The Table

BEING

THE JOURNAL OF

THE SOCIETY OF CLERKS-AT-THE-TABLE

IN COMMONWEALTH PARLIAMENTS

EDITED BY

J. M. DAVIES

VOLUME XXXVI

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USUAL PARLIAMENTARY SESSION MONTHS

	Parliament.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
	United Kingdom		•	•	•	•	•	•				•	•
	Northern Ireland	•	•	•	•	•	•				•	•	•
	Jersey	•	•	•	•	•				•	•	•	•
	Isle of Man	•	•	•	•	•	•	•			•	•	•
Canada	Federal Parliament		•	•	•	•	•	•	•	•	•	•	•
Canada	Ontario	•	•	•	•	•	•						
Canada	Quebec	•	•	•	•	•	•						
Canada	Nova Scotia			•	•								
Canada	New Brunswick		•	•	•								
Canada	Manitoba		•	•	•								
Canada	British Columbia	•	•	•	•							•	•
Canada	Prince Edward Island		•	•	•								
Canada	Saskatchewan	•	•	•	•								
Canada	Alberta		•	•	•								
Canada	Newfoundland			•	•	•	•						
Canada	Northern Territory												
Australian Commonwealth	Commonwealth Parliament		•	•	•	•	•		•	•	•	•	
Australian Commonwealth	New South Wales		•	•					•	•	•	•	•
Australian Commonwealth	Queensland			•	•				•	•	•	•	•
Australian Commonwealth	South Australia		•	•	•	•				•	•	•	•
Australian Commonwealth	Tasmania				•	•	•		•	•		•	•
Australian Commonwealth	Victoria		•	•	•	•			•	•	•	•	•
Australian Commonwealth	Western Australia							•	•	•	•	•	•
Australian Commonwealth	Northern Territory		•			•			•			•	
	Papua and New Guinea		•			•				•			
	New Zealand					•	•	•	•	•	•	•	
	Western Samoa			•	•	•			•	•	•		
	Ceylon	•	•	•	•	•	•	•	•	•	•	•	•
India	Central Legislature		•	•	•	•			•	•		•	•
India	Andhra Pradesh		•	•			•	•				•	•
India	Bihar		•	•	•				•	•			•
India	Gujarat		•	•	•				•	•			•
India	Haryana	No settled practice.											
India	Kerala	•	•	•						•			
India	Madhya Pradesh			•	•			•	•			•	
India	Madras	•	•	•	•			•	•	•			•
India	Maharashtra		•	•	•			•	•	•		•	•
India	Mysore		•	•	•			•	•		•	•	•
India	Orissa		•	•	•				•	•			
India	Punjab			•	•	•	•					•	•
India	Rajasthan		•	•	•				•	•	•		
India	Uttar Pradesh	No settled practice.											
India	West Bengal		•	•	•			•		•		•	•
Pakistan	National Assembly			•	•				•				
Pakistan	East Pakistan	No settled practice.											
Pakistan	West Pakistan					•	•	•				•	•
	Ghana			•			•			•			•
	Malaysia	No settled practice.											
	Sarawak	No settled practice.											
	Singapore	•	•	•	•	•	•	•	•	•	•	•	•
	Sierra Leone			•	•			•				•	
	Tanzania		•			•	•				•		•
	Jamaica			•	•	•						•	•
	Trinidad and Tobago	•	•	•	•	•	•	•			•	•	
	Uganda	•	•	•	•	•	•			•		•	•
	Kenya		•			•	•			•	•	•	
	Malawi	No settled practice.											
	Zambia	•	•	•			•	•			•		•
	Southern Rhodesia		•	•			•	•	•	•	•	•	
	Bermuda	No settled practice.											
	Guyana	•	•	•	•	•	•	•	•	•	•	•	•
	British Solomon Islands						•						•
	East African Common Services Organization				•					•			•
	Gibraltar	•	•	•	•	•	•	•			•	•	•
	Malta, G.C.	No settled practice.											
	Mauritius			•	•	•	•			•	•	•	•
	St. Vincent	•	•	•	•				•	•	•	•	•
	British Honduras		•	•		•	•	•		•	•	•	•
	Cayman Islands		•		•		•		•		•	•	
	Lesotho		•	•	•				•	•	•		

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The Table

BEING

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

I. EDITORIAL

At the time of going to press the future of the Society and its Journal is uncertain. Over the years THE TABLE has served a useful function in the parliaments of the Commonwealth, and can continue to do so. It is, after all, the most convenient means by which Clerks serving legislative assemblies of the British tradition in various parts of the world can learn of the work of their colleagues.

Recently, delays in the publication of THE TABLE and the rising cost of printing have made it necessary to consider carefully how best the Society should function in the future. Two questions in particular have been raised in this connection—whether the Society can be financially viable, and whether the purpose it serves can be better served within a wider association. These questions, no doubt, will be discussed at the forthcoming meeting of Clerks in Nassau, and it is to be hoped that this meeting will put forward some positive suggestions for the Society's future.

For various technical reasons it has always proved difficult to publish THE TABLE in less than a year after the events with which it deals, but this delay has not attracted criticism. This is the third Volume to be published in the space of one year and it has restored the publication date to that of the December after the year with which it deals. In order to keep to this date the Editor regrets that he was compelled to leave out material received during August.

This is the first volume of THE TABLE in sixteen years to be edited by one Clerk: if there are any errors of editorial policy or judgment the Editor trusts they will be forgiven.

Mr. John Archibald Robertson, J.P.—On 6th March, 1968, Mr. J. A. Robertson retired as Clerk of the Parliaments, Victoria, Australia, after forty-five years in the service of that Assembly. Among the speeches which marked his retirement in the Legislative Assembly was that of the Premier, as follows:

Sir Henry Bolte: "I am somewhat surprised and disappointed that, because of his own ruling, the former Clerk of the Parliaments, Mr. John Archibald Robertson, is not on the floor of the House to-night. I have just been informed that this courtesy is extended only to visiting dignitaries and Members of Parliament from overseas countries. Therefore, I hope you will kindly excuse me and other honorable Members, Mr. Speaker, if occasionally our eyes look towards the strangers' gallery.

John Archibald Robertson was born in Castlemaine, Victoria, on 7th March, 1903. He commenced duty in the Lands Department on 29th April, 1920, and was appointed to the Legislative Assembly staff on 1st September, 1923. His service in the Parliament from that date is as follows:

Assistant Clerk of the Papers from 1st January, 1927, to 27th July, 1937.
Clerk of the Papers from 28th July, 1937, to 2nd March, 1941.
Serjeant-at-Arms and Clerk of the Papers from 3rd March, 1941, to 30th June, 1946.
Serjeant-at-Arms and Clerk of Committees from 1st July, 1946, to 26th April, 1951.
Clerk-Assistant from 27th April, 1951, to 11th September, 1961.
Clerk of the Legislative Assembly from 12th September, 1961.
Clerk of the Parliaments from 27th February, 1964.
Honorary Assistant Secretary, Victoria Branch, Commonwealth Parliamentary Association, from 1951 to 1961.
Honorary Secretary, Victoria Branch, Commonwealth Parliamentary Association, from 1961 to 1967.

The highlight of Mr. Robertson's career was his 27 years' service inside this Chamber. For seven years he was Clerk of the Legislative Assembly, and, with deference to former Clerks of the Parliaments, he carried out his duties in a most able manner. He was of great assistance to all honorable Members. The Clerk of the Parliaments and Clerk of the Assembly is possibly of greater assistance to the Members of the Opposition and Members of the corner party than to the Government. Although the Government does rely on him in the House, Members of the Opposition probably have a greater reason to thank the Clerk for his guidance and his advice in submitting various motions.

Over the years that I have had the honour to serve in this Parliament we have been extremely fortunate in having had at the Table

Clerks who at all times have carried out their duty above politics and have assisted those of us who are pleased to think we maintain the dignity and purpose of this House. We have been encouraged in that the Table officers have enabled us to maintain a high standard. I have had my quarrels with the Clerks, and I am still mystified at some of the rulings I have received. Even to-day a message was presented from His Excellency the Governor because it was said to be in relation to a charge on the Consolidated Revenue, although I believe it had nothing to do with Consolidated Revenue. Mr. Robertson would have given a ruling in the same terms as rulings given by his predecessors and as will be given by his successors. We accept these rulings even though we may be mystified by them.

The advice of the Clerk of the Parliaments to you, Mr. Speaker, or collectively to all of us is in the best interests of democratic Parliamentary Government in its best sense. It is in that vein that I wish to place on record the Government's appreciation of the service of John Archibald Robertson. As a matter of fact, I hardly knew his name was John; to me and to all honorable members who have known him for some time, he has always been known as "Robbie".

I wish to add my personal thanks and gratitude for the way in which he has, through you, Mr. Speaker, seen that this Parliament has been so ably conducted. To me, this Parliament is not quite so interesting as when I first became a Member. There are now no all-night sittings. I honestly believe and appreciate that this Chamber is now a better conducted Assembly than it was some years ago. I do not blame former Clerks of the Assembly for what occurred in earlier years; perhaps it was the responsibility of honorable Members. However, Mr. Robertson, as Clerk of this Chamber, and his assistants have enabled all honorable Members to conduct themselves in a manner befitting this Parliament, which is a matter on which I place great store.

One cannot say that it is a pleasure to move a motion such as I shall shortly submit. Certainly one gets great satisfaction from the fact that one is able to move it with true sincerity and in the belief that every Member of this House thoroughly supports everything that one has said and, I am sure, everything that following speakers may say. Therefore, by leave, I move:

> That this House place on record its high appreciation of the valuable services rendered to it and to the State of Victoria by John Archibald Robertson, Esquire, J.P., as Clerk of the Parliaments and Clerk of the Legislative Assembly, and in the many other important offices held by him during his forty-eight years of public service, of which forty-five years were spent as an officer of Parliament, and its acknowledgment of the zeal, ability, and courtesy, uniformly displayed by him in the discharge of his duties."

Mr. Wilkes, the Deputy Leader of the Opposition, seconded the Motion, which was supported by Mr. Moss, Leader of the Country Party and Sir William McDonald (Minister of Lands).

Finally the Speaker (the Hon. Vernon Christie) said: "As in most extended debates, those who speak late have very little ground left to cover. If I may sense the mood of the House, I have never seen it so unanimous or so determinedly friendly. Perhaps it has never had such good cause to be in that state.

Two score and five years is a long time to devote to a Parliament, and Mr. Robertson has left his mark on it, not only because of what he has done but because of the way he has gone about choosing people to succeed him. To do this effectively is the measure of a man who is great and who has a flair for his work. Mr. Robertson's wise and friendly advice to all honorable Members has been mentioned. Many honorable Members must know that the great relationship which exists between a Speaker and the Clerk of the House is one of sharing many confidences. Often, the Speaker wants the Clerk's reflection on some confidence given him and, similarly, the Clerk often wants to know what the Speaker thinks about something. These confidences are shared between a team consisting of two people, and Mr. Robertson worked wonderfully well in this way. I shall not mention some of the things we used to speak about when I sat at the table as Chairman of Committees. Mr. Robertson was generally sitting on my right hand, and we shared some enjoyable experiences. The Chairman of Committees has mentioned Mr. Robertson's great work in compiling rulings from the Chair given over a period of many years. These rulings have been bound and will be essential in the workings of this House in future. I say to honorable Members: "Beware; the rulings are well documented!"

Mr. Robertson's work for the Victoria Branch of the Commonwealth Parliamentary Association is something of which all honorable Members of this Parliament must be proud. I am sure that I speak for all honorable Members when I say that we regret Mr. Robertson's going but we give him our very best wishes for a happy retirement and for many years of useful life. As Mr. Robertson lives in Ivanhoe, I should like to add that I hope he remains my favourite constituent for many years."

Mr. Robertson's retirement, under the laws of the State, had been effective from an instant after midnight of the 6th/7th March, 1968, and it had been the intention of Parliament to move the above motion in respect of his services at about 6.30 p.m. on the 6th, and then immediately to adjourn the House in order that Members could entertain Mr. Robertson at a Testimonial Dinner. This did not occur, the reason being a temporary political crisis, and the Dinner was held later.

The toast to the Guest of Honour was moved by Mr. Speaker, seconded by Mr. President—Joint Presidents of the Commonwealth Parliamentary Association—and supported by the Hon. Sir Herbert Hyland, M.P., on behalf of the Country Party, the Hon. A. G.

Rylah, C.M.G., E.D., M.P. (Deputy-Premier), on behalf of the Liberal Party, and the Hon. C. P. Stoneham, M.P., on behalf of the Labour Party. The Guest of Honour responded in a speech liberally spiced with anecdotal stories of the years during which he had been an officer of the Parliament and, at its conclusion, two Ministers of the Crown were overheard to comment that they would have liked him to continue for at least another half an hour, so greatly did they enjoy his reminiscences.

The Dinner was sponsored by the Victoria Branch of the Commonwealth Parliamentary Association and was attended by almost all Members of both Houses. The cost of the Dinner was defrayed by the Members themselves and, in his speech, Mr. Robertson was able to truly say that he was the only guest and that all the Members present were hosts. The presentation to Mr. Robertson, during the course of the Dinner, of a very high-quality pair of binoculars (to enable him to continue his interest in the "Sport of Kings") and a ten-band transistor radio of suitcase dimensions (to enable him to follow his interest in world affairs) were tokens of appreciation which proved most acceptable to the recipient.

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

Shri H. B. Shukla retired as Secretary of the Gujarat Legislative Secretariat on 31st August, 1967.

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

C.B.—R. D. Barlas, Esq., O.B.E., Second Clerk Assistant of the House of Commons, S.W.1.

C.B.E.—J. R. Odgers, Esq., Clerk of the Senate, Canberra, A.C.T., Australia.

II. THE AUSTRALIAN SENATE—1967 IN RETROSPECT

By R. E. Bullock

Deputy Clerk of the Senate

The year 1967 was one of the most remarkable years in sixty-seven years of the Australian Senate's history.

It was a year of sustained interest, activity and pressure on the Government, during which the Senate:

Twice rejected the second reading of Post and Telegraph Rates Bills.

Passed resolutions requiring the President, at the request of a majority of the whole number of Senators, to reconvene the Senate in accordance with any such request.

Reassembled in accordance with such a request and disallowed Postal Regulations of major financial implications.

Took the Government to task on the use of V.I.P. planes and the lack of information given in regard to their use; noted " with dissatisfaction " a statement by the Prime Minister; and ordered the laying of relevant accounts and papers on the Table of the Senate.

Prevented the Chair terminating Question Time at the request of the Leader of the Government in the Senate and dissented from the President's ruling in the matter.

Made amendments, opposed by the Government, to eight Bills, with those on four finally agreed upon and passed into legislation; passed an amendment to the second reading motion of another Bill condemning the Government for its failure to take certain action; caused the repeal of a Trade Practices Regulation and the making of other regulations in lieu; disallowed an ordinance relating to the subdivision and use of freehold land in the Australian Capital Territory; and caused the repeal of an ordinance relating to the Canberra Community Hospital and its replacement by an new Ordinance.

Appointed three new Select Committees, and had on its Notice Paper proposals for six others.

Met on sixty-five days—three days more than the lower Chamber, the House of Representatives.

Such a record by an Upper House in this day and age surely should not be permitted to pass without reference in The Table:

The Background

Before referring to some of the events listed, it may be desirable to explain how the Senate was *able* to act in this manner.

A powerful Chamber. In the first place, the Senate is a powerful Chamber—the most powerful indeed, we believe, of all Upper Houses in the Commonwealth Parliaments. It was given its power by the Constitution—deliberately and after prolonged negotiations between the six States which formed the Federation in 1901. The

smaller States insisted, as a condition of federation, that the Senate, the States House in which all the States would be represented equally, be clothed with sufficient powers to safeguard their interests. The Constitution therefore provided (Section 53) that except for important restrictions in regard to the initiation and amendment of certain taxation and appropriation measures there set out, "the Senate shall have equal power with the House of Representatives in respect of all proposed laws".

The result is that no proposed law—financial or otherwise—can become law without the Senate's concurrence. And where the Senate cannot amend, it may make "requests", and there have been many instances in the Senate's history where it has "insisted" on its requests. The Constitution does make special provision for "disagreements"—for the dissolution of both Houses, followed, if necessary, after the elections, by a joint sitting of the two houses; but on only two occasions (1914 and 1951) have the two Houses been dissolved and there has never yet been a joint sitting. The House of Representatives may be dissolved before the end of the normal three years of office, but the Senate, a continuing body, may be dissolved only under the "disagreements" provision.

