommendations of the Committee of Privileges in its 61st report. The said report dealt with a case of alleged breach of privilege arising out of accessing the call detail records of the then Leader of the Opposition, Shri Arun Jaitley, by Delhi police and some individuals. Dissenting with the recommendations of the committee, Shri Agrawal requested that the Committee of Privileges should re-examine the issue. Many other members joined him and desired that the matter be recommitted to the Committee of Privileges. Speaking on the subject, Shri Anand Sharma desired that while re-examining the issue, the committee should enlarge the scope of examination by including the matter of telephone tapping of sitting members of Parliament. Some other members supported him.
>
> I then observed that there was no problem in revisiting the committee report, for which there was unanimity in the House.

As far as the issue of enlarging the scope of committee's examination, I said that I would come back to the House after examining the matter. I have gone through the rules relating to question of privileges as contained in the Rules of Procedure and Conduct of Business in the Rajya Sabha. As per rule 195, the mandate of the committee is to examine every question referred to it and to determine with reference to the facts of each case whether a breach of privilege is involved and, if so, the nature of the breach, the circumstances leading to it and to make such recommendations as it may deem fit. It is thus clear that the committee does not take any matter *suo moto* and examines only those matters which are referred to it by the House under rule 191 or by the chairman under rule 203.

In view of the position as explained by me, if Shri Anand Sharma or any other member of the House wants the issue of telephone tapping of the sitting members to be also examined by the Committee of Privileges, he should either give a notice and after seeking the leave of the House move the motion for a decision of the House or alternatively he can give the notice to the Chairman, Rajya Sabha.

As regards revisiting the 61st report of the Committee of Privileges, it stands recommitted to the Committee of Privileges for review since there was unanimity in the House on this matter when it was raised on 7 May 2015."

KENYA

National Assembly

In February 2015 three members were suspended from the precincts of Parliament for four days for gross disorderly conduct, pursuant to standing order 107; the membership of the Public Accounts Committee was reconstituted following investigations by the Committee of Privilege into the conduct of some of its members; and members of the Departmental Committee on Agriculture, Livestock and Cooperatives attracted the wrath of the leadership for confronting each other in an open sitting of the committee.

The Committee on Privilege considered the Parliamentary Powers and Privileges Bill 2014 and developed a code of conduct for members of the Assembly.

Senate

A senator was sent out of the chamber on 25 March 2015 following his assertions that some members of the majority side of the House are thieves, yet he was unable to substantiate his allegations.

The senator had violated standing order 94, which states: "A senator shall be responsible for the accuracy of any facts that the senator alleges to be true and

may be required to substantiate any such facts instantly."

NEW ZEALAND HOUSE OF REPRESENTATIVES

Use of social media

The Privileges Committee's report *Question of privilege regarding use of social media to report on parliamentary proceedings* was presented to the House in September 2015.

In recent years New Zealand has seen explosive growth in social media use, including in reporting on parliamentary proceedings. Balancing the use of social media in Parliament with social etiquette is an issue for all parliaments. Instantaneous communications through online social networks potentially enable parliamentarians to interact quickly with vast numbers of people—experiences that can reflect on Parliament positively or negatively. In May 2014 the Speaker referred as a general matter of privilege the implications for Parliament of people using social media to report on parliamentary proceedings and to reflect on members of Parliament.

The Privileges Committee stated that the use of social media to report Parliament had been very positive for public engagement with Parliament and therefore it did not seek to question whether social media should be used to report on parliamentary proceedings. Its focus was on appropriate behaviour while using social media. The committee reminded members of rules and practices of the House relevant to social media, reiterating that comments made on social media by members—even those made in the debating chamber—were not official parliamentary proceedings and thus may not be covered by privilege so are potentially actionable in court. Members who used social media to make personal reflections about other members or presiding officers could be in contempt Parliament.

The Privileges Committee recommended that the Speaker issue guidance based on existing rules of the House to all members and the press gallery on appropriate use of social media to report on parliamentary proceedings, and that the Standing Orders Committee review the "rules for filming and conditions for use of official television coverage" as part of its review of the standing orders. The House took note of the report on 16 September 2015.

Referrals of questions of privilege to the Privileges Committee

Four questions of privilege were referred to the Privileges Committee between October and December 2015.

The first matter, referred in October, comprised an allegation of a contempt of the House. A member of the public alleged her business had been disadvantaged by a state sector agency as a direct result of evidence she gave

to the Regulations Review Committee. The committee had been investigating a complaint about shipping fees and levies, which had generated much interest in the New Zealand shipping industry. Allegations of this nature are rare in New Zealand. The most recent comparable case was in 2006, when a state agency was found by the House to be in contempt for disadvantaging its departing chief executive for evidence he gave to a select committee. This matter is still before the Privileges Committee.

The other matters related to unfavourable reflections on the Speaker made by three members of the Labour party, including by the Leader of the Opposition, Andrew Little.

First, in mid-October the Speaker ruled out of order a member's bill in the name of Andrew Little for being in substance the same as a bill already considered by the House earlier in the year. Labour members subsequently accused the Speaker of "interfering on [the Government's] behalf" and of making a ruling that "seriously raises questions about political interference".

The second incident occurred on 10 November during questions for oral answer on a particularly contentious issue: expatriate New Zealanders detained by the Australian Government on Christmas Island. In response to a question from the opposition, the Prime Minister accused Labour members of being on the side of criminals and of supporting rapists. The comment caused significant disorder in the House but was not heard by the Speaker. The following day the Speaker ruled he could not ask the Prime Minister to withdraw and apologise for the comment because objection had not been raised at the time the incident occurred. One member sent an insulting tweet about the Speaker, which included an accusation of bias and sexism. After some weeks of tension about these events, the final sitting day of Parliament for 2015 saw considerable contrition in the House. The Prime Minister withdrew and apologised for his earlier comments that had caused offence. The Leader of the Opposition then drew the House's attention to a letter written to the Privileges Committee accepting the comments made by the Labour members were unparliamentary and expressing regret for them. On 16 March 2016 the Privileges Committee reported to the House, recommending that the House accept expressions of regret from each of the three members in question and take no further action.

PARLIAMENT OF SOUTH AFRICA

On 21 August 2014, during questions to the President, members of an opposition party, after expressing their dissatisfaction with a reply by the President, engaged in conduct that led the Speaker to suspend business and shortly thereafter to adjourn the House under Assembly rule 56 (grave disorder).

At the sitting of the House on 26 August 2014 the Speaker made an

announcement about the events on 21 August 2014. He informed the House that the matter was being referred to the Powers and Privileges Committee under Assembly rule 194. The committee would investigate whether the members' conduct constituted contempt of Parliament in terms of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act (No 4 of 2004).

The Powers and Privileges Committee tabled its report on 11 November 2014. The committee made recommendations about penalties against members found guilty of conduct constituting contempt of Parliament in terms of the Act. One recommendation was for the suspension of the members for a specified period.

On 27 November 2014 the report was debated by the Assembly, whereafter the chief whip of the majority party moved that the report be adopted. Before the report could be put for adoption, a member of the opposition moved that certain amendments be made to the report relating to, among other things, the composition of the committee and whether the current composition based on proportional representation ensured a fair and unbiased process; making the Act more specific to ensure a procedurally fair process; and making provision for an appeal process. The amendment moved by the member was defeated after a division and the report was adopted.