The Senate is constitutionally clothed therefore with the *power* to be "difficult". Whether it will be difficult, in this age of party politics, largely depends upon the composition of its membership.

Membership. Section 24 of the Constitution provides that the number of members of the House of Representatives shall be, as nearly as practicable, twice the number of the Senators. The House of Representatives at present comprises 124 members; the Senate, 60 members. Compulsory voting by all of 21 years of age and over applies in the elections for both Houses. The members of the House of Representatives are elected for three years; Senators for six years, half their number retiring every three years.

Since 1949, Senators have been elected under a proportional system of voting, and this has ensured a relatively even distribution of seats between the major parties. The beginning of 1967 found the Senate membership as follows:

Government (Liberal-Country Party coalition)	29
Australian Labour Party	28
Democratic Labour Party	2
Independent	1

The Holt Government, returned to power after the November, 1966, Elections with a comfortable majority (Lib.-C.P. 81, Australian Labour Party 42, Independent 1) therefore inherited a potentially "difficult" Senate. It did not have an absolute majority of Government Senators to ensure acceptance of its proposals. The President of the Senate has a deliberative vote only, and in the event of an equality of votes, the question passes in the negative. In any

issue where the occupants of the opposition benches joined forces, the Government could expect difficulties.

And there were two issues of major importance on which the Opposition did join forces, viz.:

(1) The Government's postal proposals, and
(2) V.I.P. Aircraft.

The confrontation of Government and Opposition on these two issues was packed with incidents.

(1) *The Clash on the Government's Postal Proposals*

The Post and Telegraph Rates Bill 1967, providing for increases in postal and telegraph rates, was introduced by the Government in the House of Representatives on 4th May, 1967.

On 8th May, Senator Gair, the Leader of the Democratic Labour Party, announced that he and the other D.L.P. Senator, Senator McManus, intended to do their best to prevent the passage of the legislation and hoped that the Australian Labour Party Opposition would support their efforts to defeat the legislation in the Senate.

On 10th May, the member leading the debate for the Opposition in the House of Representatives said:

> The Opposition will oppose this Bill with every means at its command. We are far from satisfied that the proposed increases are necessary. We accuse the Government of using the Post Office as a tax collector for the Treasury. . . . We will fight this measure with all the means in our power, and *not only in this House*. We will do our very best to bring about its defeat and, if possible, the defeat of the Government.

The Second Reading of the Bill was agreed to by the House of Representatives by 64 votes to 30, and the Bill passed. It was then sent for concurrence to the Senate, where the vital voting was to take place.

The same day as the Bill was passed by the House of Representatives, the Prime Minister, Mr. Holt, issued a press statement, part of which read:

> Increased charges by Governments are never popular, and it is not surprising that the Labour Party should attempt to turn the announced increases in postal and telephone rates to its political advantage. But the decision to use its numbers in the Senate to defeat the Government on a substantial financial matter reveals the depth of political opportunism to which the Labour Party, under its new leadership, will allow itself to sink.
>
> It is one of the most firmly established principles of British Parliamentary democracy that a House of Review should not reject the financial decisions of the popular House. The terms of the Commonwealth Constitution reflect this principle.

On 12th May, the Bill was debated in the Senate. The Leader of the Opposition (Senator Murphy) made the position of his Party very clear:

The Opposition opposes this Bill. There is no tradition, as has been suggested, that the Senate will not use its constitutional powers, whenever it considers it necessary or desirable to do so, in the public interest. There are no limitations on the Senate in the use of its constitutional powers except the limits self imposed by discretion and reason. There is no tradition in the Australian Labour Party that we will not oppose in the Senate any tax or money Bill, or what might be described as a financial measure. Our tradition is to fight, whenever and wherever we can, to carry out the principles and policies on which we stand. We are not circumscribed by any notions which arose elsewhere in connection with other institutions. It has been said that this is a money Bill. It is not a money Bill. If it were a tax or money Bill we would still oppose it!

The division, 24-25—negativing the second reading—was a clear cut case of Labour and D.L.P. against the Government. The Independent Senator, Senator Turnbull, did not participate in the division.

The defeat of the Second Reading of a Bill does not necessarily end the matter. The motion is "That this Bill be *now* read a second time", and the Government is at liberty to move later that the second reading be restored to the Notice Paper. The Government, however, did not seek to do so in this case, and instead, on 17th May, introduced another Post and Telegraph Rates Bill 1967 into the House of Representatives, where it was passed the same day.

On Friday, 19th May, the last day of sitting before the winter recess, the Senate dealt with the second Bill. This time when the Minister moved "That this Bill be now read a second time", Senator Murphy used the procedure available under Standing Order No. 194 to finally dispose of the Bill, by moving to leave out "now" and insert "this day six months". The amendment was carried 26 votes to 24, Senator Turnbull voting with the Opposition and the D.L.P.

Special Adjournment Motion

It was known, however, that the Government intended to deal with portion of the proposed increased charges by way of regulation. Senator Gair had referred to this in his second reading speech on the first Postal Bill, and had indicated that those in opposition to the Bill would take action to ensure that if the Regulations were gazetted after the Senate had risen for the winter recess the Senate could be reassembled to deal with them. And the appropriate action was taken in a manner unprecedented in the Senate. When the Minister duly moved the usual motion relating to the next meeting of the Senate, viz.—"That the Senate, at its rising, adjourn till a day and hour to be fixed by the President, which time of meeting shall be notified to each Senator by telegram or letter", Senator Murphy moved that the following words be added:

Provided that the President, upon a request or requests by an absolute majority of the whole number of Senators that the Senate meet at a certain time, shall fix a day and hour of meeting in accordance with such request or

requests and such time of meeting shall be notified to each Senator by telegram or letter.

For these purposes a request by the Leader of the Opposition shall be deemed to be a request by every member of the Opposition and a request by the Leader of the Australian Democratic Labour Party shall be deemed to be a request by members of that Party.

Provided further that the request or requests may be made to the President by leaving the same with, or delivering the same to, the Clerk of the Senate, who shall immediately notify the President.

In the event of the President being unavailable, the Clerk shall without delay notify the Deputy-President, or, should he be unavailable, any one of the Temporary Chairmen of Committees, who shall be deemed to be required by the Senate to summon the Senate on behalf of the President, in accordance with the terms of this resolution.

To protests by the Leader of the Government that this was just another instance of an attempt by the Opposition to take the Government of the country out of the hands of the Government, Senator Murphy's reply was that the Senate was in control of its own affairs and that the amendment was an appropriate one to ensure that that control could be exercised.

In reply to a query from a Minister as to his position in the matter, the President (Senator the Hon. Sir Alister McMullin) replied: "I would be guided by the vote taken tonight and would take my instructions from the Senate, as I am bound to do."

The amendment was carried, 23 votes to 22, Senators Gair and Turnbull voting with the Opposition (Senator McManus absent ill).

Special Meeting of Senate

The expected Regulations—Statutory Rules Nos. 74-77 of 1967—were gazetted on 9th June, 1967. On the same day, following requests from 31 Senators (A.L.P., D.L.P. and Senator Turnbull) telegrams were forwarded to all Senators advising them that the Senate would meet on 20th June at 11 a.m. Notice of the summoning of the Senate appeared in Commonwealth of Australia Gazette No. 49A of 14th June.

The Senate duly met on 20th June, and the motion for disallowance of the Regulations was carried on division, 27-25, Senators Gair, McManus and Turnbull voting with the Opposition.

Bills Agreed to

When the Pariament reassembled on 15th August two postal Bills were presented to the House of Representatives—the Post and Telegraph Rates Bill 1967 [No. 3] and the Post and Telegraph Regulations Bill 1967—the latter Bill to give statutory effect to provisions embodied in the Regulations disallowed by the Senate in June. (Under the provisions of the Acts Interpretation Act, Regulations could not be presented in the same form within a period of six months from the date of disallowance.)

The two Bills were agreed to by the House of Representatives without division on 6th September.

The Bills were discussed in the Senate on 19th September. By this time the Opposition's stand had changed completely. The Australian Labour Party had decided not to oppose the measures further. Divisions were called for by the D.L.P. and Senator Turnbull, and the voting was 22-3 on the first Bill and 23-3 on the second Bill, Senators Gair, McManus and Turnbull constituting the "Noes". When the divisions were called for, the Australian Labour Party Senators left the Chamber as a body.

Senator Murphy, in reply to D.L.P. criticism, explained the Australian Labour Party's withdrawal of opposition as follows:

> It is our decision to let the Government suffer the consequences of its own economic errors. This should not be confused by any talk of what the Senate can or cannot do. The Senate is perfectly entitled to oppose these measures if it wishes, but for us as for the Government it is a political decision. The political decision made by our Party is that we will not oppose the measures but will allow the Government to take the consequences of its ill-advised actions.

From a purist standpoint, one might pause to query whether any reproach could correctly be attached to the Senate Opposition's change of front. Two paragraphs on page 2 of *Australian Senate Practice* (3rd edition) by J. R. Odgers, the Clerk of the Senate, might be quoted in this connection:

> Armed as it is by the Constitution with powers greater than any ordinary second chamber, it is in the judgment of the Senate of the day to decide whether or not to insist on any of its legislative amendments disagreed to by the House of Representatives, or in certain cases to veto a Bill as a whole.
>
> As such power should be used circumspectly and wisely, factors which the Senate should take into account in reaching such decisions include:
>
> (1) A continuing recognition of the fact that the House of Representatives is the governing House—that it represents in its entirety the most recent opinion of the people whereas, because of the system of rotation of Senators, one-half of the Senate reflects an earlier poll;
>
> (2) Whether the matter in dispute is a question of principle for which the Government may have a mandate; if so, the Senate should yield;
>
> (3) The principle that in a two House legislature one House shall be a check upon the power of the other; and
>
> (4) The traditional opposition of Upper Houses to extreme measures for which a Government has not a mandate.

From a reading of the Senate debates, however, there could be no doubt that the withdrawal of opposition to the Postal Bills was due to political reasons only. The Australian Labour Party did not wish to precipitate a House of Representatives election. "The voice we have heard", said one Government Senator, "is the voice of Murphy, but the hand is the hand of one who is extraneous to the Senate."

(2) *The V.I.P. Aircraft Controversy*

The V.I.P. aircraft controversy dominated the political scene in the last part of 1967. It mushroomed suddenly into political battle as a result of an extraordinary "Question Time" period in the Senate.

The Leader of the Democratic Labour Party, Senator Gair, and Independent Senator Turnbull had been asking questions about the use of V.I.P. aircraft over quite a period. Senator Turnbull had some questions on notice, still unanswered, which dated to the beginning of the session. By 26th September, the lack of information forthcoming on the subject was a matter of much criticism. Senator McManus quipped, "Nobody seems to know anything at all about V.I.P. planes", to which Labour Senator Dorthy Tangney added, "Are there such things?"

On that day, however, the issue erupted.

Senator Turnbull had asked yet another of his periodic questions in regard to V.I.P. aircraft. After the reply by Senator McKellar, the Minister representing in the Senate the Minister for Air, Senator McManus (D.L.P.) referred to the many questions on the Notice Paper under Senator Turnbull's name and asked the Minister: "Is it not an insult to the authority of the Parliament that a Senator requesting information in regard to V.I.P. Aircraft should obviously be refused an answer?" After the Minister had replied that the matter was outside his province and he could not help him in regard to it, Senator Murphy (Leader of the Opposition) asked what steps the Minister had taken to get answers to Senator Turnbull's questions and "whether it is the intention of the Government to decline to give answers until such time as the Senate takes the steps which are available to it to compel the giving of answers to these questions?" To this Senator McKellar replied that the matter was entirely within the province of the Minister for Air and that he, Senator McKellar, could not do any more than he had done in regard to the questions.

Soon after, Senator Murphy asked Senator McKellar: "Would he inform the Minister for Air that an absolute majority of the Senate would like an answer to the questions asked by Senator Turnbull and, if the Minister is reluctant to give the answers voluntarily, the Senate will take whatever steps are available to it to see that the answers are brought forth?" To this Senator McKellar replied: "I would not think that the Minister for Air would be amenable to threats uttered in the manner just used. That is my reply to the question that has been asked."

Termination of Question Time thwarted

Further Questions on V.I.P. planes followed thick and fast, and, after the 13th such question in all, the Leader of the Government (Senator Menty) interposed that further questions be put on the

Notice Paper. The President stated that it was the practice of the Senate that a Minister had the right to ask that further Questions be placed on the Notice Paper, without proposing a motion. But dissension broke out. Points of order were raised, a dissent against the President's Ruling carried 29-23, and finally the Senate voted to continue with Questions, Ministerial objection notwithstanding.

In the debate on the motion to continue with Questions, Senator Murphy stated:

> It is of no use to talk about a practice. It is of no use to point to a particular standing order. Anyone who does not understand that, when there is a clear majority or an absolute majority of a deliberative assembly in favour of a certain course, those in the majority are entitled to have their will does not understand anything about the Standing Orders or the practices of the Parliament. That must be so. That is the principle to which we are appealing today. It goes beyond the question of any embarrassment of the Government. If we want the Senate to pursue a certain course and there is an absolute majority in favour of it, then we must prevail.

The Deputy Leader of the Government (Senator Gorton) accepted the issue for what it was:

> There is no need for Senator Murphy to reverberate around the chamber. If the Opposition has sufficient numbers on its side it will be able to change the normal course of proceeding. But that is what members of the Opposition are seeking to do. They are seeking to change the normal practice.

The Opposition had the numbers and, consequently, did change practice.

The demand for Papers (27th September), and direction that they be tabled (5th October)

With the numbers behind him, Senator Murphy was not slow in following up his advantage. The next day, 27th September, he pulled off a surprise *coup de grâce*.

It was about 8.50 p.m. The Senate had met at 3 p.m. and, after Questions, had devoted three hours to debating a motion of urgency (financial assistance to Queensland for development projects) moved by an Opposition Senator from Queensland, Senator Keeffe. Papers were tabled, then Senator Murphy rose: "Mr. President I ask for leave to move a motion for the tabling of certain papers relating to V.I.P. aircraft." The President: "There being no objection, leave is granted."

Senator Murphy then moved the following motion

> That there be laid on the table of the Senate, all accounts and papers relating to the use of V.I.P. aircraft by Ministers and other members of Parliament during the period 1 January 1967 to 27 September 1967, in particular all accounts and papers containing records of—

(*a*) applicants and applications;
(*b*) airports of embarkation and of call;
(*c*) times and distances of flight, including waiting times, in connection with flights and any flights necessary to fulfil engagements;
(*d*) the passengers;
(*e*) crew members;
(*f*) the cost of and incidental to each flight; and
(*g*) the Department or service to which the flight was charged.

and commenced to speak to the motion. A Senator immediately queried: "You are giving notice of motion, are you not?" To which Senator Murphy replied: "No. I have moved a motion pursuant to leave."

Too late, the Leader of the Government (Senator Henty) rose to Order. "I am quite confident that the Senate was of the opinion that the Leader of the Opposition was giving notice of a motion. This would be the normal procedure and we thought that the Leader of the Opposition was following that normal procedure." But Senator Murphy, clearly very deliberately, had not followed the normal procedure, and now intended to use his advantage. He offered to postpone the debate, only if the Minister agreed to facilitate early discussion of the motion—and persisted in this stand until he did receive an assurance. Then, by leave, he formally changed his motion to a Notice of Motion.

Lest it be thought that this skirmish was so much needless by-play, it should be stated that it was this "by-play" which gave the Opposition its first essential advantage in the V.I.P. Planes issue. Senator Murphy had now not only given Notice of Motion (there had been many Notices on the Notice Paper for months); he had been assured of an early discussion on it.

The next day it was announced that the Prime Minister would make a statement on the V.I.P. Flights to Parliament the following week. Discussion on Senator Murphy's motion was therefore postponed, by agreement, until after the Prime Minister had made his statement. The Prime Minister made his statement on Wednesday, 4th October, and on the 5th October the statement was debated in the Senate, with the understanding that when it was concluded Senator Murphy's motion would be brought on.