The members were informed in writing about their suspension on 28 November 2014.

The affected party brought an urgent interdict in the Western Cape High Court to prevent Parliament from imposing the sanctions against its members. On 23 December 2014 the court granted a temporary interdict that came into effect immediately. No date was set for a final judgment on the suspensions and the interdict therefore remained in place at the end of 2014.

The High Court granted the interim interdict pending the matter being heard in the Constitutional Court because some of the legal issues raised by the affected parties were matters on which the Constitutional Court has exclusive jurisdiction. The affected party lodged its application with the Constitutional Court. At the end of the 2015 parliamentary year the matter had still not been heard by the Constitutional Court.

UNITED KINGDOM

House of Lords

Status of interpreted or translated evidence

In its 1st report of 2015–16 the Procedure Committee confirmed that written evidence received in a foreign language which is translated into English, and oral evidence given in another language or in British Sign Language which is

interpreted for a committee, have the same status as other evidence received.

Redaction of written evidence

In its 3rd report of 2014–15 the Committee for Privileges and Conduct set out a procedure for redacting material in written evidence given to a defunct committee.

The House of Lords usually establishes several ad hoc committees each session to report on particular topics. Once such a committee has reported it disbands. This creates a problem in the rare instance where a witness who gave written evidence to an ad hoc committee subsequently requests material in that evidence to be removed—the committee no longer exists to agree such a request.

The Committee for Privileges and Conduct therefore agreed that it should have the power to agree such requests. It would do so only if certain criteria are fulfilled, including that the material to be removed is personal and causes *prima facie* harm to the individual (embarrassment being insufficient) and that its removal would only prevent the individual being identified and not alter the weight or credibility of the evidence.

ZAMBIA NATIONAL ASSEMBLY

Geoffrey Bwalya Mwamba, member of Parliament for Kasama Central, was elected to the National Assembly on the ruling Patriotic Front party's ticket in September 2011. On 22 July 2015 he was appointed Vice-President Administration of the opposition United Party for National Development.

On 22 July 2015 the Minister of Home Affairs, Davies Mwila MP, raised a point of order questioning Mr Mwamba's presence in the House when he had ceased to be a member of the party on whose ticket he had been elected and had, as a result, lost his seat. The point of order was based on article 71(2)(c) of the constitution of Zambia, which at that time provided that a member of Parliament who joined a different political party from the one on whose ticket he or she was elected to the House lost his or her seat.

The Speaker of the National Assembly, the Rt Hon. Justice Dr Patrick Matibini SC MP, reserved his ruling on the point of order to a later date. On 24 July 2015 Geoffrey Mwamba filed a petition in the High Court alleging that his freedom of association was being violated by his not being allowed to associate with a party of his choice. On 28 July 2015 the Speaker delivered his ruling. He stated that by assuming the position of vice-president of a party that had not sponsored his election to the House Geoffrey Mwamba had breached article 71(2)(c) of the constitution and had consequently lost his seat. The Speaker proceeded to declare the Kasama Central parliamentary seat vacant.

Dissatisfied with the Speaker's ruling, Geoffrey Mwamba commenced an action for judicial review in the High Court, asking the court to quash the Speaker's decision to declare the Kasama Central parliamentary seat vacant and prohibit the Electoral Commission of Zambia from holding a by-election in the constituency. He argued that the Speaker had exceeded his jurisdiction by declaring the seat vacant because article 72(1)(a) of the constitution vested the power to determine whether or not a seat was vacant in the High Court. He further argued that it was *sub judice* for the Speaker to have given a ruling on the point of order when a petition on the matter was before the High Court.

The National Assembly argued that a member who breached article 71(2)(c) of the constitution lost his or her seat automatically; there was no need to seek the High Court's determination on the matter. In addition, the National Assembly had exclusive cognisance over its procedures; this could not be questioned by any court. This exclusive cognisance was provided for under section 34 of the National Assembly (Powers and Privileges) Act, Cap 12 of the Laws of Zambia, which provides:

> "Neither the Assembly, the Speaker nor any officer shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in the Assembly, the Speaker, or such officer by or under the constitution, the standing orders and this Act."

In passing judgment on the matter on 23 March 2016 the High Court recognised Parliament's exclusive cognisance to deal with its internal matters provided for in section 34 of the National Assembly (Powers and Privileges) Act. The court held that the Speaker had not acted illegally in delivering his ruling after Geoffrey Mwamba had filed a petition in the High Court on the matter. The fact that Mr Mwamba had filed a petition in court on 24 July 2015 did not oust the Speaker's jurisdiction to deliver his reserved ruling on the point of order that had been raised on 22 July 2015. The court emphasised that in accordance with parliamentary procedures the Speaker was expected to rule on the point of order.

STANDING ORDERS

AUSTRALIA

House of Representatives

On 26 March 2015 the following resolution was adopted:

"Use of electronic devices in the chamber, Federation Chamber and committees

(1) The House permits members' use of electronic devices in the chamber, Federation Chamber and committees, provided that:

(a) use of any device avoids interference or distraction to other members, either visually or audibly, and does not interfere with proceedings—in particular, phone calls are not permitted and devices should be operated in silent mode;

(b) devices are not used to record the proceedings (either by audio or visual means);

(c) communication on social media regarding private meetings of committees or *in camera* hearings will be considered a potential breach of privilege; and

(d) the use of devices is as unobtrusive as possible and is directly related to the members' parliamentary duties; and

(2) The House notes that:

(a) communication via electronic devices, whether in the chamber or not, is unlikely to be covered by parliamentary privilege; and

(b) reflections on the chair by members made on social media may be treated as matters of order just as any such reflections made inside or outside the chamber."

Senate

Several changes were made to standing orders in 2015 after the successful trial of a number of measures referred to in the previous issue.[1] The following changes were adopted on 24 June 2015 with effect from the first sitting day in August 2015 (when the Senate returned from its winter break):

- Additional time for consideration of private senators' bills—first implemented as a temporary order in 2011, the change is now a permanent feature of the weekly routine of business with an earlier start time on Mondays of 10 am to offset the allocation of extra time.
- Additional time for presentation and debate of committee reports—this has

[1] See *The Table*, volume 83 (2015), pp 146–47.

led to a more efficient programme by almost completely eliminating the ad hoc presentation of committee reports and debate of them by leave.
- Additional time for presentation and debate of documents—similarly, this has cut down on ad hoc debates and simplified procedures, removing procedures which required senators to seek leave to speak to documents and reports when they were presented in some circumstances, but not in others.
- Routine motions for the management of committee business have been streamlined and are taken to be authorised unless any senator requires the question to be put.
- Adjournment debate—changes were adopted to increase opportunities for senators to speak on issues of their choice without application of the rule of relevance.

In remarks on the adoption of the report, the Manager of Government Business referred to the proliferation of temporary orders which were now incorporated in standing orders. He welcomed the publication of a consolidated set of standing orders to make life easier for senators and clerks.