At 10 p.m., however, the debate on the Prime Minister's speech was still continuing. It was then that Senator Cant (A.L.P.) moved an amendment to add to the motion "That the Senate take note of the Statement", the words:

with dissatisfaction, and therefore that there be laid on the table of the Senate, all accounts and papers relating to the use of V.I.P. aircraft by Ministers and other members of Parliament during the period of 1 July 1966 to 5 October 1967, in particular all accounts and papers containing records of—

(*a*) applicants and applications;
(*b*) airports of embarkation and of call;
(*c*) times and distances of flight, including waiting times, in connection with flights and flights necessary to fulfil engagements;
(*d*) the passengers;
(*e*) crew members;
(*f*) the cost of and incidental to each flight; and
(*g*) the Department or service to which the flight was charged.

This amendment, it will be seen, was almost identical with the Notice of Motion by Senator Murphy. A Point of Order was taken by the Leader of the Government that the amendment was not in order, but the President ruled against the Point of Order. The amendment was later carried 25-15, one of the heaviest votes against the Government for a considerable period, with three Liberal Senators voting with the Opposition. The motion, as amended, was then carried, and Senator Murphy then withdrew his Notice of Motion.

The Tabling of Papers (25th October)

The Senate adjourned on 5th October, soon after the Papers had been ordered to be tabled, until Tuesday, 17th October.

When the Senate resumed, Senator Gorton informed the Senators that Senator Henty had resigned as Leader of the Government in the Senate, and that he, Senator Gorton, had been appointed to that position. Later in the week he advised Senator Turnbull, in answer to a question, that replies to his questions on notice would be given on the following week, when information would also be supplied in connection with the Senate's order.

Wednesday, 25th October, was a dramatic day, particularly for the two Leaders. Answers were given to Senator Turnbull's six questions on V.I.P. aircraft, and to five more recently asked by Senator Ormonde (A.L.P.). Senator Gorton then, pursuant to the Senate's order, tabled a paper entitled "List of accepted V.I.P. tasks ex No. 34 Squadron Records, for the period 1 January to 31 August, 1967". In doing so he explained that the information provided did *not* give all the information sought, but that this information could be provided after a little more dissection. Soon after, he made a statement on behalf of the Prime Minister, and moved that the Senate take note of the Statement and the Paper tabled. On the motion of Senator Murphy the debate was adjourned till a later hour of the day.

Rumour subsequently went around that Senator Murphy intended to move an important amendment to the motion.

At 8 p.m. Senator Gorton moved for the debate to be resumed and then immediately tabled more papers—Flight Authorisation Books and Passenger Manifests for the No. 34 Squadron from early 1966 to October, 1967. The only information which he was unable to table,

he stated, related to the cost of each flight. This could be worked out on a basis which would first have to be decided.

The tabling of the second lot of papers was, in the circumstances, perfectly timed. Indicating that they had come as a surprise to the Opposition, Senator Murphy stated that he had proposed to move an amendment as follows:

because the papers tabled do not completely or sufficiently comply with the Order of the Senate of 5th October 1967 the Senate orders:

1. That papers providing the further information required by the Senate in its resolution of 5th October 1967 relating to the V.I.P. flight be tabled not later than 31st October 1967;

2. That, unless a resolution is passed not later than 31st October 1967 declaring that the Senate is satisfied that the Order of the Senate on the 5th October 1967 has been sufficiently complied with:

(a) the Secretary of the Department of Air be called to the Bar of the Senate, by summons under the hand of the Clerk of the Senate, to give evidence upon the matters contained in the resolution of the Senate of of 5th October 1967 relating to the V.I.P. flight and to produce all relevant records and accounts in his possession, custody or control; and

(b) the calling to the Bar of the Senate of the Secretary of the Department of Air be fixed for 3 p.m. on Thursday, 2nd November 1967 and be made an Order of the Day for such day.

Senator Murphy concluded by saying he welcomed the tabling of the documents and asked that the opportunity be given to the Opposition to consider the material tabled.

On Friday, 27th October, the motion that the Senate take note of the Prime Minister's statement and the Papers tabled, was agreed to on the voices. In his speech that day, Senator Murphy stated:

The only conclusion is that, but for the determination of the Senate to proceed to obtain the information for itself, the Government would have continued to withhold the information from the Senate and would have continued to deceive the Senate. . . . This has been a victory for Parliament. It has been a victory for the Senate which has insisted upon the responsibility of government to Parliament. It has been a victory due, undoubtedly, to the co-operation of the Opposition with other members in this chamber, including some members on the Government side who placed the authority and integrity of Parliament above party political matters.

The final skirmish (1st November)

But the matter was not yet completed. On Wednesday, 1st November, Senator Murphy gave notice of the following motion:

That the Senate considers that the Government has failed to give any proper explanation or excuse for the untrue statements on V.I.P. aircraft and accordingly that—

(a) the Secretary to the Department of Air be called to the Bar of the Senate, by summons under the hand of the Clerk of the Senate, to give evidence upon the matters contained in the resolution of the Senate on 5 October 1967 relating to V.I.P. flights and upon the circumstances

relating to the tabling of the documents required by that resolution and upon the circumstances relating to the giving of answers to questions asked in the Senate in relation to V.I.P. flights and to produce all relevant records in his possession, custody or control; and

(*b*) the calling to the Bar of the Senate of the Secretary of the Department of Air be fixed for 11.30 a.m. on Friday, 3 November 1967 and be made an Order of the Day for such day.

Senator Murphy did not rest, however, with giving Notice. The rather hackneyed expression " cut and thrust of debate ", was epitomised in the exchanges that then took place between the two Leaders. The *Hansard* makes delightful reading—Senator Murphy (a Queen's Counsel) using all his legal wiles to obtain an advantage, and his skill was undoubted, and Senator Gorton refusing to be inveigled or flurried into conceding anything.

Senator Murphy ended up obtaining nothing more than what he was entitled to under the Standing Orders—the right to debate a motion which he moved, that so much of the Standing Orders be suspended as would prevent him moving forthwith the motion of which he had given notice and that such motion take precedence of all other business until disposed of. In that debate, Senator Gorton rose five times on Points of Order to keep Senator Murphy to the actual motion for the suspension of the Standing Orders.

The voting—on the motion to suspend the Standing Orders—was 27 Ayes, 26 Noes, and so the Question was resolved in the negative, as such a motion requires an absolute majority, 31. Senator Murphy's Notice of Motion thus received no precedence and took its place on the Notice Paper at the end of other Notices of Motion, General Business.

"*Formal or not formal*". The next day a quiet drama passed unnoticed in the procedural formalities. The Chair is required to ask of each new Notice of Motion whether there is any objection to it being taken as formal, and if no objection is taken it is deemed to be formal. If formal, it is put to the vote immediately. In view of the previous evening's 27-26 vote, Senator Murphy would have welcomed his Notice of Motion declared formal and waited quietly when the President made his inquiry. In a low voice, Senator Gorton said, " Not formal, Mr. President ".

The final stages of the issue were played out in the House of Representatives the following Wednesday when the Minister for Air, Mr. Howson, who had been overseas during the controversy and had returned only at the weekend, made a statement which the House debated on a motion to take note. An amendment moved by the Leader of the Opposition, Mr. Whitlam, in terms similar to the motion which Senator Murphy had endeavoured to bring on in the Senate, was defeated 61 votes to 30.

Both Houses rose that day for the Christmas recess—and the Senate Election campaign. The outcome of the Election was that the

D.L.P. gained two seats at the expense of one Government and one Australian Labour Party Senator. Since 30th June, 1968, when the new Senators took their seats, the line-up has been:

Government (Liberal-Country Party coalition)	28
Australian Labour Party	27
Democratic Labour Party	4
Independent	1

Australia will watch with interest to see how the new Senate functions.

III. MAURITIUS: AN ACCOUNT OF ITS CONSTITUTIONAL DEVELOPMENT

By G. d'Espaignet
Clerk of the Legislative Assembly

On 3rd December, 1810, by the "Acte de Capitulation de l'Ile de France", the Isle of France and all its dependencies were surrendered "to the arms of His Britannic Majesty". The "Ile de France" became the British Colony of Mauritius. It was to remain under British rule until 1968 when, on 12th March, it acceded to independence within the Commonwealth of Nations.

A survey of the constitutional development of Mauritius will show how smoothly and democratically Mauritius steadily worked its way towards internal self-Government and independence, although the road leading to a place among the Sovereign Nations of the World was a long and arduous one. The first Council of Government was established on 9th February, 1825. It consisted of the Governor and Commander-in-Chief, who presided, and four Officials, viz., the Chief Justice and Commissary of Justice, the Chief Secretary to Government, the Officer next in Command to the Commander of the Forces and the Collector of Customs.

On 20th July, 1831, the Constitution was amended and a Council consisting of the Governor and Commander-in-Chief, who presided, seven official and seven non-official members was constituted. The seven Official Members were: the President of the Court of Appeal of Mauritius, the Senior Officer-in-Command of the Forces next after the Governor, the Colonial Secretary, the Collector of Customs, the Advocate General, the Procureur General and the Protector of slaves. The seven Unofficial Members were appointed by Commissions under the Public Seal of the Colony by the Governor from among the Chief landed proprietors and principal merchants of the Colony. The Official Members had precedence over the Unofficial Members. Decisions were taken by a majority of votes, with the President having an original as well as a casting vote.

A new Council of Government came into being on 16th September, 1885. It consisted of the Governor, eight *ex-officio* Members, nine Nominated Members and ten elected Members. The *ex-officio* Members were: the Senior Military Officer in Command of the Troops in the Colony, the Colonial Secretary, the Procureur General, the Receiver General, the Auditor General, the Collector of Customs, the

Protector of Immigrants and the Surveyor General. The Nominated Members were appointed either by the Queen, by Instructions or Warrant under the Royal Sign Manual and Signet, or by the Governor. One-third at least of the Nominated Members had to be persons not holding any office in the public service of the Colony.

For the purpose of the election of Members of the Council, the Island was divided into nine electoral districts. Two Members were elected for the District of Port Louis and one Member was elected for each of the other districts. The franchise was limited to males of twenty-one years or over, and at the time of registration the elector had to be a British subject by birth or nationalisation, to have no legal incapacity, to be in possession of civic rights and to have resided in the Colony for at least three years. Further, he had to possess one of the following qualifications to be registered as a voter in any particular district:

(*a*) be the owner of an immovable property in the district of an assured monthly value of Rs.25;

(*b*) pay rent at the rate of at least Rs.25 a month in respect of immovable property situate within the district;

(*c*) conduct business or be employed in the district and pay a licence of Rs.200 at least a year;

(*d*) be the husband of a wife or the eldest son of a widow possessing one of the above qualifications;

(*e*) conduct business or be employed within the district at Rs.600 a year;

(*f*) conduct business or be employed within the district and pay a licence of Rs.200 at least a year.

Further, the following persons were disqualified from being registered as electors, who had

(*a*) been convicted of perjury or sentenced to death or penal servitude or imprisonment with hard labour or for a term exceeding twelve months;

(*b*) received any relief from public or parochial funds.

The maximum life of the Council was five years. The Governor had the power to prorogue or dissolve the Council at any time.

On 18th April, 1933, the Constitution was further amended. The constituent groups forming the Council remained the same. The following changes were effected:

(*a*) The *ex-officio* members were: the Officer Commanding the Troops, the Colonial Secretary, the Procureur General, the Treasurer, the Collector of Customs, the Protector of Immigrants, the Director of Public Works and the Director of the Medical and Health Department.

(*b*) Two-thirds of the nominated members were persons not holding any office in the public service of the Colony.

On 19th December, 1947, the first Legislative Council was constituted consisting of the President (the Governor), three *ex-officio*

Members, twelve Members nominated by the Governor and nineteen elected Members. The *ex-officio* Members were the Colonial Secretary, the Procureur and Advocate General and the Financial Secretary. The Island was divided into five electoral districts. The franchise became universal but there was one main qualification. The elector had to undergo a literacy test. He had to be a British subject of at least twenty-one years of age, to have resided in the Colony for the two preceding years, to have no legal incapacity and to be in possession of civic rights. He further had to be either a resident or an occupier of business premises in the district in which he wanted to be registered as an elector. The Executive Council consisted of the Governor and, *ex-officio,* the Colonial Secretary, the Procureur and Advocate General and the Financial Secretary and four elected or nominated Members of the Legislative Council. It is worth while to note that, under the 1933 Constitution, the number of registered electors was about 12,000. Under the 1947 Constitution the number rose to 71,723 and by the end of 1957 the number had risen to 91,000.

On 30th July, 1958, the Mauritius (Constitution) Order in Council, 1958, gave a new Constitution to Mauritius. The forty Constituencies recommended in the report of the Mauritius Electoral Boundary Commission were demarcated and proclaimed. The registration of electors for the Legislative Council was undertaken for the first time on the basis of universal adult suffrage and the number of registered electors rose to 208,684.

On 31st December, 1958, the Second Legislative Council was dissolved and the Mauritius (Constitution) Order in Council, 1958, was brought into operation with the exception of Part II relating to the Executive Council. The way was then clear for a general election of the Legislative Council to take place early in 1959 on the basis provided in the 1958 Order in Council. The Legislative Council consisted of the Speaker, three *ex-officio* Members, viz., the Colonial Secretary, the Attorney General and the Financial Secretary, forty elected Members and not more than twelve Members appointed by the Governor. The Speaker was not an elected Member and was appointed by the Governor. The Executive Council consisted of the Governor, the three *ex-officio* Members of the Legislative Council and nine members appointed by the Governor from among the elected and nominated Members. All Members were styled Ministers.

In June and July, 1961, a Constitutional Review Conference was held in London. The talks laid down two stages of advance. The first, including the title of Chief Minister for the Leader of the Majority party in the Legislature, provision for the Governor to consult the Chief Minister on such matters as the appointment or removal of Ministers, the allocation of portfolios and the summoning, prorogation and dissolution of the Council, was to be brought into operation as soon as the necessary arrangements could be made. It took

effect on 1st January, 1962. The second stage presented a broad basis of the Constitution for adoption after the next general election and in the light of that election, if, following an affirmative vote by the Legislative Council, it was recommended to the Secretary of State by the Chief Minister. On the assumption that the second stage was implemented after the next general election, it was expected that during the period between the next two general elections, i.e. the second stage, Mauritius should be able to move towards full internal self-Government, if all went well and if it seemed generally desirable.

A general election was held in October, 1963, and on 19th November, 1963, the Legislative Council approved a motion of the Chief Minister that the Second Stage should be implemented as soon as the necessary arrangements could be made. This was done on 12th March, 1964, when the Mauritius (Constitution) Order 1964 came into force.

The first Legislative Assembly was constituted consisting of the Speaker, the Chief Secretary *ex-officio*, forty elected Members and such nominated Members not exceeding fifteen in number as the Governor might appoint.

The Executive Council was now styled the Council of Ministers, with the following membership:

(*a*) The Premier;
(*b*) The Chief Secretary; and
(*c*) Not less than ten and not more than thirteen members to be appointed by the Governor from among the elected or Nominated Members.

The Premier was the Member of the Legislative Assembly who appeared to the Governor likely to command the support of the majority of Members of the Assembly. He was removable from office by the Governor if the Legislative Assembly passed a resolution of no confidence in him and he did not within three days of the passing of such resolution either resign his office or advise the Governor to dissolve the Legislative Assembly. The appointed Members of the Council of Ministers were either elected or nominated Members of the Legislative Assembly and were appointed by the Governor, after consultation with the Premier by Instrument under the Public Seal.

For the first time, it was provided that the Premier would preside at the meetings of the Council in the absence of the Governor. Further, the Governor was empowered to appoint Parliamentary Secretaries from among the elected or nominated Members. The protection of the fundamental rights and freedoms of the individual was enshrined in the Constitution.

The independence of the Judicature was ensured. The Chief Justice and Puisne Judges of the Supreme Court were appointed by the Governor. They were removable from office only for inability to perform the functions of their office or for misbehaviour. In such an

eventuality, the Governor had to appoint a special tribunal to inquire into the matter and to recommend to him whether he should request that the question of removing the judge from office should be referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under Section 4 of the Judicial Committee Act, 1833. If the tribunal so recommended, the Governor would refer the question to the Judicial Committee of Her Majesty's Privy Council and act according to advice tendered to him.

For the first time provision was made for an unofficial Attorney General. There was at the same time established the office of Director of Public Prosecutions who, in the exercise of the powers conferred upon him, was not subject to the direction or control of any other person or authority.

Power to make appointments to offices in the public service was vested in the Governor—A Public Service Commission was constituted and the members thereof were appointed by the Governor, acting in his discretion. The Commission was only advisory and the Governor was not obliged to act in accordance with its advice Likewise a Police Service Commission and a Judicial and Legal Service Commission were constituted to advise the Governor.

On 16th January, 1967, Mauritius was endowed with a new Constitution under the Mauritius Constitution Order, 1966. This came into force on 12th August, 1967. The Island was divided into twenty constituencies and the Island of Rodrigues, a Dependency of Mauritius, formed one separate constituency. Elections were held in early August and, on 7th August, 1967, each of the twenty constituencies returned three Members to the Assembly and Rodrigues returned two Members. Further, in order to ensure a fair and adequate representation of each community, eight additional seats were provided, to be allocated on the basis of parties and communities by the Electoral Supervisory Commission to persons who had stood as candidates for election or Members at the general elections, but who had not been returned as Members to represent constituencies.

The Legislative Assembly was therefore composed of seventy Members, in addition to the Speaker, for whom the Constitution specifically provided that he should remain in office and that further he should be deemed to be a Member of the Assembly for the purposes of the Constitution. The Chief Secretary ceased to be a Member of the Assembly, which consisted then of elected Members only, with the exception of the Speaker. The Council of Ministers consisted of the Premier and fourteen other Ministers, appointed by the Governor. The Premier was the Member of the Assembly who appeared to the Governor best able to command the support of the majority of the Members of the Assembly. The other Ministers were appointed by the Governor, acting in accordance with the advice of the Premier.

The Governor, acting in accordance with the advice of the Premier, assigned responsibilities to Ministers. He was, however, responsible

for defence, external affairs, public order and public safety, and the Police Force. Further, the Governor, acting in accordance with the advice of the Premier, was empowered to appoint not more than five Parliamentary Secretaries from among the Members of the Assembly, to assist Ministers in the performance of their duties.

The office of the Leader of the Opposition was created for the first time. He was appointed by the Governor, in his discretion, and was the Member of the Assembly who was the Leader in the Assembly of that Opposition party whose numerical strength in the Assembly was greater than the strength of any other Opposition party. If no such party existed, the Leader of the Opposition would be that Member of the Assembly whose appointment, in the judgment of the Governor, would be most acceptable to the leaders in the Assembly of the Opposition parties.

Provision was made for the Chief Justice to be appointed by the Governor, acting after consultation with the Premier; for the Senior Puisne Judge to be appointed by the Governor, acting in accordance with the advice of the Chief Justice; and for the Puisne Judges to be appointed by the Governor, acting in accordance with the advice of the Judicial and Legal Service Commission.

The Judicial and Legal Service Commission, the Public Service Commission and the Police Service Commission became executive. Provision was specifically made that in the exercise of their functions under the Constitution, they were not subject to the direction or control of any other person or authority. There was also established the office of Ombudsman, to be appointed by the Governor, acting after consultation with the Premier, the Leader of the Opposition and such other persons, if any, as appeared to the Governor, acting in his discretion, to be leaders of parties in the Assembly.

In regard to Finance, a Consolidated Fund was created into which were placed all revenues or other moneys raised or received for the purposes of the Government. A Contingencies Fund was also created, and the Minister of Finance was authorised to make advances from the Fund to meet an urgent and unforeseen need for expenditure. The Director of Audit was to be appointed by the Public Service Commission, after consultation with the Premier and the Leader of the Opposition. In the exercise of his functions he was not to be subject to the direction or control of any other person or authority.

On 6th March, 1968, the Mauritius Independence Order, 1968, was published. This Order came into force on the day of its publication and provided that the Constitution, published as a Schedule to the Order, would come into effect on the appointed day, viz., 12th March, 1968. On that day Mauritius became a sovereign democratic State within the Commonwealth of Nations. The Order provides for the continued operation of existing laws, the maintenance of existing offices, the continued division of Mauritius into twenty electoral

districts, the legality of the already constituted Legislative Assembly and the continuation of proceedings commenced or pending before the Courts.

Parliament is authorised to alter any of the provisions of the Constitution by an Act of Parliament which, however, requires the support at the final voting in the Assembly of the votes of not less than three-quarters in certain cases and two-thirds in others, of the Members of the Assembly.

A special provision is also made in regard to the present Mr. Speaker. That person is deemed to be a Member of the Assembly and to have been elected Speaker of the Assembly, under Section 32 of the Constitution, which provides that at its first sitting after any general election the Assembly shall elect from among its Members a Speaker. He will, however, have to vacate his office if he becomes a candidate for election as a Member of the Assembly, if he becomes a Minister or a Parliamentary Secretary, or if the Assembly passes a resolution supported by the votes of two-thirds of all the Members thereof requiring his removal from office.

The Constitution is supreme law. If any other law is inconsistent with the Constitution, that other law will, to the extent of the inconsistency, be considered to be void.

IV. ORDERS OF THE DAY

By R. W. Perceval

Clerk Assistant of the Parliaments, House of Lords

Between 1621 and 1954 the House of Lords had a Standing Order, No. II on the old Roll, on the duties of the Lord Chancellor, as follows:

> The Lord Chancellor, when he speaks to the House, is always to speak uncovered, and is not to adjourn the House, or do anything else as Mouth of the House, without the consent of the Lords first had, excepting the ordinary thing about Bills, which are, of course, wherein the Lords may likewise overrule, as for preferring one Bill before another, and such like; and in case of difference among the Lords, it is to be put to the question; and if the Lord Chancellor will speak to any thing particularly, he is to go to his own place as a Peer.

This Standing Order reflects the practice of both Houses of Parliament, which certainly obtained in the sixteenth century and was probably older, whereby the Lord Chancellor and the Speaker were responsible for choosing the Business of the Day and the order in which it would be brought forward. Professor J. E. Neale's great book, *Queen Elizabeth and Her Parliaments*, makes it quite plain that this practice obtained in the House of Commons, and also that there was, in the second half of the sixteenth century, a certain amount of dissatisfaction from time to time among the Members at the tactical use which the Speaker made of this procedure; and it seems likely that the House of Commons collectively was able, by the end of Elizabeth's reign, to insist that a principal item of business should be taken on a certain day, or at any rate within a certain week. The words of the Standing Order, "which are, of course, wherein the Lords may likewise overrule", seem plainly to show that in 1621 the Lords had acknowledged power to arrange their business as they pleased, but that in the ordinary way they left this matter to the Lord Chancellor.

Arguing about future business is an occupation to which parliaments are very prone; and Members in so doing are not always solely concerned with the most expeditious despatch of the business in question. In the turbulent times of the seventeenth century, neither House of Parliament could possibly overlook the opportunities for opposition and obstruction afforded by such argument. Indeed, in the Commons at least, full use seems to have been made in the first half of the seventeenth century of every form of dilatory

motion. When constitutional government was restored at the Restoration in 1660, it seems to have been accepted that the date of the Second Reading, at least, of Bills was a legitimate subject for discussion in the House of Commons; and in the ensuing years we find, too, an increasing number of debates on the same subject in the Lords; where by 1700 it seems to have been the normal practice for the dates of Second Readings to be fixed by a decision, or Order, of the House. The practice of arranging business on Bills in this manner then began to spread to other stages but, during the eighteenth century at least, it does not seem to have become universal for all stages.

It is important at this point to remember that Public Bills were not commonly printed until well on into the 1730s; up to that time "Breviats" were used by the Lord Chancellor and the Speaker, and no doubt had some circulation, but the ordinary Member had still to rely upon the reading of the Bill by the Clerk: the main debate on the principle of a Bill therefore *followed* the Second Reading; you could not discuss a Bill without knowing what was in it. In the sixteenth century (and no doubt earlier) a Bill could be "dashed" or "thrown out" after the Second Reading, but it seems that it was not the regular thing to take a vote at this point, and that the initiative had to come from the objectors. In the ordinary way a Bill would be committed, and reported from the Committee, without any vote having been taken; the only vote would be after the Third Reading, on the question "Whether this Bill shall pass into a law?" In the eighteenth century, however, it was quite normal (though not invariable) to take a vote after the Second Reading; the question was "Whether this Bill shall be rejected?"

The following table shows the shift, during the seventeenth and eighteenth centuries, of what may be called the standard stage for rejecting a Bill in the House of Lords. It applies to Public Bills only.

	1533-1640	*1660-1714*	*1715-1779*	*1780-1832*
Rejected on or after First Reading (A = after)	1A	18A	12	5
Rejected on being refused to be read a second time	—	7	—	12
Rejected on or after Second Reading (A = after)	4A	—	28	7
Second Reading put off indefinitely	—	1	16	62
Commitment refused	—	13	5	4
Commitment or Committee put off indefinitely	—	2	56	51
Consideration of report put off indefinitely	—	—	4	9
Rejected on or after Report (A = after)	2A	—	2	—
Rejected on or after Third Reading (A = after)	32A	8A	5	6(3A)
Third Reading put off indefinitely	—	—	3	18

This table shows how the focal point of debate is shifting, and how the principal contest is tending to take place in the debate on the order for the various stages of a Bill, rather than on a motion that the Bill be rejected, or on the final motion that the Bill do pass. This shift of the crucial point in debates on a Bill was, of course, much assisted by the increasing use of printed texts of the Bill, which became more and more common after 1730. If everyone had a print of the Bill in his hand, it was clearly a waste of time for the Clerk to read the Bill, so that the actual reading sank, in the course of the eighteenth century, into a mere formality, and by about 1770 the crucial debate had become that on the order for the various stages of the Bill.

The mechanism by which the House might decide whether or not to reject a Bill by means of a debate on the order for the Second Reading (or other stage) was as follows. The Member in charge of the Bill would move that it be read a second time next Tuesday; his opponents would move an amendment to leave out "next Tuesday" and insert "this day six months", which was a date impossibly far away, and almost certainly beyond the end of the Session. If the amendment was carried, therefore, the Second Reading never took place, and the Bill was rejected. If, however, the amendment was disagreed to, then the motion of the Member in charge of the Bill was carried, and became an order of the House; and when next Tuesday came round, it became an Order of the Day. Possibly the House would have made a number of orders for that day, and the Clerk would read them out one after the other, the House proceeding with its business accordingly.

So long as the process referred to in the Order of the Day actually took place, all this procedure made sense. It was reasonable to make an order for the House to be in Committee on a certain Bill in a week's time, and if the Bill was contentious or difficult, it was reasonable to debate and to divide upon that order. When the Order of the Day was read, the House then went into Committee without further discussion, and the actual business on that order consisted of going through the Bill in Committee. Similarly, so long as the Clerk actually read the Bill a second time when the Order of the Day for Second Reading was read, it was reasonable to debate the motion fixing the date on which the Second Reading should take place. But when everyone had a print of the Bill, and the actual reading became otiose, it no longer seemed reasonable to debate and divide upon a motion fixing a date for something that was never actually going to happen; and accordingly there was another development in the practice on Orders of the Day.

From about the middle of the eighteenth century the principal debates now took place, not upon a motion fixing a future date for some stage of a Bill, but upon a motion that that stage should *now* take place. But the old process of making orders for the future did

not completely disappear; it merely sank to the level of a fiction. Thus the date of future business of certain kinds continued to be fixed by orders of the House, but these were merely "paper entries", and in practice were equivalent to notices, given by the Government or the Member in charge of the business.

Apart, however, from the substitution of "now" for the future date, the form of the motion for the principal debate remained the same, and so did the procedure for opposing the business in question. The amendment to leave out "now" and insert "this day six months" was just as effective for disposing of the Bill as had been the amendment to leave out "Tuesday next" and insert "this day six months", and this form of amendment was accordingly retained.

In the early part of the nineteenth century the reprinting of Bills as amended at various stages became more and more common, and the system of fictional Orders of the Day, which had been by now fully evolved for Second Readings in the manner just described, was also extended to the Committee of the whole House, Report and Third Reading, and also, where time permitted, to the consideration of Lords and Commons amendments. The Clerk would read out "Order for the House to be in Committee on the . . . . Bill", and thereupon the Member in charge would move "that the House do now resolve itself into a Committee on the Bill". A debate might, of, take place on this motion; but the debate, considered formally, was anomalous: on the one hand it was a debate on the question whether the House should now make an order to go into Committee; on the other hand that point had already been decided, because the House was supposed to have made an order some days before to go into Committee on that Bill on that day. The point emerges perhaps more clearly over the consideration of Lords and Commons amendments. The receiving House, when it gets the amended Bill, orders that the amendments "be considered on Tuesday next". But when Tuesday next arrives, and this Order of the Day is read, another motion is moved "that the Lords (or Commons) amendments be now considered"; and it is in theory possible for two contradictory orders to have been made by the House if this latter motion is defeated. This, of course, would in theory be a breach of the principle that the House should not reach decisions in the opposite sense on the same question in the same Session; but the fictional character of the Order of the Day is presumably taken to preserve that principle.

The development towards a complete system of Orders of the Day, which may be taken to have been completed by the middle of the nineteenth century, was in the House of Lords preceded by a curious intermediary stage. Between 1810 and 1830 it became increasingly the practice to "summon the Lords" for particular pieces of business. A runner was sent round to the London houses of the Peers with a note specially summoning them to the House on a certain day to consider a certain matter. In the Minutes of Proceedings and the

Journals there would appear the entry, "the Lords summoned for Tuesday next". About 1825, the decision was taken to print and publish the Minutes of Proceedings of the House, and the notices of future business which went round with the daily minutes grew rapidly in number from that moment. The orders of the House that the Lords be summoned for later stages of Bills were thereafter gradually replaced by Orders of the Day for such stages; and at the same time, as has already been said, the practice of reprinting Bills as amended in Committee and on Report became more frequent.

By the middle of the nineteenth century both Houses had a system by which all immediately pending business on Bills had been pinned down to particular days by orders of the House. Adjourned debates had been similarly fixed, and also the dates for consideration of many reports from Committees. The rigidity of this system caused no inconvenience in the House of Lords for about a century; but in the House of Commons, of course, it soon became intolerable, and the practice became common of making orders of the House for virtually all Government business to be taken "tomorrow", with power for the Government to postpone the business from day to day and to change at will the order in which it might be taken.

Owing to the absence of any serious time problem in the Lords, the only difficulty which became apparent in that House was that it was not conveniently possible to change the business on the days immediately following recesses. If, through illness or any other unforeseen cause, it was difficult or impossible for the House to consider on the first sitting day the business which had been fixed before the Recess, there was no convenient way of rearranging such business. It is true that notice of a business motion, to be taken at the beginning of the first sitting day, could be circulated during the Recess; but the Order Paper had still to show the business arranged in the old way, and this system led on occasions to confusion.

Orders of the Day, of course, related only to legislation, to adjourned debates, and the consideration of reports from Committees. Other business was put on the paper by simple notice, given in the Lords by the Peer concerned. Such notices could be withdrawn or postponed, whether the House was sitting or not, though they could not be advanced without the leave of the House. In actual practice, the making of an Order of the Day differed very little from the putting down of a notice—that is to say that the Peer in charge of a piece of business informed one of the Clerks of the day proposed for his business to be taken, whereupon a "paper entry" was made in the Minutes for the next sitting day, and the appropriate entry made in the Order Paper. It was only on rare occasions that anything approaching a decision on future business was reached by the House itself; and even on such occasions the House would at the most give tacit consent to arrangements announced in a business statement by the Government Chief Whip. Such manifestations of the House's

consent to a proposed arrangement of business could, of course, equally well be implemented (and very often were) by a subsequent notice on the Order Paper as by an Order of the Day.

It was because of the inconvenience caused by the rigidity of this system of Orders of the Day, and also because they had for many years in practice been reduced to the level of simple notices, that the Clerks proposed to the Procedure Committee in May, 1967, that Orders of the Day should in general be abolished in the House of Lords and replaced by notices. This would have the effect of bringing procedure into line with reality, which is always desirable. Since the date of adjourned business was very commonly announced to the House, and even on occasion discussed in the House, it was proposed that such business should continue to be fixed by order of the House. The Procedure Committee, at its meeting on 7th June, 1967, accepted this suggestion and reported as follows to the House: "The Committee considered the question whether it was necessary to preserve any longer the distinction between "Orders of the Day" and Notices. At present, Public Bills can only be set down by Order of the Day, whereas most other business can be set down by simple Notice. Orders of the Day are less flexible than Notices (for example they cannot be altered during a recess) and the distinction no longer has, in the opinion of the Committee, sufficient reality to balance its inconvenience. The Committee therefore recommend that, in general, the House should no longer use Orders of the Day, and that in future all legislative business should be set down by Notice. There may still be occasions on which a genuine decision of the House is taken about a particular item of business; on such occasions Orders of the Day would still be used." A few consequential amendments were, on 30th April, 1968, made to the Standing Orders themselves. It does remain, of course, open to the House to order that certain business be taken on a particular day; a few references to Orders, therefore, still remain in the Standing Orders to cover such occasions.