Australian Capital Territory Legislative Assembly

Ministerial statements

On 4 June 2015 the Speaker presented the report of the Standing Committee on Administration and Procedure (which she chairs) on *Inquiry into Ministerial Statements*. The report's main recommendations were that standing order 74 be amended to allow ministerial statements to be presented in the morning as well as the afternoon; that leave would not be required to make a ministerial statement; and that on completion of a ministerial statement the relevant minister would present the statement and move a motion that the Assembly take note of the paper. The requirement that all members receive a copy of a ministerial statement at least two hours before the time at which the statement is proposed to be made remained unchanged.

Interpreter on floor of chamber

On 29 October 2015, following a report of the Standing Committee on Administration and Procedure, the standing orders were amended to allow for the admission of an accredited Auslan interpreter (sign language) to the floor of the chamber.

Petitions with over 500 signatures

On 19 November 2015, following a report from the Standing Committee on Administration and Procedure, the Assembly adopted a new standing order which provides that any petition with at least 500 signatures shall be automatically

referred to the relevant subject standing committee for consideration.

New South Wales Legislative Assembly

In September 2015 the Legislative Assembly adopted several changes to its standing and sessional orders and agreed to a resolution providing a Citizens' Right of Reply for the 56th Parliament.

The changes followed the Legislative Assembly Standing Orders and Procedure Committee's August 2015 report, in which it recommended that the standing and sessional orders be amended to correct minor typographical and grammatical errors, and to reflect changes in the Assembly's practice.

One of the more prominent recommendations of the committee was to increase the time allotted for Community Recognition Statements from 15 to 20 minutes. This recognised the popularity of the statements in enabling members to acknowledge the work and achievements of individuals or groups in their electorates.

The committee also recommended streamlining the resolution providing for a Citizens' Right of Reply, without fundamentally altering the right of a person or corporation to seek a Right of Reply.

In November 2015 the Standing Orders and Procedure Committee tabled its second report, in which it recommended changes relating to the election of the Speaker, the Routine of Business, Motions Accorded Priority, and tabling and debate provisions for committee reports. It is anticipated that the House will adopt the changes recommended to the standing and sessional orders early in 2016.

Northern Territory Legislative Assembly

The standing orders of the Legislative Assembly were rewritten in 2015 and adopted on 1 December 2015. The number of standing orders was reduced from 306 to 255, with modernised language, duplication and redundancies eliminated, and "committee of the whole" procedure abolished and replaced with a simplified "consideration in detail". This was the first complete review in more than 30 years.

Queensland Legislative Assembly

On 29 October 2015 the House amended schedule 2 to the standing orders (Registers of Interests) to, amongst other matters, apply indexation to the various disclosure limits. Before the amendments the quantum at which disclosure was required had not altered in over 20 years. As a result the number of declarations had increased significantly. The change to the standing orders removes precise sums and replaces them with an obligation on the registrar to publish the thresholds for registration, updated in line with the consumer prices

index. The changes came into effect on 1 January 2016.

Victoria Legislative Council

Several changes were made by way of sessional orders. Amongst the most significant were:

- At the conclusion of formal business, and before statements by members, up to five ministers may make a minister's statement of up to two minutes per statement to advise the House of new government initiatives, projects and achievements.
- A new procedure called Constituency Questions was introduced. This allows up to ten members to ask an oral question to ministers relating to a constituency matter. Members may speak for one minute, from which an answer must be provided by the minister to the Table Office within 30 days of the question being asked. Qustions must be substantially, not loosely, connected to members' constituencies.
- All answers to questions without notice must be direct, factual, succinct and relevant. The President may determine that an answer to an oral question without notice or supplementary question is not responsive to the question, and may accordingly direct the minister to provide a written response to the question and lodge it with the clerk by 11.45 am the next sitting day. The President will determine the adequacy of such a written response and may decide that it does not appropriately answer the question; if so, the President may direct the minister to provide another written response and lodge it with the clerk by 11.45 am the next sitting day.

Western Australia Legislative Council

Temporary orders were adopted on a trial basis for the first half of 2015, and then extended first until the end of 2015 and finally until the end of 2016. Under these temporary orders the Council sits one hour earlier on Tuesdays and Wednesdays. Unless otherwise ordered, the Council will rise at 7.00 pm on Tuesdays instead of 10.25 pm.

Temporary orders also increase the amount of times that a member may speak on Consideration of Committee Reports in committee of the whole House, from three periods of 10 minutes to an unlimited number of 10-minute periods.

These temporary orders are under review by the Legislative Council Procedure and Privileges Committee. A decision on the trial is expected mid-2016.

CANADA

House of Commons

Several changes to the standing orders were adopted towards the end of the 41st Parliament and came into effect at the beginning of the 42nd Parliament. The two most significant changed procedures for electing the Speaker and created an electronic system for public petitions.

Election of the Speaker

On 17 June 2015 the House agreed the 21st report of the Standing Committee on Procedure and House Affairs. The report contained amendments to standing order 4 proposed by Scott Reid (Lanark—Frontenac—Kingston) providing for the election of a Speaker by preferential ballot. Since 1985 the standing orders have provided for the election of the Speaker by secret ballot where members voted for only one candidate in multiple rounds until one candidate obtained a majority of the votes, at which time the name of the duly elected Speaker was announced to the House.

The new preferential ballot method maintains a secret ballot, but rather than selecting one candidate members now vote only once by ranking the candidates listed on the ballot by writing the number 1 next to their first choice, 2 next to their second choice, and so on until they have expressed as many preferences as they wish. If a candidate receives more than half of the votes cast, that candidate is successful. Otherwise, the candidate with the fewest votes (or candidates if more than one candidate are tied with the fewest number of votes) is eliminated. Their second preferences are redistributed to the remaining candidates. This process is repeated until one candidate obtains an absolute majority, at which time the name of the duly elected Speaker is announced to the House. Speaker Geoff Regan was the first Speaker elected under the new procedure on 3 December 2015.

Electronic petitions

Following the adoption of Kennedy Stewart's (Burnaby South) private member's motion M-428 on 29 January 2014, the House ordered that the Standing Committee on Procedure and House Affairs be instructed to recommend standing order changes to establish an electronic petitioning system. The committee's 33rd report did so. It was agreed by the House on 11 March 2015. At the start of the new Parliament the House of Commons began accepting electronic petitions.

The new system allows an individual to initiate an online petition only after it has been verified for form and content and only if a member has already agreed to sponsor it, which does not imply agreement with its contents. A

petition must be directed to an appropriate addressee, contain a clear, proper and respectful prayer which may call for the expenditure of public funds, and must not concern a matter in which one or more of the heads of relief sought are *sub judice*. If a substantially similar petition is not already on the Parliament of Canada website, it is then published and left open for signature for 120 days. All signatures are verified electronically. Whereas paper petitions require only 25 signatures to be presented to the House, electronic petitions must receive a minimum of 500 signatures. As with paper petitions, the Government are obliged to table a response within 45 days. Failure to respond in that time results in referral to the appropriate standing committee.

Alberta Legislative Assembly

In November 2015 the Assembly amended the standing orders to extend sitting times such that the Assembly now sits Tuesday, Wednesday and Thursday mornings. Previously, the Assembly sat only afternoons (Monday to Thursday) and, by passage of government motion, evenings (Monday to Wednesday). The Standing Committee on Privileges and Elections, Standing Orders and Printing will to review the operation of morning sittings.