The Clerk no longer "reads the Orders of the Day"; instead he calls the Notices on the paper. The only practical difference is that, instead of saying "order for the Second Reading of the .... Bill", "Order for the House to be in Committee on the .... Bill", he says "Second Reading of the .... Bill" and "House to be in Committee on the .... Bill". In theory, no doubt, he should say, in the case of adjourned debates, "Order for resuming the adjourned debate on the Second Reading of the .... Bill" and "Order for the House to be again in Committee on the .... Bill", since these matters are still settled by Orders of the House and are, therefore, Orders of the Day. But for the sake of consistency he calls these Orders, in fact, as if they were Notices.

The new procedure has been going for eleven months now, and its increased flexibility and convenience is noticeable. It saves a good

deal of trouble not to have to make a fresh fictional order of the House every time that the date of certain types of forthcoming business is changed; and the fact that the changes can be made at times when the House is not sitting is an additional convenience. Both Houses of Parliament have now, therefore, abandoned Orders of the Day—the Lords by deliberate decision, and the Commons tacitly by a series of of steps taken under pressure of time. The expression "Order of the Day" will no doubt remain a part of the English language; but the reality, by which the Houses themselves fix their future business by deliberate decision, will perhaps never be seen again at Westminster.

The State Opening of the Maltese Parliament, 15th November 1967
Her Majesty The Queen with Mr. Speaker

V. THE STATE OPENING OF THE MALTESE PARLIAMENT BY HER MAJESTY THE QUEEN

BY LOUIS F. TORTELL
Clerk of the House of Representatives

After several weeks of intensive preparations and planning, Malta was all set to welcome Her Majesty the Queen on her first State visit since Malta attained independent status and chose Her Majesty Queen Elizabeth II as Queen of Malta.

On Tuesday, 14th November, 1967, Her Majesty Queen Elizabeth II and His Royal Highness the Duke of Edinburgh stepped down from the Trident aircraft on Maltese soil, Her Majesty's realm. Her Majesty had been to Malta five times before, but this visit was the most historic of all.

A full programme for the four-day visit was elaborately worked out by an *ad hoc* Committee chaired by the Minister of Education, Culture and Tourism. This included an address of welcome by the Prime Minister in the historic Hall of St. Michael and St. George, a wreath-laying ceremony at the War Memorial, a State Banquet followed by a State Reception, State Opening of Parliament, presentation of new Colours to the 1st Battalion King's Own Malta Regiment, a Royal performance at the Manoel Theatre, a Searchlight Tattoo, a State Ball and a number of other engagements.

The most brilliant spectacle of all, however, was the State Opening of Parliament. Valletta was *en fête* on the 15th November with decorations and flags and detachments from the Royal Navy, Army and Royal Air Force lining the streets waiting for Her Majesty's entry into the city. The day was declared a public holiday and vast crowds had assembled in the city from an early hour. Those who could not be present viewed the whole proceedings on television. A smart guard of honour furnished by the 2nd Regiment Royal Malta Artillery was drawn up opposite the Palace.

At 10.15 a.m. Members of the House of Representatives assembled in the Tapestry Chamber and the sitting commenced. After Prayers, the Clerk of the House read Proclamation No. V by His Excellency the Governor-General summoning the House of Representatives to meet on that day. The Prime Minister (Hon. Dr. Giorgio Borg Olivier, M.P.) laid the Proclamation on the Table and informed the House that Her Majesty the Queen would address the House in the Throne Room at 11 a.m., whereupon the sitting was suspended in terms of the Standing Orders.

By 10.45 a.m. all invited guests, numbering about 500, including the Diplomatic Corps, were in their place in the Throne Room, when Mr. Speaker (Hon. Dr. A. Bonnici, M.P.), attended by the Clerk of the House and followed by Ministers and Members of Parliament, entered the Hall. The Governor-General, His Excellency Sir Maurice Dorman and Lady Dorman, were already in their place.

As the Constitution of Malta provides for only one House, on the occasion of the Opening of Parliament the procedure followed is different from that of other countries where there is a bicameral system. It is the practice for the House to suspend the sitting and to proceed to the Throne Room and await the arrival of Her Majesty's representative to deliver the Speech from the Throne. After the Speech the House reassembles in the Tapestry Chamber and the Sitting is resumed.

At 10.50 a.m. sharp, Her Majesty the Queen and His Royal Highness the Duke of Edinburgh made their solemn entry into Valletta, escorted by a very smart detachment of white-helmeted mounted police, and loudly cheered by the vast crowds which had assembled to welcome their Queen. On arrival at the Palace Square, the Guard of Honour gave a Royal Salute and the Queen's Own personal standard for Malta was broken on the main flagstaff, while the band played the Maltese National Anthem. Her Majesty and His Royal Highness were received at the main gate by the Deputy Speaker (Hon. Dr. Philip Saliba, M.P.) who escorted them up the main staircase of the Palace to the Yellow Room.

On the stroke of 11 o'clock, Her Majesty the Queen and His Royal Highness the Duke of Edinburgh, attended by the Deputy Speaker and followed by the Private Secretary, the Lady-in-Waiting, the Maltese Equerry and the Equerry-in-Waiting, moved towards the Throne Room. Her Majesty's arrival was heralded by a fanfare sounded by the State Trumpeters, and the A.D.C. to the Governor-General announced "Her Majesty the Queen and His Royal Highness the Duke of Edinburgh". All the guests stood up. Mr. Speaker received Her Majesty at the main door and led the Royal Procession through the central aisle to the Throne, the distinguished assembly bowing as the procession passed.

Her Majesty, resplendent in gold and silver lace over white satin, wore a Russian fringe tiara which was given to Queen Alexandra on her Silver Wedding in 1888. His Royal Highness wore the full uniform of Admiral of the Fleet. Her Majesty, taking her seat on the Throne, facing the distinguished assembly, said, "Pray be seated". His Royal Highness sat on the Throne on the left of Her Majesty. The Prime Minister advanced towards the Throne, ascended the first step, bowed and handed the text of the Speech to Her Majesty.

The Speech touched on many aspects of the Maltese economy and, in particular, on the difficulties facing Malta at that time. A wide

range of legislation, as well as government participation in international organisations was promised.

At its conclusion Mr. Speaker approached the Throne, mounted the first step and, making an obeisance, received the Speech from the hands of Her Majesty.

The Royal Procession re-formed and, led again by the Senior Usher and Mr. Speaker, returned to the Yellow Room. Mr. Speaker, attended by the Clerk of the House of Representatives, waited upon Her Majesty in the Yellow Room and then conducted the Royal Party to the Parliament Chambers, where Members of Parliament, the Clerks at the Table and their wives had assembled after the ceremony in the Throne Room. Mr. Speaker presented each Member and his wife to Her Majesty and His Royal Highness. After the presentation, refreshments were served and Her Majesty and His Royal Highness mingled with the Members.

Following Mr. Speaker's reception, Her Majesty and His Royal Highness graciously accepted to be photographed with Members of Parliament on the steps leading to the Armoury, and, before leaving the Parliament House Her Majesty, with Mr. Speaker in attendance, made a brief inspection of the Tapestry Chamber, where the House of Representatives meets. When Her Majesty left the Palace, the Queen's personal flag for Malta was lowered. The House reassembled in the Tapestry Chamber to continue the Sitting, when Mr. Speaker reported the Speech by reading a copy thereof in the Maltese language. Before the adjournment of the House, notice of the following Address in Reply was given:

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Representatives of the people of Malta, in Parliament assembled, beg leave to offer our humble thanks to Your Majesty for the Gracious Speech which Your Majesty has addressed to the House of Representatives.

VI. THE VISIT OF THE CANADIAN PROCEDURE COMMITTEE TO WESTMINSTER

BY PHILIP LAUNDY

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Although the political ties which once united the Commonwealth have virtually ceased to exist, the parliamentary brotherhood which evolved during the years of the former British Empire continues to flourish. The publication of this Journal itself bears witness to the strength of the fraternity. This article is concerned with another such testimony, namely the visit of the Special Committee on Procedure of the Canadian House of Commons to Westminster in February, 1968. The Committee, which had been charged with the task of formulating recommendations for the reform of the procedure of its own House, had requested permission to study the procedure of the British House of Commons at first hand. Authority being granted, the Committee spent five full working days at Westminster from the 12th to 16th February, inclusive.*

A full and well-organised programme was prepared for the Comtee by their hosts, which enabled the Members to examine quite intensively those areas of procedure which were the most crucial from their point of view. The visit was timely on account of the extensive reforms which British procedure had undergone, particularly in respect of financial procedure. The Canadians, somewhat ironically, found that their own Parliament had become the bearer of the torch of tradition in the light of the radical changes which had been implemented at Westminster. The Committees of Supply and Wavs and Means, and the time-honoured practice of " getting the Speaker out of the Chair ", now consigned to history at Westminster, continue to form the basis of financial procedure at Ottawa.

Before discussing the visit itself, it would be as well to consider briefly the background against which it took place. The procedure

* The membership of the Committee was as follows (those Members whose names are asterisked were re-elected to the new Parliament): *Hon. Allan J. MacEachen, Minister of National Health and Welfare, Government House Leader, and Chairman of the Committee; Mr. John B. Stewart, Parliamentary Secretary to the Minister of Public Works; Mr. Patrick Asselin; *Mr. Horace A. Olson; *Mr. Jean-Thomas Richard (Liberals). *Mr. Gerald W. Baldwin, Dr. Lewis M. Brand, Mr. Terence J. Nugent (Progressive Conservatives). *Mr. Stanley H. Knowles (New Democratic Party). Mr. Bert R. Leboe (Social Credit). Mr. Joseph Alcide Simard (Ralliement Créditiste). Every Member, except Mr. Richard, participated in the visit. The Chairman, who was at the time a candidate for the Leadership of the Liberal Party, spent three working days with the Committee in London.

of the Canadian House of Commons was inherited from the British Parliament at the time of Confederation in 1867. Thereafter, although strongly influenced by Westminster, Canadian procedure tended to evolve independently. The British parliamentary crisis occasioned by Irish Nationalist obstruction was some thirteen years away when the Parliament of the Canadian Confederation first met. The closure and other devices for the limitation of debate were at that time unknown to British parliamentary practice. In the 1880s the British House of Commons was forced into a drastic revision of its procedure as a matter of urgency, and the controls and restrictions which today form the very basis of parliamentary practice, and without which Parliament would never complete its business, date from this period. This crisis by-passed Canada, and the pressure for procedural reform was not at that time keenly felt in the Parliament of the young Dominion. But as Government business steadily increased in volume, the out-dated rules became more and more of a handicap. Nevertheless, until the middle 1960s attempts to reform procedure largely proved abortive and even yet it has not been found possible to implement radical changes to the rules on a permanent basis.* Admittedly, Canadian procedure has for some years provided for time limitations on speeches and the restriction of the Throne Speech and Budget Debates to eight and six days respectively. It also provides for the closure and the previous question, although both are very rarely invoked. The tradition of unrestricted debate, which had for so long been the shining glory of the British House of Commons prior to the 1880s, still survives to some extent in the Canadian Parliament. In spite of the ever-increasing parliamentary workload, inherently conservative attitudes have bred a widespread resistance to change which has long obstructed efforts to reform procedure. The belief that the right to unfettered debate is the only guarantee of democracy is dying very hard among Canadian parliamentarians. Even today the idea persists in Opposition circles that the right to withhold Supply is a fundamental weapon against the Government which should not lightly be surrendered.

The basic problem of the Canadian House of Commons has, for a number of years, been its inability to organise its programme of business on a workmanlike basis. A situation has arisen in which a modern government machine, with its ever-increasing load of legislation, has been forced to operate within a procedural framework designed for more leisurely conditions. It is impossible to predict when a session will end and when a new one will begin. It cannot be predicted with certainty what the programme of business will be from one week to another. There are no fixed dates by which Supply must be voted. There is no knowing how long the passage of a Bill will

* This article was prepared some time before the meeting of the Parliament which was elected on 25th June, 1968, and there is reason to believe that the new House of Commons will consider the reform of its procedure as a matter of priority.

take; some Government Bills are under consideration throughout the session and invariably some lapse with prorogation. A Minister seldom knows with any accuracy when his presence is likely to be required in the House. Government business is at all time subject to delay by many an unforeseen diversionary tactic. Co-operation between Government and Opposition in the planning of business is minimal, with the result that debates are often held without advance consultation or planning.

The situation in the Canadian Parliament reached crisis proportions in the session of 1964-65, during which Parliament sat throughout the summer unable to make progress on the Government's legislative and financial programme because of the marathon debate on the National Flag and the intrusion of a number of diversionary incidents, such as the Munsinger scandal. It was, however, during this period that the first signs of a breakthrough in the area of procedural reform became apparent. A number of changes which radically altered the substantive procedure were implemented on a provisional basis during the years 1964-67, some deriving from the recommendations of Procedure Committees and others from resolutions initiated by the Government. Being provisional they depended upon session-to-session renewal and the fundamental task of devising new permanent procedures acceptable to all Parties remained to be accomplished.

The Committee which visited Westminster was hopeful of achieving a meaningful breakthrough. It was certainly inspired with a reforming zeal which is reflected in the Reports which it subsequently presented to Parliament. Unfortunately Parliament was dissolved before these reports were adopted. The new Parliament, when it meets later this year, will thus find itself operating under Standing Orders which have been inoperative in many fundamental areas of procedure for the past four years. It is unnecessary to specify the details of the provisional procedural framework under which the late Parliament was operating. Suffice it to say that, these provisional rules having lapsed, there is now no limit to the number of days which may be devoted to the business of Supply; there is no time limitation on the daily question period; the rulings of the Speaker are subject to appeal without notice from the floor of the House; there is no allocation of time procedure in respect of Bills; there is no limitation on the time which may be spent on the resolution stage preceding a money Bill; there is no provision for debating the adjournment motion at the end of the day; the Standing Committee system reverts to its former out-dated structure; and devices designed to curb the abuse of the right to raise questions of privilege and other dilatory tactics also fall away. Fortunately the Reports of the Procedure Committee which visited Westminster will be available to the new House of Commons and it is to be hoped that the work which the Committee initiated will be pursued.

During their visit to Westminster the Canadian Committee were impressed as much by the attitudes of the Parties towards the conduct of parliamentary business as by the comparatively streamlined procedures of the British House of Commons. In their Fourth Report they refer to two observations repeatedly heard at Westminster. The first was: "We have decided that there are only three hundred and sixty-five days in the year"; the second was: "We have decided that in debate there comes a time when 'enough is enough'". The Committee explained the implications of these observations in terms of the manner in which business is conducted:

(i) that both Ministers and other Members must be given sufficient time away from the House of Commons to carry out obligations not directly related to attendance on the House;

(ii) that the Ministry has a right to know from both Standing Orders and Conventions how long any proposed legislative measure is likely to take for passage;

(iii) that the Ministry has a right to know what part of a Session will be required for the Business of Supply;

(iv) that the Ministry will bring forward for any Session only such measures as it can expect the House to pass;

(v) that the Opposition will be informed many days in advance what the Ministry's programme is for each week;

(vi) that for almost every motion notice is required; and

(vii) that "the usual channels" are used extensively.*

The Committee recognised immediately that parliamentary business is conducted more efficiently at Westminster than at Ottawa, and that this is due as much to effective co-operation between Government and Opposition as to modernised Standing Orders. It was noted that in Britain this co-operation has been developed to such a fine art that even when the political atmosphere is at its most acrimonious the Whips, who constitute the usual channels of consultation, always remain on good terms with each other, thus ensuring that co-operation does not break down even at the bitterest moments of political crisis.