Standing order amendments now permit the Assembly to refer a bill for additional study to any standing or special committee of the Assembly. Previously, a bill could be referred only to a Legislative Policy Committee.

Changes were made to how the Assembly considers main estimates. The official opposition may, after consulting the Government, designate up to four ministries for six hours of main estimates consideration, provided that they also designate three ministries (not including the Executive Council) for two hours of consideration. This compares with the previous standard of three hours per ministry (save for the Executive Council, which continues to receive two hours).

Manitoba Legislative Assembly

The Manitoba Legislative Assembly adopted significant rule changes in June 2015. Some came into effect in October 2015 while the remainder take effect after the next provincial general election in April 2016. The changes are as follows.

October 2015 changes

The order of Routine Proceedings was changed so that members' statements are now heard before oral questions and petitions now follow oral questions. This means that members' statements will now be televised, while the presenting of petitions will not be televised.

Points of order and matters of privilege may no longer be raised during oral

questions. There are now time limits of 45 seconds for questions and answers (60 seconds for party leaders). Members may now use electronic devices during oral questions.

Previously, Speakers' rulings on points of order were subject to instant appeal including bell ringing; it is no longer possible to challenge rulings on points of order.

The rule prohibiting members from reading speeches has been deleted, to reflect reality.

A 15-minute question period has been added during the second reading of government bills following the remarks of the sponsoring minister, with questions rotating between opposition and any independent members. Questions and answers last 45 seconds.

A 10-minute question period has been added to the second reading of private members' bills, after the sponsoring member has spoken.

The Standing Committee on the Rules of the House must now meet twice a year. Previously, a there was no specific number of meetings.

Orders for Return and Addresses for Papers have been abolished, as they had fallen into disuse.

April 2016 changes

The length of Throne Speech and Budget debates has been reduced to six days from the usual eight days.

A significant sessional calendar has been added to the rules. The House is now to meet in three sittings period known as the November sittings, the spring sittings and the fall sittings. Constituency weeks have been added when the House will not meet. The spring and fall sittings may be extended if certain government business is not completed by the usual day of adjournment. The House may meet at other times if the House Leaders on both sides agree.

The Government must now provide a reason for recalling the legislature on an emergency basis. The recalled House may meet for up to three weeks, followed by a one-week recess, and then for a further three weeks.

Two categories of government bills have been added to the rules—Specified Bills and Designated Bills. Government bills may be designated as Specified if they meet the following tests: first reading is moved no later than the 20th sitting day after the presentation of the Throne Speech; second reading is moved no later than the 14th sitting day after the first reading; and the bill is not on the list of Designated Bills tabled by the official opposition. There are detailed provisions governing the passage of Specified Bills by the end of the spring sittings.

Designated Bills are government bills identified by the official opposition that will be held over from the spring sittings to the fall sittings. Up to five

government bills may be so designated; there are provisions outlining which bills may be designated and how the ability to designate is divided between two opposition parties.

A 10-minute question period has been added for private members' resolutions.

Changes were also made to the times of meetings of the Committee of Supply, time limits in that committee and the time for providing written answers, including to questions taken under advisement during the estimates process. Further changes covered when standing committees may meet.

Prince Edward Island Legislative Assembly

Several rules on intersessional committee activity were amended or deleted, such that standing committee terms were extended for the length of a General Assembly. Previously, standing committees had to seek the permission of the Assembly to continue their work past prorogation. The changes reflect practice in the majority of legislative assemblies in other Canadian jurisdictions.

Québec National Assembly

On 7 October 2015 amendments were made to standing orders 20 and 21 to change the Assembly's hours of meeting. Standing order 32 was amended to end applause during oral questions and answers. Standing order 54.5 was added to specify the period between the time appointed for calling the Assembly to order and the time when Routine Proceedings are taken. The hours of meeting of committees were also changed.

GUERNSEY STATES OF DELIBERATION

The *Rules of Procedure of the States of Deliberation* were amalgamated with the *Rules for Committees of the States* and redrafted. They were provisionally agreed in November 2015 and finally agreed with amendments in March 2016. The new set, *The Rules of Procedure of the States of Deliberation and their Committees*, will take effect on 1 May 2016.

The major changes were: a new process for how items are submitted for consideration, including the States themselves deciding when many items will be debated; more frequent meetings with the dates determined by the States themselves; the need for members to provide declarations of unspent convictions; and changes necessitated by the new structure of government and committees.

INDIA

Lok Sabha

Following a recommendation by the Rules Committee, the Lok Sabha agreed that the Committee on Ethics should be made a permanent committee (having been established ad hoc since 2000) and that its function, procedures (including the procedure for making a complaint) and the priority for considering its reports in the House should be included in the Rules of Procedure.

STATES OF JERSEY

Two changes to standing orders were made in 2015. First, provision was made for the Assembly to appoint a committee to decide planning applications, replacing a panel of members nominated by the planning minister. Second, any minister may now act as rapporteur for propositions lodged for debate by the Chief Minister.

A major review of the standing orders is under way.

PARLIAMENT OF SOUTH AFRICA

Comprehensive review of National Assembly Rules

The review of the rules which began in 2012 had not been completed when the general election of 2014 intervened, although the Task Team had by then completed a detailed examination of the rules and had received party submissions, public inputs and research into international best practice. The Task Team had compiled a comprehensive report, including proposed rule amendments and supporting documents.

The project was resumed by the Assembly Rules Committee in the 5th Parliament that began in May 2014. The Sub-committee on Review of Assembly Rules was tasked with drafting the new rules. Given the new membership of the Assembly, including new parties, the sub-committee encouraged broad participation and effectively re-examined all the rules, using the original Task Team's draft rules as a base document.

Some significant new approaches in the draft revised rules included:

- Introducing detailed rules on members' attendance.
- Introducing mini-plenary sessions to provide a new emphasis on the importance of debates.
- Redrafting some chapters to aid clarity.
- Clarifying certain procedures, including those relating to motions, questions and the functions of committees.
- Making provision for debates routinely to be held on bills at both first and

second reading.

The objective was to ensure that the rules, conventions and practices are fully consistent with the letter and spirit of the constitution. The rules and practices have been extensively overhauled and will be adopted in 2016.

Rule amendments agreed by the National Assembly on 30 July 2015

On 30 July 2015 the National Assembly adopted interim arrangements covering disruptions during proceedings of the National Assembly. A new rule deals with the removal of a member from the chamber. If a member refuses to leave the chamber when ordered to do so by the presiding officer, the presiding officer must instruct the Serjeant-at-Arms to remove the member from the chamber and the precincts of Parliament. If the Serjeant-at-Arms is unable in person to effect the removal, the presiding officer may call on the Parliamentary Protection Services to assist.

When a member is physically removed from the chamber under this rule, the circumstances must be referred by the Speaker within 24 hours to a multi-party committee for consideration.

Establishment of Joint Standing Committee on Financial Management of Parliament

On 26 November 2015 the National Assembly and National Council of Provinces adopted new joint rules to establish the Joint Standing Committee on Financial Management of Parliament. The Financial Management of Parliament and Provincial Legislatures Act (Act 10 of 2009) regulates the financial management of Parliament and gives Parliament a statutory duty to establish an oversight mechanism for its financial management.