Meetings with the Government and Opposition Whips illuminated the methods governing the conduct of parliamentary business and the machinery of consultation between Government and Opposition. The Committee expressed particular interest in the appointment of a Treasury Officer to act as intermediary between the Government and Opposition in the programming of parliamentary business. The idea of appointing a non-partisan Civil Servant to keep the channels of communication clear was one which greatly appealed to the Canadian Members. They noted that the Whips, in order to preserve their

* Fourth Report of the Special Committee on Procedure of the House, published in *Votes and Proceedings of the House of Commons of Canada*, No. 144, 13th March, 1968, p. 762.

cordial relationship, do not take an active part in debates in the House.

Some of the features of British parliamentary practice which commended themselves to the Committee are tabulated below, with relevant comments:

(i) *The importance of Convention as distinct from Procedure*

It is recognised at Westminster to a greater extent than at Ottawa that short, sharp debate designed to expose the weaknesses of Government is more effective and more in accord with the national interest than interminable, repetitive argument, and the resultant postponement of decision making. The Opposition acknowledges the right of the Government to govern, and rejects obstruction for its own sake. Thus, for example, the debate on the Second Reading of a Bill is limited to a single day unless alternative arrangements have been made through " the usual channels ".

(ii) *Supply Procedure*

The Committee was impressed with the manner in which the Business of Supply is organised, in that it guarantees to the Government the passage of supply by specified dates, while at the same time providing most effective and wide-ranging debating opportunities to the Opposition. Under the provisional rules of the Canadian House of Commons a limitation was placed on the overall number of Supply days, but there were no automatic guillotines to regulate the passage of Supply, and certain exemptions to the time limitation were provided which constituted further hindrances to the expedition of business.

Furthermore, Supply debates in the Canadian House are concerned specifically with discussion, often repetitious and dreary, of the Estimates themselves. The Committee noted with approval the British practice of giving the Opposition the right to select the subjects for discussion on Supply days, recognising that the Business of Supply involves not merely the Estimates themselves, but the very policies and conduct of the Government.

(iii) *Emergency Adjournment Debates*

The new Standing Order 9, relating to Emergency Adjournment Debates, was applauded by the Committee, so much so that on their return they produced a Report which, if adopted, would have made the Canadian rule similar to its British counterpart.

The Canadian rule, as it exists, is unsatisfactory on various grounds. Unlike the British rule, it does not provide that the debate, if granted, should stand over until later in the day; instead, it immediately supersedes the regular business of the House, with consequent disruption of the parliamentary day. Furthermore, it has always been the practice of the Canadian House (a practice which was provisionally embodied in the Standing Order) to permit Members to offer advice to the Speaker as to whether he should accept or reject the motion. The inevitable result is that the semblance of a debate usually takes place before the Speaker has even ruled on the admissibility of the motion.

(iv) *The Speaker's Position and Powers*

The Committee recognised that the prestige and authority vested in the Speaker of the British House of Commons is of fundamental importance to British parliamentary practice. The Canadian Speaker, although he has always observed the traditional impartiality of his British counterpart, has not until recently been able to remove himself completely from dependence upon the political party on whose ticket he was originally elected. It is interesting to note, however, that for the first time in Canadian political history the

Speaker of the recently dissolved House of Commons was re-elected as an Independent in his constituency with the backing of the two major political parties. This is the first indication that the principle of continuity in the Speakership may be established in Canada, with a resultant augmentation in the prestige and authority of his office.

However, a rule unknown to British procedure which permits of appeals against the Speaker's rulings from the floor of the House without notice, forms a part of the substantive procedure of the Canadian House. This right, although suspended under the provisional rules, will again be in operation when the new Parliament meets. It is nevertheless of significance to note that one of the Reports submitted by the Canadian Committee on its return from London recommended as a permanent reform the abolition of the right to appeal from Speaker's rulings. The Committee noted that the use of closure is a regular feature of British parliamentary practice and is dependent entirely upon the Speaker's judgment and discretion. The Opposition knows that the Speaker will allow a closure motion to be put only when he feels satisfied that it does not constitute an abuse of the rights of minorities. The Canadian closure, by contrast, has been regarded as an extreme and tyrannical device ever since its use in 1956 during the notorious Pipeline Debate. It has only once been used since then, notably to terminate debate on the National Flag in 1964, and it is fair to say that a Canadian Government would be very unlikely to resort to the use of closure unless it felt confident of popular support.

It is interesting to note that this aura of odium has developed around the Canadian closure in spite of the fact that in its operation it is far less draconian than its British counterpart. When it is carried, debate does not cease immediately, but is allowed to continue for a fixed period before the guillotine falls.

(v) *Reference of Bills to Standing Committees*

The automatic reference of Bills to Standing Committees for detailed consideration was a practice which the Committee noted with approval. In the Canadian experience there has been a traditional reluctance to refer Bills to Standing Committees because the debates in those Committees tend to be repeated in Committee of the Whole House. The Committee also noted that the Report stage of a Bill is frequently debated in the British House of Commons and is regarded as an important stage in the legislative process. At Ottawa this stage has become defunct due to the fact that the detailed consideration of a Bill always takes place in a Committee of the Whole House, whether or not the Bill is referred to a Standing Committee.

Those areas of British procedure in respect of which the Committee found they had reservations may now be briefly considered:

(i) *The Legislative Process*

While interested to learn of the establishment of Second Reading Committees for the consideration of non-controversial Bills, the Canadian Members were somewhat surprised at the new rule prohibiting debate at Third Reading unless a debate is specifically requisitioned by at least six Members. It came as a sobering realisation to learn that it is now possible for a Bill to pass through all its stages without once being considered on the floor of the House. In Ottawa there is no restriction, either by Standing Order or Convention, on the time taken to pass a Bill through all its stages. The Committee felt that a compromise between these two extremes was the ideal for which they sought.

(ii) *The Question Period*

While impressed with the efficient management of the Question Period at Westminster, the Committee concluded that it is less lively and less pertinent than the admittedly untidy and haphazard procedure followed at Ottawa.

Under the Canadian system oral questions may be asked every day, without notice, before the Orders of the Day are called. The practice, until the adoption of a provisional rule in 1964, was not recognised by the Standing Orders, but had evolved as a matter of custom. Under the substantive rules, which will govern the business of the House when the new Parliament meets, there is no specific provision for questions asked "on the Orders of the Day" although they have long formed the substance of Question Time. Furthermore, the time limitation upon the Question Period provided in the provisional rules will no longer apply.

The Canadian system has several disadvantages, in that there is no means of anticipating the nature of the questions that will be asked and all Ministers therefore feel obliged to be in their seats for the Question Period every day. There is also a limit to the measure of control which the Speaker can exercise over questions since he has no advance notice of them, and some disorderly questions inevitably elude his vigilance.

The Canadian Committee nevertheless felt that the British rules governing the Question Period were not suitable for adoption at Ottawa and no changes were recommended in this area of procedure.

(iii) *Detailed Consideration of Estimates*

While generally admiring British Supply Procedure, the Canadian Members felt it would be unwise to surrender the opportunity to consider the Estimates in detail to the extent that it has been surrendered at Westminster.

The British acknowledged that even the Estimates Committee was unable to give detailed consideration to the vast volume of figures which constitutes the Government's annual expenditure and that the function of this Committee had become the critical surveillance of continuing departmental programmes. The Canadian Committee felt that in this area at least, their House was ahead of the British House of Commons, since the Canadian Standing Committee structure, even in the outdated form to which it reverts under the substantive rules, provides a more effective means of subjecting the Estimates to detailed scrutiny.

The dissolution of Parliament prevented the Canadian Committee from bringing its task to completion, but the conclusions it reached are embodied in its Reports. The views and experiences of the Committee are, therefore, on record and will be available to the new Parliament when it comes to tackle the vital work of procedural reform.

It would be appropriate to conclude this article with a word on the organisation of the Committee's programme. Its co-ordination and detailed planning were undertaken by Mr. Michael Lawrence, the Clerk of the Overseas Office. The programme made provision for regular visits to the Commonwealth Gallery, particularly at Question Time, thus giving the Canadian Members the opportunity to see the British House of Commons in action.

The Committee was received by Sir Barnett Cocks, the Clerk of the House of Commons, who spoke in general terms on the question of procedural reform and emphasised the rôle which the Officers of Parliament had played over the years in the development and formulation of procedure. The Members were also addressed by Mr. D. W. S. Lidderdale, the Clerk-Assistant of the House of Commons,

on the new financial procedure which he was largely instrumental in devising; by Mr. C. A. S. S. Gordon, the Principal Clerk of the Table Office, on the procedure governing questions to Ministers; and by Mr. A. A. Birley, Clerk to the Estimates Committee, on the operation and function of that Committee.

A joint meeting of the Canadian Committee with the British Select Committee on Procedure took place early in the visit, at which those areas of procedure of principal interest to the Canadian Committee were discussed. The new developments in British procedure, based as they were on the Select Committee's recommendations, were fully explained to the Canadians by the British Members attending the meeting, namely, Mr. Donald Chapman (Chairman), Mr. Coe, Mr. Selwyn Lloyd, Sir Hugh Munro-Lucas-Tooth, Mr. Steel, Mr. Turton, and Mr. Woodburn, and by Mr. Clifford Boulton, the Clerk to the Committee.

The British Government gave a dinner for the Canadian Committee at which Mr. Richard Crossman presided, the guests including the Government and Opposition Chief Whips and other Members of the British House of Commons. A very frank and wide-ranging discussion of procedure took place after dinner which shed a great deal of light on the methods by which Government and Opposition plan the parliamentary programme in consultation.

A meeting was arranged with Mr. Brian O'Malley, the Deputy Government Chief Whip, and Mr. Warren, of the Treasury, which illuminated the methods by which the Government operates in consultation with the Opposition through "the usual channels". A meeting was also arranged with the Chief and Deputy Chief Opposition Whips, Mr. William Whitelaw and Mr. Francis Pym, at which the Canadian Members were able to sound the opinions of the Conservative Opposition on the new financial procedure and on parliamentary programming in general.

The Committee greatly appreciated the hospitality shown them by their British hosts, Mr. Peter Molloy, the Secretary to the United Kingdom Branch of the Commonwealth Parliamentary Association, having supervised this aspect of the programme. Luncheons were regularly arranged for the Canadian Members with British Members of Parliament belonging to the British-Canadian group, and these occasions provided opportunities for private discussions on matters of common interest.

A highlight of the visit was the dinner given by Dr. Horace King, the Speaker of the House of Commons, to the Canadian Committee in the Speaker's House.

On the final working day of their visit, the Canadian Members enjoyed the hospitality of the Secretary of State for Commonwealth Affairs, Mr. George Thomson, and the Minister of State for Commonwealth Affairs, Mr. George Thomas, and they were also again received by Mr. Richard Crossman, who discussed with them the

responsibilities of the Leader of the House in handling a parliamentary session.

There could be no more fitting conclusion to this account than to quote the following paragraph from the Fourth Report of the Committee published in the Votes and Proceedings on 13th March, 1968, in which the Committee reviewed the Westminster visit:

> Your Committee wishes to record at the outset of this Report its gratitude for the reception accorded it at Westminster. We will long remember the courtesy, hospitality, and practical assistance of those with whom we met. They spared no effort to ensure the success of our work. The care with which the programme was prepared took account of each important aspect of procedure and thus enabled the Committee to pursue its investigations on a very wide front. When the pressing responsibilities of those directly concerned in our programme are called to mind, the degree of interest shown in the Committee's work and the measure of co-operation given by Ministers, Members, and officials alike were especially notable. Your Committee had anticipated a profitable experience; in the event, the worth of the visit exceeded our most optimistic expectations.

VII. ROYAL ASSENT: A NEW FORM

By P. D. G. Hayter

A Clerk in the House of Lords

"(1) An Act of Parliament is duly enacted if Her Majesty's Assent thereto, being signified by Letters Patent under the Great Seal signed with Her Majesty's own hand—

(*a*) is pronounced in the presence of both Houses in the House of Lords in the form and manner customary before the passing of this Act; or

(*b*) is notified to each House of Parliament, sitting separately, by the Speaker of that House or in the case of his absence by the person acting as such Speaker.

(2) Nothing in this section affects the power of Her Majesty to declare Her Royal Assent in person in Parliament, or the manner in which an Act of Parliament is required to be endorsed in Her Majesty's name."

This is the first and principal section of the Royal Assent Act which received the Royal Assent on the 10th May, 1967—in the customary form and manner, that is, by Royal Commission. It is over a century since Royal Assent was last given in person, by Queen Victoria in 1854; and, while the Act does nothing to affect Her Majesty's power in this respect, there is no immediate prospect that the practice of giving Assent in person will be revived. The change therefore principally concerns the Royal Commission procedure by which the enactment of all Acts of Parliament for the last century has been completed.

Originally Assent was given in person either by the King or, in the case of the King's minority or incapacity, by some individual to whom the royal powers and functions generally had been, for the time being, entrusted. In 1541 a Bill for the attainder of Katharine Howard and her accomplices was ready for Royal Assent. It did not, however, suit Henry's VIII's political sense to appear publicly in Parliament to assent to the attainder of his wife. The Bill therefore provided, *inter alia*, that "the King's royal assent by his letters patent under his great seal, and assigned with his hand, and declared and notified in his absence to the lords spiritual and temporal and the commons assembled together in the high House, is and ever was of as

good strength and force as though the King's person had been there personally present and had assented openly and publicly to the same". The same was provided for all future assents *in absentia*. Although the practice was slow to catch on, it gradually overtook the original procedure during the eighteenth century, and after 1854 had become the universal rule.

What was for the convenience of Henry VIII was not, however, for the convenience of twentieth-century parliaments. The despatch of Black Rod from the Lords to the Commons with the Sovereign's summons for the Commons to attend in the Upper House aroused growing ill-feeling. Although the Whips in both Houses took pains to see that the time of Royal Commissions coincided with a relatively quiet period of the day's parliamentary business, there was usually someone who felt aggrieved at the interruption. A Member might catch the Speaker's eye at 5.55 p.m. and find his flow of words broken at 6 p.m. because a Commission had been arranged. Government Ministers might escape a difficult period of questioning because the House was called to the Lords. Grumbles of dissatisfaction were heard from time to time. During a debate on the Cuban crisis on the 26th October, 1962, Black Rod arrived to summon the Commons (on this occasion Parliament was at the same time to be prorogued) and was greeted with cries of "No, No, No". Protests to the Speaker were ignored and he left the Chair without replying to them. He was asked on his return whether further interruptions by Black Rod should be allowed, but, Parliament being by that time prorogued, the question was met with silence.

The grievances of M.P.s were aired most fully on the 5th August, 1965, when a dozen or so Members of the Labour and Liberal parties took the unprecedented step of continuing to debate, even though the Speaker had left the Chair. The initiative was taken by a moderate Labour M.P., Sir Geoffrey de Freitas, who admitted that he was taking unprecedented action, but said that "when procedure is ineffective and inefficient it is our duty to create new precedents". He had earlier in the day complained of what he called "the ludicrous exercise of hearing the titles of Bills read out"—the occasion when the Lords Commissioners nod the Royal Assent to Bills as their titles are called out by the Clerk of the Crown—and now said that some system should be worked out by which the Commons could be sent a notice in writing, setting out the Bills which had become Acts, for publication in the official records. He objected to the false impression of the status of the House of Lords, which he said was given by the necessity for the Commons to go there in order to hear what became law. The other remaining Members in the Chamber gave him their support.

The Speaker being out of the Chair, none of the above appears in *Hansard*. Similarly, on the 22nd December, 1965, the Minister replying to a debate on the standard of television programmes said,

"In your absence, Mr. Speaker, there have been some further contributions to the debate, which will not be immortalised in *Hansard*". On this occasion he promised to reply to the unrecorded questions. Irritation with the 20-minute delay caused by the Royal Commission procedure (which occurred with increasing frequency and in recent years about ten times a session) was not confined to the Commons—the Lords also found the interruption of their business aggravating, though they were not so vocal in their objections. The Government, therefore, began during 1966 to investigate ways in which the procedure could be modified to conform more nearly with the requirements of a crowded Parliamentary timetable. The eventual outcome of these investigations was the Royal Assent Bill, introduced into the Lords on the 15th February, 1967, with the agreement of all parties behind it.

The proposals for reform, in whatever shape, were to make no change in the Queen's position. She would continue to give Her Assent to Bills passed by the two Houses as before. The only change was to be in the manner of notifying that Assent to Parliament. Both the Law and Custom of Parliament and the Act of 1541 required this to be done in the presence of the two Houses assembled together in the House of Lords. It was now intended to change the procedure by Act of Parliament in some way which would not require the presence of both Houses together for notification to be valid. The process of enactment would still only be complete when both Houses had been duly informed of the Royal Assent to a Bill, but it should be possible to avoid some of the inconvenience arising from this.

Five methods were feasible. The orthodox Royal Commission procedure could take place at a time when the two Houses would not ordinarily be sitting. Alternatively, the Commons could send a deputation to hear Royal Assent signified in the Lords, without the need for the Commons to come as a corporate body. Both Houses could send deputations to hear Royal Assent signified on some neutral territory, thus requiring neither House to interrupt its proceedings. All these methods would involve the continuance of the Royal Commission procedure in something very close to its existing form. As a fourth alternative, some officer of the Royal Household might attend in each House and there notify the Queen's Assent in the same way as he customarily brought messages from the Queen. Fifthly, the Speaker of each House could be commanded, by letters patent, to notify Royal Assent to the House during the course of a day's business.

The Government spokesman, introducing the Royal Assent Bill, said in both Houses that the fifth alternative, the one chosen, was the only proposal likely to get the general acceptance necessary for a Constitutional Bill of this kind. It obviously had the additional merit of being the simplest, requiring neither the sitting of either House at any fixed point in time, nor the attendance of Members on

business not directly related to their day-to-day engagements. Furthermore, it was the solution which did least violence to historical procedures, being similar to that followed in the medieval and early Tudor periods. The Queen would continue to sign letters patent giving Royal Assent and this Royal Assent would be notified to each House of Parliament, though the notification would not take place when the three constituents of Parliament were present in the same place together.

Particularly as a result of prodding by Members who regretted the passing of old procedure, with its historical associations, it was made clear that the Government did not intend that the Royal Commission practice should lapse entirely. It was considered improper that any binding formula should be included in the Bill, fettering the prerogative of the Crown, but the intention nevertheless remained to have Royal Assent by Commission at least once in every session. Since prorogation must still take place by Commission (unless the Queen should choose to appear in person) there was a clear opportunity for a Commission at the end of each session to signify Royal Assent to Bills. The Government announced that this use of Commission procedure was their intention. Historically this had a number of advantages. The assembly in one place of the three estates of Parliament underlined their respective parts in the passage of legislation. In the enactment of Supply Bills, it emphasised the constitutional status of the Commons, whose Speaker himself brought up for Royal Assent any Bill granting aids and supplies, so that the Lords, whose power in this matter was limited to assent or rejection, would be prevented from tampering with the Bill. Incidentally, it underlined the fact that no monarch has entered the House of Commons since Charles I, and that the place of the Queen in Parliament is in the Upper House. The Royal Commission preserved Royal Assent as a significant step in the development of a Bill before it reached maturity as an Act of Parliament. By occurring less frequently, it was argued in the House of Lords by the Lord Chancellor, the Royal Commission might regain the significance which it was in danger of losing because of the necessity for so many to be held in each session.

The Royal Assent Bill became law on the 10th May, 1967. In eighteen months since then there have been twenty notifications and two Royal Commissions. The new procedure takes about a minute only and, subject to the difficulties inherent in a system where notification can take place in the two Houses at different times and indeed on different days, has run very smoothly. Notification generally (but by no means always) takes place at the beginning of business, and the action in the two Houses is therefore synchronised. Where there is any discrepancy, it is clear that the Bill is not enacted until notification has taken place in the House, which comes second in point of time. The Lord Chancellor, on the authority of the letters patent, and the Speaker of the Commons, on the authority of a certificate of

the Clerk of the Crown in Chancery that Royal Assent has been given to the Bills in the Schedule to the letters patent, each uses the following formula in the House—"I have to notify the House, in accordance with the Royal Assent Act, 1967, that the Queen has signified her Royal Assent to the following Acts . . ." (which he then lists). There is no reference to the letters patent and, although the Clerk of the Parliaments subsequently endorses the Acts with the usual Norman French words, nothing more is said in either House than what is quoted above.

The notification procedure is not a long step from that which preceded it. The Royal Assent continues to be an integral part of the enactment of legislation, and it continues to be the Queen's Assent given in Parliament. The two Houses do not have to assemble together to hear it pronounced, but it is still not of full effect until each House is notified of it. Only when they have been notified is an Act "enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same".

VIII. THE SELECT COMMITTEE ON PROCEDURE, 1967

By C. J. Boulton

A Senior Clerk in the House of Commons

With the publication of three further Reports in 1967 (making twelve in all) the Select Committee on Procedure completed the general review of the work of the House they had begun in December, 1964. Looking back over this period, and speaking of Members as a whole, a commentator has written: "There was never any agreement about the essential functions of Parliament, and therefore the direction reform should take was always in dispute. For most Members the House is one of the centres of the struggle for power. From this point of view, there has never been anything basically wrong with the House of Commons, but there were small items of mumbo jumbo that needed tidying up, and that was all. The other view of the House is that it should also allow backbenchers opportunities to check the Government, to scrutinise and improve legislation and to discover the sources and accuracy of advice given to Ministers. From this angle, the House of Commons has innumerable weaknesses."* It is fair to say that both these attitudes were represented on the Procedure Committee, but as time went on they came increasingly closer together. Those who saw the House primarily as the arena for the party struggle came to recognise that the growth of Government activity provided new sources of ammunition, and that to make the questioning of the executive more effective was not constitutional innovation so much as renovation. On the other hand those Members newly arrived in Parliament who found its rôle more limited than they had imagined, and yearned for a share in the responsibilities of government through new Committees, came to see that the right to criticise would be badly prejudiced by an involvement in decision making. By and large, what emerged from the Committee was a respect for the safeguards for minorities devised by previous generations and a determination to sharpen and redefine them. The purpose of most of the recommendations for changes was to make the object of certain rules of procedure more clear; to provide facilities for expediting legislation where this was the general wish; and to improve the opportunities for Members to obtain information about Government activities, both at administrative level through Committees and at policy level through debate. The three

* J. P. Mackintosh, M.P. (a member of the Procedure Committee), in *The Times*, 13th July, 1968.

Reports here described reflected the development of a common mind in the Committee, and were agreed to unanimously.

Finance Bill (Fourth Report 1966-67, H.C. 382)

The question of expediting consideration of the Finance Bill had already been considered in the Third Report of the 1964-65 Committee, which had proposed that a Select Committee should recommend which provisions of particular Bills should be committed to a Standing Committee, together with a time-table for the consideration of the Bill. The idea of dividing the Bill remained unacceptable to the Treasury, who contended that it was impossible to draft the Bill so that its "administrative" and "policy" elements were separable. The 1965 Finance Bill had occupied a wholly exceptional sixteen days in Committee. The 1966 Bill, nine days in Committee, represented a return to normal, but there remained a strong feeling that too much of the House's precious time in the summer was being occupied by the Bill, and that for 10 per cent. of the total number of sitting days to be devoted to the Finance Bill was an obstacle to reforms in other directions. The Procedure Committee returned to the subject, therefore, in 1967 and set out the alternatives available to the House in their Report as follows—

(a) *Committing the whole Bill to a Standing Committee*

The major practical problem the Committee foresaw in any scheme for this purpose was the need to ensure that the Bill was returned to the House in time to complete its remaining stages before the Summer Recess. They therefore envisaged a built-in time-table procedure involving—

(i) Second Reading, followed by committal to a Standing Committee. A division permitted without debate on motion to commit the Bill to a Committee of the whole House. Motion that the Committee on the Bill be instructed to report the Bill by a certain date; two speeches permitted.

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

(iii) On being reported from the Standing Committee the Bill would stand re-committed to a Committee of the whole House. Proceedings on re-committal would be limited to two days. (Re-committal was considered necessary so that amendments proposed by Members excluded from the Standing Committee could be accepted in principle by the Government and moved in on Report. There is no opportunity to do this in the House of Lords on the Finance Bill.)

(iv) Consideration on Report.

(b) *Dividing the Bill*

The Committee reminded the House of their former proposal and suggested that three or four days might be saved by a partial committal to a Standing Committee, at the cost of an extra day on Report.

(c) *A voluntary time-table*

The Committee considered that a purely voluntary time-table would not give the security necessary to enable time saved to be put to other uses, and they recommended that if no agreement could be reached, or if an agreement broke down, a Business Committee should be set up after a short debate to draw up a guillotine motion. The Government would not stand to lose a whole day in order to get a compulsory time-table and there would, therefore, be an incentive for the Opposition to reach a voluntary arrangement and to honour it.

This third proposal, of a voluntary time-table with sanctions, was supported as an experiment by the whole Committee, and a motion to implement it was carried in the House on 1st May, 1967, by 194 votes to 50. There was, however, little enthusiasm for the experiment as it affected that year's Bill. Although the mandatory sanction did not have to be used, the "voluntary" agreement was only operated with difficulty. For the 1968 Finance Bill, the Government resorted to a complete committal to a standing Committee, the procedure for which followed closely the proposals in paragraph (*a*) above, except that the guillotine which the Procedure Committee had foreseen as necessary was introduced separately after the Standing Committee proceedings had begun. This is not the best method of obtaining a satisfactory programme for a Committee stage: relatively far too much time was spent on the early clauses. It remains to be seen whether the partial failure of two experiments will now lead to a third—the division of the Bill, first recommended by the Procedure Committee in 1965.

Questions (Fifth Report 1966-67, H.C. 410)

The problem of progress at Question Time was dealt with in the Second Report of 1964-65; the Report now described dealt with several minor matters relating to the rules for questions about which complaints had been received from individual Members. The Committee reminded the House that the daily average of questions tabled for oral answer had risen from 66 in 1961-62 to 90 in 1964-65 and 87 in 1965-66. There had, however, been an improvement in progress at Question Time since the previous Report—on average seven or eight more questions than in 1962 were being reached each day, and on average 75 supplementary questions were being asked each day

compared with 66. These results had been achieved almost entirely by shorter supplementary questions and shorter answers, except for the Prime Minister's questions. The Committee did not recommend any changes in the rules for questions, other than that the rule against anticipation should not be allowed to prevent the asking of a Private Notice Question where there was no reasonable prospect of a question already tabled receiving an oral answer in the near future. The Committee declined to recommend any relaxation in the rules relating to questions on Commonwealth and Foreign matters, saying that they wished Ministers to be questioned "as being responsible for British interests abroad", not "as an information centre for world events".

Public Bill Procedure (Sixth Report, 1966-67, H.C. 539)

With this Report the Committee completed their general review of procedure, and they addressed themselves to the following questions:

(i) does the House spend about the right amount of its time on legislation? (Answer, yes, at about 73 days out of 160.)

(ii) does procedure unduly restrict the amount of legislation that can be passed? (Answer, no), and

(iii) does the House use the time available for legislation to the best advantage? (Answer, no, in that there is not enough opportunity to examine subjects for proposed legislation before the Government is committed to a particular course, and in various detailed respects.)

The answer to question (ii) is a most important one, since the plea of "lack of Parliamentary time" has long been accepted as a reason for the failure to introduce Bills. The Committee stated quite categorically that "the evidence of the Leader of the House, the Chief Whip, First Parliamentary Counsel and the Clerk of the Public Bills has led them to the conclusion that it is possible for time to be found for all Bills to which the Government of the day attach significance; and that with the use of the Second Reading Committee procedure there is no backlog of other Bills that cannot soon be cleared". They noted that the volume of Statute law had risen from 202 pages in 1900 to 1,817 pages in 1965.

The Committee made detailed proposals designed to spread the work of legislation more evenly over the Session and to save time in cases where there was general agreement to do so. Amongst other things they recommended:

(*a*) That Bills deliberately introduced late in the Session and referred to Second Reading Committees could be carried over into the following Session (if twenty Members did not object) and taken straight to Committee stage at an otherwise empty time of the year for Standing Committees.

(*b*) That there should be greater freedom to introduce into the House of Lords Bills that depended on their money provisions.

(*c*) That a system of Steering Committees should be developed to recommend time-tables for Bills to provide a better-balanced examination in Committee and on Report.

(*d*) That there should be a "pre-legislation committee" to examine proposed subjects for legislation, and that more Bills should be committed to Select Committes, when evidence could be called.

(*e*) That Bills considered by Second Reading Committees might also be considered on Report in a Standing Committee, if twenty Members do not object.

(*f*) That Third Reading should be undebatable, unless six Members tabled a motion for a debate, or a reasoned amendment or six-months amendment.

(*g*) That the Statutory Instruments Committee should examine all general Instruments, whether laid before the House or not, and should be specifically authorised to report on the drafting of Instruments.

(*h*) That some Statutory Instruments should be debated in an expanded Statutory Instruments Committee.

(*i*) That after the defeat of a reasoned amendment to the second or third reading of a Bill it should be possible to have a second division, on the main question.

The Committee rejected a suggestion that Bills should contain less detail and consist largely of a statement of the purpose of the legislation. They agreed with the proposition of the Clerk of Public Bills that "in certain circumstances the exclusion of detail from a Bill may actually provoke rather than discourage discussion".

The Committee also considered the traditional formula for putting the question on Amendments to leave out words ("That the words proposed to be left out stand part of the question"). They decided that the time had come to substitute the simpler form, for all amendments (whether to Bills or not, and whether to leave out or add words) "That the Amendment be made". This change was accepted by the House, although the old form lingers on in the case of "six months" amendments to the stages of Bills, so that the supporters of Bills continue to vote Aye.

Recommendations (*e*), (*f*) and (*g*) and (*i*) above were also accepted by the House, but there was no early indication of a further development of pre-legislation committees or Select Committees on Bills. Indeed, it appeared in 1968 that the House was ready for a period of reflection on the changes that it made over the previous three years. When this is over it may be prepared to tackle the major outstanding problem—how to reconcile the growth of Select Committee activity with the desire to maintain the position of the Chamber of the House as the principal forum of debate.

IX. THE AUSTRALIAN SENATE AND THE 1967 REFERENDUM ("BREAKING OF THE NEXUS") PROPOSAL

BY R. E. BULLOCK
Deputy Clerk of the Senate

On 27th May, 1967, the electors of Australia voted, by Referendum, on two proposals for the alteration of the Constitution.

The two questions set out on the ballot paper were:

(1) *Do you approve* the proposed law for the alteration of the Constitution entitled:

> "An Act to alter the Constitution so that the number of Members of the House of Representatives may be increased without necessarily increasing the number of Senators"?

(2) *Do you approve* the proposed law for the alteration of the Constitution entitled:

> "An Act to alter the Constitution so as to omit certain words relating to the People of the Aboriginal Race in any State and so that Aboriginals are to be counted in reckoning the Population"?

These proposals had been embodied in the Constitution Alteration (Parliament) Bill, 1967, and the Constitution Alteration (Aboriginals) Bill, 1967, respectively, which had previously been passed by the two Houses of Parliament.

The first of the two questions was answered by the electors with an approximate 60 per cent. "No" vote, and the second by a 90 per cent. "Yes".

The purpose of this article is to set out some of the circumstances connected with the rejection of the first of the proposals.

1. *The Constitutional background*

Referendum provisions. The Referendum was held in accordance with section 128 of the Constitution. This section provides that any proposed law for the alteration of the Constitution, in addition to being passed by an absolute majority of each House of Parliament, must be submitted to a Referendum of the electors in each State, and must be approved also by a majority of electors in a majority of the States, and by a majority of all the electors who voted, before it can be presented for Royal Assent.

Provisions relating to the number of Senators and Members. The provisions of the Constitution relating to the number of Senators and Members are to be found in sections 7, 24 and 27.

The relevant portions of these sections are:

> S.7. Until the Parliament otherwise provides, there shall be six Senators for each Original State. The Parliament may make laws increasing or diminishing the number of Senators for each State, but so that equal representation of the several Original States shall be maintained and that no Original State shall have less than six Senators.
>
> S.24. The House of Representatives shall be composed of Members directly chosen by the people of the Commonwealth, and the number of such Members shall be, as nearly as practicable, twice the number of Senators.
>
> S.27. Subject to this Constitution, the Parliament may make laws for increasing or diminishing the number of the Members of the House of Representatives.

The Parliament thus has power to make laws for increasing or diminishing the number of Senators and the number of Members of the House of Representatives, but subject to the nexus (the two-to one ratio) as provided in S.24.