The new rules establish the Joint Standing Committee on Financial Management of Parliament as the body exercising the oversight mechanism under the Act. It must perform the functions and exercise the powers specified in the Act. Other functions may be assigned by resolution of the Assembly and the Council.

UNITED KINGDOM

House of Commons

On 24 February 2015 the House agreed new standing order 145A, establishing a Petitions Committee "to consider public petitions presented to the House and e-petitions submitted through the House of Commons and Government e-petitions site". The committee has power to schedule debates on e-petitions at Monday sittings in Westminster Hall. The e-petitions website began to accept petitions from the public in July 2015. E-petitions which receive over 10,000

signatures will receive a response from the Government; those which receive over 100,000 signatures will be considered for a Westminster Hall debate.

Also on 24 February 2015 the House amended standing order 10, which governs the conduct of business in Westminster Hall. Debates in that chamber are now all allocated under the general authority of the Chairman of Ways and Means, with special provision for the Petitions Committee, the Backbench Business Committee and the Liaison Committee to nominate subjects for debate at particular sittings. Debates now arise on general motions rather than motions for the adjournment, and resolutions adopted in Westminster Hall are deemed resolutions of the House. The chair at Westminster Hall sittings now has power to order members defying the authority of the chair to withdraw from the sitting and to report their conduct to the House if they do not.

On 17 March 2015 the House amended standing order 149 to change the number of MPs on the Committee on Standards from 10 to seven; to increase the number of lay members on the committee from three to seven; and to change the committee's quorum from five MPs and one lay member to three MPs and three lay members. On 28 October 2015 the House agreed a corresponding change to standing order 148A to provide that that Committee on Privileges shall consist of seven members with a quorum of three, allowing the same members to be appointed to both committees.

On 3 June 2015 the House agreed a temporary standing order to establish a Women and Equalities Committee for the duration of the 2015–20 Parliament. The committee's formal remit is to examine the expenditure, administration and policy of the Government Equalities Office (GEO). It will the hold the Minister for Women and Equalities and the GEO to account for the Government's performance on equalities issues.

On the same date the House amended standing order 146 to establish a Public Administration and Constitutional Affairs Committee. That committee has effectively absorbed the remit of the Political and Constitutional Reform Committee, which was established by temporary standing order for the 2010–15 Parliament.

On 22 October 2015 new standing orders were agreed to give effect to the Government's proposals introducing "English Votes for English Laws". These change are covered in a separate article in this volume.

The project for overall revision of standing orders continues. On 9 March 2015 the Procedure Committee published a report endorsing a package of revisions to be put to the House for approval. Following the substantial revisions to standing orders made on 22 October 2015, the committee is revising the proposed package and anticipates making a revised proposal for approval by the House in 2016.

National Assembly for Wales

On 17 June 2015 the Assembly amended standing orders in relation to the registration and declaration of members' interests and the membership of the Standards of Conduct Committee. The changes followed recommendations made by the Standards Commissioner and endorsed by the Assembly's Standards of Conduct Committee.

Oral declarations of "registrable" and "relevant" interests

The Commissioner considered that the current definition for oral declarations of "registrable interests" in standing orders might be too limited and inadvertently deprive the public of knowledge of interests which should be disclosed. He suggested two changes.

The first was to the wording of the test of relevance for registrable interests (standing order 2.7), to capture instances where a member is part of a minority group who would benefit from a certain piece of legislation. The wording was changed so that the member must declare if a decision would result in a direct financial advantage greater than that which might accrue "to the electorate generally", rather than "to persons affected by the decision generally". If a member has a registrable interest which should be declared, the member is not allowed to vote. Participation in proceedings without complying with these requirements would remain a criminal offence, as set out in the Government of Wales Act 2006.

The second change was to create a new, non-criminal standing order requirement for members to make an oral declaration of "any relevant interest" which the member or a family member has or expects to have in any matter arising in those proceedings. A "relevant interest" in this instance is one that might reasonably be thought by others to influence the member's contribution to a debate or discussion. Oral declarations are expected to be made at an appropriate time in committee or plenary proceedings. Although cases of non-compliance under this new requirement will not carry criminal sanctions, the Standards Commissioner may investigate a complaint of non-compliance.

The new requirement to declare relevant interests has significantly increased the number of oral declarations by members during Assembly proceedings.

Registering interests

The rules on registering members' interests were also amended. The Assembly removed the requirement to register the remunerated employment of a dependent child, to achieve a balance between what is in the public interest to know and protecting against unnecessary intrusion into private lives. The Commissioner had noted that the National Assembly was the only UK legislature requiring registration of the employment of members' children. The

requirement to register other pecuniary interests of a dependent child remains unchanged.

Members are now required to register membership of bodies funded by the Assembly Commission or Welsh Government only when they know, or ought to have known, about that funding, and in the case of remuneration or benefits from a public or private body that has tendered or is tendering for a contract from the Commission or the Government, only when they have knowledge of that tendering. The requirement for members to register "agreements for the provision of services" has been removed, given that there had been no registrations made under those requirements, which are captured elsewhere in the categories of interests to be registered.

Committee membership

The circumstances in which a member must not take part in the Standards of Conduct Committee's consideration of a complaint were extended, to include cases in which they are directly connected to it in any way, rather than only those in which they are the subject of the complaint.

This change allows for each committee member to have an alternate member of their party elected solely to be a substitute when the committee member cannot take part in the committee's consideration of a complaint. Substitutions are otherwise not allowed on the Standards of Conduct Committee.

SITTING DAYS

Figures are for full sittings of each legislature in 2015. Sittings in that year only are shown. An asterisk indicates that sittings were interrupted by an election in 2015.

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	TOTAL
Aus HR	0	8	12	0	7	12	0	8	8	8	9	3	75
Aus Senate	0	4	12	0	4	8	0	8	8	4	9	3	60
Aus Australian Capital Territory	0	6	6	0	6	3	0	6	6	3	3	0	41
Aus New South Wales LA*	0	0	0	0	9	6	0	9	6	9	6	0	45
Aus New South Wales LC*	0	0	0	0	8	6	0	6	6	9	6	0	41
Aus Northern Territory	0	6	3	3	0	4	0	3	3	0	3	3	28
Aus Queensland LA*	0	0	4	0	6	3	4	0	3	6	3	4	33
Aus South Australia HA	0	6	6	0	6	7	4	0	6	6	3	4	48
Aus Tasmania HA	0	0	15	6	3	6	0	6	6	16	3	0	61
Aus Victoria LC	0	6	3	3	6	6	0	6	6	6	6	3	51
Aus Western Australia LC	0	6	9	3	9	3	0	6	9	6	6	3	60
Can HC*	5	15	12	11	16	15	0	0	0	0	0	7	81
Can Senate*	3	9	8	6	9	17	0	0	0	0	0	6	58
Can Alberta LA*	0	0	11	0	0	8	0	0	0	4	13	7	43
Can British Columbia LA	0	11	12	12	12	0	6	0	3	12	6	0	74
Can Manitoba LA	0	0	0	1	17	17	0	0	0	7	14	3	59
Can Ontario LA	0	7	14	14	12	4	0	0	9	12	13	7	92
Can Prince Edward Island LA	0	0	0	0	0	16	6	0	0	0	10	2	34
Can Québec NA	0	10	8	12	12	8	0	0	8	10	13	4	85
Can Saskatchewan LA	0	0	18	14	8	0	0	0	0	11	14	0	65
Can Yukon LA	0	0	0	16	15	0	0	0	0	5	15	9	60

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	TOTAL
Cyprus HR	3	5	5	5	4	4	5	0	3	4	5	5	48
Guernsey	2	3	6	2	3	2	6	0	4	5	4	4	41
India LS	0	6	13	9	7	0	8	9	0	0	3	17	72
India RS	0	6	13	6	7	0	8	9	0	0	3	17	69
India Rajasthan LA													31
India Uttar Pradesh LA	0	5	14	0	0	0	0	8	0	0	0	0	27
Jersey	2	2	3	4	2	3	2	0	3	5	2	5	33
Kenya NA	0	12	17	15	4	15	12	15	3	16	10	9	128
Kenya Senate	0	9	15	9	12	11	14	0	8	14	13	6	111
New Zealand HR	0	9	10	5	9	10	8	9	9	6	8	5	88
Pak Punjab Lahore PA	2	10	9	4	7	13	0	4	6	2	1	0	58
Seychelles NA*													34
South Africa NA	0	3	8	1	4	9	1	9	6	4	11	0	56
UK HC*	19	13	18	0	7	18	12	0	9	15	17	12	140
UK Lords*	17	14	17	0	4	19	14	0	9	13	16	14	137
UK Scottish Parliament	12	9	13	8	11	12	0	0	14	7	12	9	107
UK NA Wales	6	7	8	4	6	9	5	0	6	6	8	4	69
Zambia NA	0	4	14	0	0	9	18	0	7	17	16	7	92

UNPARLIAMENTARY EXPRESSIONS

AUSTRALIA

House of Representatives

We know he breaks the law as well	10 February
Holocaust of jobs	12 February
Hypocrite	24 February
Beltway Bill	26 February
You'll be sweating ballot papers	26 February
Labor, the party that hates medical research, in a sneaky measure tried to take $400 million away …	4 March
Balaclava Bill	18 March
The Dr Goebbels of economic policy	19 March
Bankrobber Bill	24 March
Smooth criminal	24 March
Stealing people's bank accounts	24 March
Silly fool	25 March
Dog whistling	3 June
The Australian people see you as a very unsavoury member of the House	18 June
He is such an annoying prat	18 June
The cockroach of the Australian Labor Party	23 June
Madam Fifi	25 June
The question was about his dog of a policy	12 August
You are such a grub	13 August
Bagman	13 August
Bellyache Bill	20 August
Free trade is bullshit	8 September
The racist speech given by the Leader of the Opposition	9 September
Here is another muppet	9 September
I thank Beaker over there	9 September
Aren't you the real clown, and one with a massive credibility deficit?	9 September
Stinking of racist and protectionist rhetoric	9 September
Goose	10 September
It underscores the xenophobic, racist activities on your side of the House	10 September
You would think the foreign minister might actually think before she opens her big fat trap and says stupid things in this parliament	10 September
They are the tools over the other side that will be bashed	15 September
They have necked poor old Mr Abbott and replaced him	15 September
Guttersnipe	15 October

Australian Capital Territory Legislative Assembly

God damn	10 February
You lot stink	10 February

Ignorance	11 February
Blind	12 February
Grubby government	12 February
Grubby little Leader of the Opposition	12 February
Toxic	12 February
Grub	17 February
Tell them the truth	18 February
Mr Negativity	18 March
Bloody hell	19 March
Puppet	6 May
Muppets	7 May
Fabricating a claim that he knows to be untrue	12 May
Fraud	12 May
Mob opposite	13 May
Telling porky pies	2 June
Half-bake Mick	4 June
In the pockets of the CFMEU	5 August
Show trial [*referring to a royal commission*]	5 August
Bulldozer Burch	12 August
Amateur hour	13 August
Motives are highly questionable	13 August
Underhand issues	13 August
Misled the committee	18 November
Coward	19 November

New South Wales Legislative Assembly

Those blokes would sell smokes to kids if they had a chance	11 August
You've got to stop smoking the funny stuff. You've got to stop smoking so much pot.	13 August
My admiration for His Highness Prince Philip is second only to Tony Abbott's	9 September
The whimpering member for Canterbury	20 October
The five years of this government could be described as many things, including corrupt, dysfunctional, obnoxious, self-absorbed	29 October

New South Wales Legislative Council

Losers' lounge	12 May

Northern Territory Legislative Assembly

You come in here, like a coward, make allegations …	17 February
You are a knob	19 February
My question is to the village idiot	24 March
He is not here. He is talking to Tinker Bell on his unicorn phone. My question is to the Treasurer, but he is not here.	26 March
Madam Speaker, I am happy to answer the grub. … instead of being part of the policy solution and providing real outcomes, you want to act like a grub and try to slur people when they are …	16 June

Today the Leader of the Opposition was out the front of this building at a humanitarian gathering and said, "We have a proud record of welcoming people", except if you are Chinese or Asian. That is deeply offensive, seriously. You are an idiot.	16 September
So arrogant. The member for Karama has already bought 152 hats so she can try to win the million-dollar fish to pay off her legal bill of $215,000. She could try to catch 21 of the $10,000 fish. Mr Deputy Speaker, I am more than happy to withdraw anything the member for Karama found offensive. If it is the fact she is expecting Territorians to pay her $214,000 legal bill …	17 September
This is the person who put us in debt and who wants to look after criminals	19 November

Queensland Legislative Assembly

It is a bloody disgrace	5 May
Bullshit	19 May
I withdraw the comment that the Treasurer is a "tossing" Treasurer and say that he is a "coin-flipping Treasurer	21 May
Unlike those opposite who do not give a toss	21 May
You are supposed to be the smart state, not the dumb ones	14 July
In the words of the Prime Minister, this budget is crap	17 July
You nitwit	15 September
You knucklehead	28 October
She can show them how to build a bonfire and then after that they can throw the current opposition leader on it, because that is what they are doing in terms of his leadership.	12 November

South Australia House of Assembly

One punch too many	12 February
Kelp on the keel	12 February
This mob	14 May
Demeneted parrots	22 September

Victoria Legislative Council

Maybe he had too many reds over the lunchbreak	20 August
Abortuary	24 November

CANADA

House of Commons

You are full of crap	6 February
Mr Speaker, extraordinary. Living in a Canada, where that sort of idiocy passes for argument in the House of Parliament.	25 March
That man is a clown … you have no clue.	13 May
Patronage is the K-Y Jelly of politics … in an absolute orgy of political patronage … the whole war room of the Conservative party's election campaign was appointed to the Senate as one big fat "F you" to the Canadian public.	8 June
A pathetic creature	18 June

British Columbia Legislative Assembly

You know, Madame Speaker, sometimes I just wish you could bop the members opposite on the head.	3 November

Manitoba Legislative Assembly

Because they are being very hypocritical, as they are every single day	2 June

Prince Edward Island Legislative Assembly

Corruption	9 June
Fraudulent	9 June
Not honourable, not becoming of this House	30 June
I find that hard to believe	14 November
Callous	24 November
Spin	27 November

Québec National Assembly

The minister would be accused of harassment, his hands are so all over the place	6 February
Scheme [*speaking of the Premier not disclosing the actuarial reality he was aware of*]	11 February
Talking out of both sides of one's mouth	12 February
Malarkey	17 February
Hypocritical [*questions*]	26 February
Act like the bogeyman [*speaking of the Premier*]	19 March
Petty	25 March
Disguise	25 March
Mudslinging [*partake in*]	14 April
Gall	20 April
Demagoguery	21 April
Racist	7 May
Despise	7 May
Malice	7 May
Misappropriate funds	13 May
Shylock	27 May
Collusion	27 May
Bad faith	28 May
Hide	11 June
Arrogant persons [*speaking of the Premier*]	22 September
Clown	24 September
Fiddle with the figures	6 October
Cowardliness	7 October
Haughty [*speaking of the Premier*]	22 October
Illegal means of financing [*accuse a party of resorting to*]	24 November
To have fleeced Québecers	1 December

Saskatchewan Legislative Assembly

Provided numbers in this Assembly that he just made up	23 March

Either he doesn't fact check, Mr Speaker, or he just doesn't care	15 April
Continues to try to mislead the public with respect to this project	20 October
Minister of rental schemes	22 October
Why won't he come clean with Saskatchewan?	18 November

Yukon Legislative Assembly

Entertaining rhetoric	16 April
He'll squawk about it	22 April
Bullying tactics	22 April
There is a perception that access to government is for sale	27 April
He was caught altering consultation reports	4 November

States of Guernsey

Surely, sir, one cannot find a better example of hypocrisy than that	9 April

INDIA

Lok Sabha

Bastard	25 February
Will have to repress democracy	25 February
We will burn down the church, when we talk of conversion, when we talk of the Lord Rama followers and the bastards	25 February
Shut up, you will be silenced	25 February
Can I not call a thief a thief?	2 March
… and goon slip system prevails there, in which names of the leaders of ruling party appear mentioning that they are in the grip of the sand mafia	3 March
Naked	9 March
Please do not behave like a headmistress [*aspersion on the chair*]	23 April
I am neither a thief nor a dacoit	23 April
When you are there, you have a different image ... [*interruption*] ... you do allow to speak [*aspersion on the chair*]	23 April
Criminals	24 April
See their lies and cunningness	8 May
Thief	12 May
… but on the chair. We do not believe the chair has been fair in the conduct in allowing her to make this point five times … it is not an aspersion on you personally, but it is an aspersion on the chair, Madam	12 May
Betrayal	12 May
Good for nothing	23 July
Hooligans	31 July
We would request that you decrease the punishment that you have meted out to the opposition because in a parliamentary democracy, opposition is a part of the process	4 August
Cruel	4 August
Pretence	4 August
Disoriented	7 August

Touts in the ministry asked	11 August
The old minister's corrupt ways are over	11 August
Farce	11 August
Bloodshed	26 November
Threaten	26 November
Shut up	26 November
All kept listening abuses	26 November
BJP and RSS will be ruined	1 December
He is abusing the constitution … reservation and corruption are an abuse of the constitution [*reference to a sitting judge*]	4 December
They should die in shame	7 December
Dogs	9 December
Jack in the box	10 December
Unconditional apology	11 December
It is a matter of shame for Parliament	11 December
Scandals bigger than fodder scandal	11 December
Every other gender	16 December
Misused and abused	18 December
Who is shouting? Does not your common sense work? … Are we in Parliament or in a market?	22 December
Vested interest	22 December

Rajya Sabha

Stupid	25 February
Nonsense	26 February
Nathuram Godse	26 February
Fascist	26 February
He is a liability for the state	27 February
Communal	2 March
Agents of Englishmen	2 March
Scam	2 March
Head of cons	2 March
Pimps of power	2 March
Godman	2 March
Daydreams	2 March
Profiteer	2 March
Embarrassment	2 March
Robber	2 March
Dacoit	2 March
Fake	2 March
Sham	2 March
Nuisance	3 March
Terrorist	3 March
Inclined to terrorism	3 March

Contractor	3 March
Misguided	4 March
Hapless	9 March
Traitor	10 March
Agent	10 March
Cover-up	12 March
Match-fixing	12 March
Harijan	13 March
I know what kind of a person you are	18 March
Cheating	18 March
Vulgar	18 March
Bullying	18 March
Flattery	19 March
Dictatorship	19 March
Orgy	20 March
Ogres	20 March
Deceit	23 April
Breach of trust	23 April
Against national interests	27 April
Irresponsible	27 April
Conspiracy	29 April
With the Naxals	29 April
Naxalite activities	29 April
Drama	6 May
All-pervasive corruption	12 May
Theft of martyrs' cerements	12 May
Rubbish	13 May
Making a joke of the proceedings of this House	13 May
Rascal	11 August
Cunning	1 December
Backdoor entrants	1 December
Commit suicide	3 December
Hateful act	3 December
Dog	3 December
Prostitute	3 December
Wrong affidavit	3 December
Complicity	4 December
Looted	7 December
Zoo	11 December
Drug syndicate	14 December
Liquor mafia	14 December
Engaging in anti-party activities	15 December
Murder of democracy	15 December

Mockery of constitution	15 December
Bury under soil	15 December
Cynical	22 December
Mental asylum	22 December
Rape capital	22 December

Rajasthan Legislative Assembly

She was brought after paying Rs.80 Crore, Rs.80 Crore, [she] not just consumed the sum, but cleaned you off completely	26 February
Discrimination	27 February
Rahul Gandhi	27 February
The nose of the Health Minister, you have bitten off in Suratgarh	3 March
Honourable Chief Minister ji … Chief Minister ji … Tan Singh of Barmer	3 March
Our Chief Minister Vasundhara Raje … Tan Singh	3 March
Untouchable	11 March
Sinner	12 March
Funtri [*derogatory rhyming*]	13 March
The person who is occupied as the prime minister, gets the girls spied	16 March
The way the chair is behaving and the way it is conducting itself, against the policies of the chair and the Speaker and against its behaviour, I walk out of the House, against the lumpenness	20 March
Has also deposited money … of bribe, you would select him	21 March
Then will be taken … will come after giving money	21 March
He is a friend of our Parliamentary Affairs Minister, Rajendra Rathore Sahab	24 March
He is a friend, your friend … a friend of our Rathore Sahab	24 March
Theatrics	27 March
Maharani Sahiba	6 April
Poor fellow	6 April
Teli [*reference to a lowly person*]	8 April
Braggart	8 April
Are the favoured people of the minister	9 April
Down with Sonia Gandhi. There is clamour in every street, congressmen are thieves	17 September
Symbolic of corruption … involved in corruption	21 September

STATES OF JERSEY

It is the kind of what-would-Jesus-do society because, of course, he would be there at the Tory conference sitting with the Institute of Directors in the middle table	7 October
He speaks with forked tongue	16 December

NEW ZEALAND HOUSE OF REPRESENTATIVES

Go back to supporting marijuana	24 March
Battle of wits with an unarmed opponent	26 May
Trying to corrupt officials and steal papers, and then make up figures	30 July
Do not have the intestinal fortitude	13 August

Trying to carve out an exemption for its mates	27 August
Laurel and Hardy are a bit upset	10 September
It is a bigoted party	16 September
If I were a criminal in this country, I would be voting Labour	19 November

PARLIAMENT OF SOUTH AFRICA

We are going to hit you physically now

A fool elected by a fool will be led by a fool, but the biggest fool is the fool who elected that fool

Kids [*referring to members*]

This bunch [*referring to members*]

Foreman of thieves

Alleged sex pest

Drug lord

Token

Accomplice to plunder

Is a murderer [*referring to a member*]

Tellytubby

Sell out

F-word

Racist [*referring to members*]

Morons

UNITED KINGDOM

National Assembly for Wales

You lot	25 January
Mob	26 January
Deliberately misrepresent [*of member*]	2 March

BOOKS ON PARLIAMENT IN 2015

AUSTRALIA

The making of a party system: minor parties in the Australian Senate, by Zareh Ghazarian, Monash University Publishing, $42.50, ISBN 9781922235923

This book charts the rise of minor parties in the Australian Senate since the end of the Second World War and explains how they became the powerful actors they are today. It shows that there has been a change in the type of minor party elected. Rather than being created as a result of a split in a major party, newer minor parties have been mobilised by broad social movements with the aim of advancing specific policy agendas. By shedding light on these parties, the book shows how minor parties have affected the Australian political system and how they look set to remain an important component of governance in future.

Australia's Magna Carta: second edition, Department of the Senate, Australia, $10, ISBN 9781760101268

This booklet chronicles the story behind the creation of Australia's Magna Carta (currently held by the Australian Parliament), the mystery of its appearance in 1936 in a Somerset school and the machinations leading to its purchase by the Australian government in 1952. Also included in this expanded second edition are perspectives from the Clerk of the Senate, Dr Rosemary Laing, Chief Justice Robert French AC, eminent human rights lawyer Geoffrey Robertson QC and leading academics which expand on the historical context of the document and what it means in the 21st century.

Papers on Parliament No. 64: Lectures in the Senate Occasional Lecture Series, and Other Papers, Department of the Senate, Australia, ISSN 1031-976X

Contains lectures on parliamentary issues and other papers, including: "Fitzpatrick and Browne after 60 Years" by Andrew Moore; "800th Anniversary of Magna Carta" by Menna Rawlings; "Reforming the Public Sector" by Jane Halton; "Serving the Senate: The Legacy of Harry Evans" by Michael Macklin; "The Parliamentary Budget Office: Supporting Australian Democracy" by Phil Bowen; "High Expectations Realities through High Expectations Relationships: Delivering beyond the Indigenous Policy Rhetoric" by Chris Sarra; "Representation of Commonwealth Territories in the Senate" by Michael Sloane; and "The Williams decisions and the implications for the Senate and its scrutiny committees" by Patrick Hodder.

Papers on Parliament No. 63: Lectures in the Senate Occasional Lecture Series, and Other Papers, Department of the Senate, Australia, ISBN 1031-976X

Contains lectures on parliamentary issues and other papers, including: "The Role of Government and Parliament in the Decision to Go to War" by Brendan Nelson; "Pulling the Trigger: the 1914 Double Dissolution Election

and its Legacy" by Helen Irving; "Exploring the Role of the Commonwealth Ombudsman in Relation to Parliament" by Colin Neave; "Democracy, Trust and Legitimacy" by Simon Longstaff; "Politicians at War: the Experiences of Australian Parliamentarians in the First World War" by Aaron Pegrum; and "Commonwealth Executive Power and Accountability Following Williams (No. 2)" by Glenn Ryall.

Inside the Wran era: the Ron Mulock memoirs, by David Clune and John Upton, Connor Court Publishing, $32.95, ISBN 9781925138733; 1925138739

Politics & Sacrifice: NSW Parliament and the ANZACS, Parliament of New South Wales

Turning 40, Historical Society of the Northern Territory

Published with significant assistance from the Legislative Assembly, this book commemorates the 40th anniversary of the Northern Territory Legislative Assembly in 2014.

CANADA

A People's Senate for Canada: Not a Pipe Dream!, by Helen Forsey, Fernwood Publishing, $19.95, ISBN 9781552667248

The Crown and Parliament, by Philippe Lagassé & Michel Bédard (eds), Éditions Yvon Blais, $67, ISBN 9782897301293

INDIA

Parliamentary questions: glorious beginning to an uncertain future, by Devender Singh, Orange Books International, New Delhi, Rs. 595/-, ISBN 9789383263103

Parliamentary Standing Committees in India: role and relevance, by Shimla, Viva Books, New Delhi, Rs. 695/-, ISBN 9788130931074

Parliamentary procedure: law, privileges, practice and precedents, by Subhash C Kashyap, Universal Law Publishing, New Delhi, Rs. 1395/-, ISBN 9789350354025

Parliamentary elections in India, by S S Chahar, Concept Publishing Company, New Delhi, Rs. 899/-, ISBN 9789351250678

Parliament is the Temple of Democracy, by K Kasim, Krish Publications, Madurai, Rs. 100/-, ISBN 9788193130605

UNITED KINGDOM

How Parliament Works (seventh edition), by Robert Rogers and Rhodri Walters, Routledge, £34.99, ISBN 9780273790372

The Lib–Lab Pact: A Parliamentary Agreement, by Jonathan Kirkup, Palgrave Macmillan, £63, ISBN 9781137527684

Making British Law: committees in action, by Louise Thompson, Palgrave Macmillan, £63, ISBN 9781137410658

House of Commons: an anthropology of MPs at work, by Emma Crewe, Bloomsbury, £16.99, ISBN 9781474234573

Parliamentary Sovereignty in the UK Constitution: Process, Politics and Democracy, by Michael Gordon, Hart Publishing, £55, ISBN 9781849464659

House of Lords reform: a history, volume 4: 1971–2014: the Exclusion of Hereditary Peers, by Peter Raina, Peter Lang, £125, ISBN 9783034318563

CONSOLIDATED INDEX TO VOLUMES 80 (2012) – 84 (2016)

This index is in three parts: a geographical index; an index of subjects; and lists of members of the Society who have died or retired, of privilege cases, of the topics of the annual questionnaire and of books reviewed.
The following regular features are not indexed: books (unless substantially reviewed), sitting days, amendments to standing orders and unparliamentary expressions. Miscellaneous notes are not indexed in detail.

ABBREVIATIONS

ACT	Australian Capital Territory;	N. Terr.	Northern Territory;
Austr.	Australia;	NZ	New Zealand;
BC	British Columbia;	PEI	Prince Edward Island;
Can.	Canada;	Reps	House of Representatives;
HA	House of Assembly;	RS	Rajya Sabha;
HC	House of Commons;	SA	South Africa;
HL	House of Lords;	Sask.	Saskatchewan;
LA	Legislative Assembly;	Sen.	Senate;
LC	Legislative Council;	T & C	Turks and Caicos;
LS	Lok Sabha;	T & T	Trinidad and Tobago;
NA	National Assembly;	Vict.	Victoria;
NI	Northern Ireland;	WA	Western Australia.
NSW	New South Wales;		

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