The Parliament has exercised this power on only one occasion, viz. 1948, when by the Representation Act of that year it increased the number of Senators for each State from 6 to 10. The Senate was therefore increased from 36 to 60, and, consequent upon this, the House of Representatives was increased from 74 to 121 (the figure "as nearly as practicable" twice the number of Senators: in 1967 the corresponding figure was 122).

The "two-to-one ratio". The "two-to-one ratio" or "nexus" provision, upon which the electors were asked to vote, had been inserted in the Constitution for what were considered at that time good and weighty reasons. Quick and Garran, in their 1901 work, *The Annotated Constitution of the Australian Commonwealth*, refer, on pages 452-53, to this provision as follows:

> This "two-to-one ratio" is a rigid element and basic requirement of much importance and significance; it is embedded in the Constitution; it is beyond the reach of modification by the Federal Parliament, and can only be altered by an amendment of the Constitution. It was adopted after due consideration and for weighty reasons. It was considered that, as it was desirable, in a Constitution of this kind, to define and fix the relative powers of the two Houses, it was also but fair and reasonable to define their relative proportions, in numerical strength, to each other, so as to give that protection and vital force by which the proper exercise of those powers could be legally secured. It was considered extremely necessary to prevent an automatic or arbitrary increase in the number of Members of the House of Representatives, by which there would be a continually growing disparity between the number of Members of that House and the Senate; and to give some security for maintaining the numerical strength, as well as the Constitutional power, of the Senate. It was argued that if the number of the Members of the Senate remained stationary, whilst the number of the Members of the House of Representatives were allowed to go on increasing with the progressive increase of population, the House would become inordinately large and inordinately expensive, whilst the

Senate would become weak and impotent. It was said that to allow the proportion of the Senate towards the House of Representatives to become the merest fraction, would in course of time lead practically to the abolition of the Senate, or at any rate, to the loss of that influence, prestige and dignity to which it is entitled under the Constitution. In reply to the argument founded on the danger of disparity, arising between the number of Members of the Senate and the number of Members of the House of Representatives, attention was drawn to the Constitution of the United States of America under which Congress had unlimited power to increase the number of Members of the House, without increasing the number of Senators; which power had not been recklessly or improvidently exercised. The power and status of the Senate had not been prejudiced by the gradual increase in the number of representatives. In answer to this it was contended that the Senate of the United States of America had maintained its position in the Constitution largely owing to its possession of certain important judicial, legislative and executive powers, which had not been granted to the Senate of the Commonwealth, such as the sole power of trying cases of impeachment; the power to ratify or to refuse to ratify treaties made by the President with foreign nations; and the power to refuse to confirm executive appointments made by the President. These powers were the main sources of the strength of the American Senate, which prevented any wide disparity in numbers between it and the House of Representatives from causing it to drift into the insignificance of a small committee or board. The Senate of the Commonwealth, being deprived of such powers, should be protected against the danger of disparity in numbers.

2. *Recommendations of the Joint Committee on Constitutional Review, 1959*

On 24th May, 1956, the two Houses of Parliament appointed a Joint Committee " to review such aspects of the working of the Constitution as the Committee considers it can most profitably consider, and to make recommendations for such amendments of the Constitution as the Committee thinks necessary in the light of experience ".

In its report to Parliament in 1959, the Joint Committee recommended as follows in relation to the numbers of Senators and Members:

(1) The number of Members of the House of Representatives should be no longer tied to being as nearly as practicable twice the number of Senators.

(2) The Parliament should have power to determine the number of Senators, provided equal representation of the original States is maintained, but there should be not less than six nor more than ten Senators for each Original State.

(3) The Parliament should continue to have power to make laws for increasing or diminishing the number of Members of the House of Representatives, and the number of Members chosen in the several States should remain in proportion to population. However, the power of the Parliament to determine the number of Members of the House of Representatives should be subject to the qualification that the number of Members to be chosen in any State should be determined by dividing the population of the State by a figure determined by the Parliament which is the same for each State and is not less than 80,000 thus providing that there should be on average at least 80,000 people for every

Member. Where upon a division, there is a remainder greater than one-half of the divisor, there should be an additional member to be chosen in the State concerned.*

(4) The power of the Parliament referred to in sub-paragraph (3) above should be subject to the present constitutional provision that there should be no less than five Members chosen in each Original State.

The Committee took the view that the number of Senators for the Original States was already sufficient.

Senator Wright's dissenting report. The Committee's recommendation for a breaking of the nexus was but one of several recommendations affecting the Senate (others included an alteration of the terms of service to two Parliaments in lieu of six years, and major alterations to the section 57 "deadlock" provisions), and a strong dissenting report in relation to these and other recommendations was made by Senator R. C. Wright, a Liberal Party Senator and a member of the Committee. Senator Wright referred to the Committee's recommendations for the breaking of the two-to-one ratio, as follows:

In my opinion the most desirable and effective size for a Senate is between 40 and 80 Members. Such a legislative chamber enjoys many advantages in comparison with large unwieldly bodies numbering several hundred. In my opinion the status of a House of the legislature is strengthened, and not reduced, by having a reasonably small number of Members. This is *one* of the features which has made the American Senate the strongest and most influential democratic Second Chamber in the world. I emphasise this to disabuse any possible critic of the notion that I cling to a Senate having one-half of the numerical strength of the House of Representatives for the sake of numbers.

But the Commonwealth has been described by competent authority as "one of the most advanced social democracies in the world", and emphasis has been placed by the same authority upon the strength which that democracy derives from its Constitution and particularly from its Senate, as "the most powerful Second Chamber in the British Dominions". (Dr. Strong, *Modern Political Constitutions*, third edition, 1949, at page 205.)

It is because the Founders recognised that the Parliament under the Constitution consisted of two Houses of *almost equal* strength, that prolonged consideration was given to the possibility of deadlocks, and among the ingenious provisions adopted for the solution of disagreements between the two Houses was a joint meeting of the Senators and the Members. It is this provision that gives importance to the relative numbers of the two Houses. So long as the *joint sitting* is part of the procedure to resolve deadlocks, it is, in my opinion, important that the ratio of two-to-one in the numerical strength of the two Houses should be retained—that is, that the Senators should be one-half of the number of the Members of the House of Representatives. Otherwise the less populated States, specially represented in the Senate, may lose their constitutional strength in the case of difference with the more populated States in the joint meeting. It is only for this reason that I disagree with the majority recommendation in paragraph 110 of the Committee's Report.

I note that the Senate Committee on the Constitution Alteration (Avoidance of Double Dissolution Deadlocks) Bill, 1950, reported:

* At the time the Committee presented its report, the average population per electorate was about 81,000 persons.

The Committee, therefore, does not recommend any change in the two-to-one ratio . . . while provision is made in the Constitution for joint sittings to settle disagreements by a joint vote of the Houses.

History of Referendum proposals. The history of referendum proposals was not a "happy" one. Of 24 proposals which had been submitted to the electors since federation, 4 only had been accepted, viz.:

1906, relating to Senate elections.
1910, ,, ,, State Debts.
1928, ,, ,, ,, ,,
1946, ,, ,, Social Services.

It was not surprising, therefore, that the Government indicated that it proposed to study the recommendations carefully before taking any action towards their implementation.

Population growth. Meanwhile the average population per electorate continued to increase. The following census figures show the growth of population since Federation:

31.3.1901	3,773,801
30.6.1947	7,579,358
30.6.1954	8,986,530
30.6.1961	10,508,186
30.6.1966	11,540,764

3. *1965 Proposals*

Opposition pressure for action. No action was taken by the Government, legislatively, until the end of 1965. Meantime it had been under continual pressure from the Opposition, as exemplified by a motion moved by the Leader of the Opposition (Mr. Calwell) in the House of Representatives on 1st April, 1965, as follows:

That this House is of opinion that the recommendations of the Joint Committee on Constitutional Review which reported to both Houses in 1958 and 1959, particularly those recommendations with respect to the terms and rotation of Senators, the number of Senators and Members of the House of Representatives, the division of States into electoral divisions and disagreement between the Senate and the House of Representatives, should be submitted to the people for their approval.

In moving his motion, Mr. Calwell promised the Opposition's support for any attempts to secure the implementation "of each and every one of the recommendations" of the Joint Committee on Constitutional Review. He chided the Prime Minister (Mr. Menzies) for neglecting "an opportunity that other Prime Ministers could only dream about—the guarantee of all-party support for a wide measure of constitutional reform".

The Prime Minister, however, pointed to the problems of securing constitutional change and to the "bedevilment" of the country by the disposition of the people when in doubt to say "No". He and

Mr. Calwell were in agreement that the nexus should be broken. There was agreement on the need for a moderate increase in the size of the House of Representatives, and a moderate increase was all that was wanted, but, unless the nexus were broken, it appeared that the minimum increase that was practicable was 24 Senators and, consequently, 48 Members.

Problem of the minimum increase under the nexus provisions. The Prime Minister referred to the problem, a concomitant of proportional representation, as follows:

> There is one single fact that cannot be ignored if section 24 and the little collection of sections stand as they are. Unless you are to have a perpetually deadlocked Senate, you cannot increase the numbers in the Senate except by 24. If you increase the total number of Senators by 12, it will mean that at each election 6 Senators are elected for each State. The result will be 3 elected on each side. There is the very definition of a perpetual deadlock. So if you are to have a Senate that is workable—an unworkable Senate would be a menace—you must increase the number of Senators so that at each election each State will elect 7 Senators. You will then have 4 on one side and 3 on the other. This means increasing the size of the Senate by 24. That would mean increasing the size of the House by 48 Members. . . . Nobody in this place at this time thinks it is necessary to increase the size of this House by 48 Members. We may think it desirable to increase by 10, 12 or 15 but not by 48. Such a proposition would not enter anybody's mind.

If the nexus is not broken, said Mr. Menzies, "there is no flexible future for this House". He foreshadowed the introduction of legislation to deal with the matter.

Early indication of D.L.P. Opposition. On 2nd April, 1965, the day after the debate in the House of Representatives on Mr. Calwell's motion, the Australian Democratic Labour Party (represented by two Members in the Senate) announced that it would urge a "No" vote in any referendum held to enable the House of Representatives to be enlarged without increasing the size of the Senate.

Constitution Alteration (Parliament) Bill, 1965. In the closing stages of the 1965 sittings, the Government introduced the Constitution Alteration (Parliament) Bill, 1965, and the Constitution Alteration (Repeal of Section 127) Bill, 1965, the latter Bill, relating to aborigines, being passed by both Houses without dissent. The Constitution Alteration (Parliament) Bill was passed unanimously by the House of Representatives, and by 43 votes to 8 in the Senate. The eight Senators who opposed the Bill were Senators Gair and McManus (the two D.L.P. Senators), Senators Lillico, Mattner, Wood and Wright (Liberal Party Senators) and Senators Bull and Prowse (Country Party).

Section 128 of the Constitution provides that Referendum proposals be submitted to the electors within six months after the passage of the Bills. The Referendum was accordingly set for 28th May, 1966. On 15th February, 1966, however, Mr. Holt, who had succeeded Mr. Menzies as Prime Minister, announced that the new

Government had decided to defer the holding of the Referendum until after the holding of the House of Representatives election later in 1966.

4. *Constitution Alteration (Parliament) Bill, 1967*

When Parliament resumed in 1967, after the November, 1966, elections, at which the Holt Government had been returned, the two constitutional alterations proposals were again submitted. The one relating to the aborigines, now entitled the Constitution Alteration (Aboriginals) Bill, 1967, was again passed by both Houses without dissentient voice. And the Constitution Alteration (Parliament) Bill, 1967, received similar treatment to what it received in 1965. It was passed unanimously by the House of Representatives, and by 45 votes to 7 in the Senate.

The seven Senators who opposed the Bill were Senator Gair (D.L.P.), Senators Lillico, Mattner, Wood and Wright (Liberal), Senator Turnbull (Independent) and Senator Hannaford (former Liberal who had resigned from his party in disagreement with its policy on Vietnam). Senators Bull and McManus, who had voted against the measure in 1965, were absent ill. Senator Prowse who had opposed the Bill in 1965 this time voted for it to enable the electors to express their opinion on the proposed alteration.

Second Reading debate. The following summarises some of the points made by the Leader of the Government in the Senate (*Senator Henty*) in moving the motion for the Second Reading of the Bill:

1. Unless some measures were taken soon to increase the size of the House of Representatives, it would become impracticable for Members adequately to perform the functions expected of them on behalf of their electors. The problems they faced were now " more weighty and more complex ", and the numbers they represented were continually increasing. In 1901 the average population per electorate was about 50,000; in 1947, it had risen to over 100,000 and the size of the House of Representatives was then increased from 74 Members to 121 Members; by the 1949 elections, the average population per electorate was some 67,000; by 1960, this figure would exceed 94,000.

2. Unless the nexus was removed, an increase in the House of Representatives must be accompanied by an increase in the number of Senators.

3. The minimum practical increase in the Senate was 24, resulting in an increase of 48 in the House of Representatives—increases which nobody wanted.

4. The Government's proposals, if carried, would permit the smallest increase consistent with effective representation. It was proposed that the population quota be 85,000, which would permit a total maximum increase of 13 or 14 Members of the House of Representatives by about 1969.

5. The rôle of the Senate would not, in any way, be eroded by the proposals. The Senate, as at present constituted, was well able to discharge effectively the rôle designed for it by the Constitution.

Senator Henty referred to a proposal which had been put forward that the Senate could be increased by six Senators only, making eleven Senators for each State:

This would mean that at alternate elections there would be six Senators voted for on one occasion and five on the other. It might prove necessary to have six Senators elected in some States and five in others at the same election. The possibility of a deadlocked Senate could be increased, and there are other factors which, in the view of the Government, make this a less desirable course than the more simple and clear-cut proposition to increase the House of Representatives to the required extent without the requirement of a corresponding increase in the Senate.

The proposal also implied, said Senator Henty, that to provide for the addition of twelve or thirteen Members of the House of Representatives the size of the Senate would have to be increased by six, " even though it might be generally agreed that at the time there was no adequate reason for an increase in the size of the Senate ".

Senator Mattner, a former President of the Senate, criticised the Government on this viewpoint. " We have heard the argument ", he said, "that the Senate could not have eleven Senators for each State because this would produce further deadlocks. But the more arithmetic one does on that proposition the more one finds that it would in fact be less likely to create a deadlock, particularly if in three States six Senators, and in the remaining three States five Senators, were elected at each election. With a total of thirty-three vacancies to be filled at each election I do not know how a deadlock could arise. . . . How anyone could get a deadlock out of thirty-three votes is beyond me."

The Leader of the D.L.P. (*Senator Gair*) let it be known that his party opposed any increase. " We will oppose the Referendum," he said, and " we will similarly oppose any like move for an increase of six in the size of the Senate and twelve in the House of Representatives, or thereabouts, should Mr. Holt attempt to take that action after the Referendum is rejected."

Senator Gair stated that the Bill was intended as a first step in weakening the position and power of the Senate, and that no arguments had been advanced in opposition to the nexus that had not been advanced, discussed and rejected nearly seventy years previously in the Federation debates. In this connection he again directed the Senate's attention to the extract from Quick and Garran's *Annotated Constitution of the Australian Commonwealth*, quoted earlier in this article.*

The three Tasmanian Senators opposed to the Bill were emphatic on the need to protect the small States. The following are extracts from their speeches:

Senator Lillico (Liberal): "In all probability there is a greater necessity today to safeguard the interests of the smaller States than ever before in the history of the Commonwealth."

* Some days prior to the debate on this Bill, Senator Gair had given Notice of a Motion to " take note " of the extract. He did not have the opportunity to move the motion until 4th May. In the meantime his Notice of Motion (and the extract in full) appeared each day on the Senate Notice Paper and after the 4th May and until the end of 1967 the Motion continued to appear as an " Order of the Day ".

"If the men who are so often quoted on constitutional matters were resurrected today and could see the results of their work and the enormous power of the Commonwealth Parliament—a power which was completely beyond their perspective when the Constitution was formulated—I have no doubt whatever that they would regard the nexus between the Senate and the House of Representatives as more necessary than ever before."

Senator Wright (Liberal): "I shall never concede that Members of the Lower House have any advantage that recommends a claim for their proliferation as compared with the people of this Chamber.

"If the population grows as expected, in 1971 there will be 156 Members of the House of Representatives. In 1976 the membership of that House will rise to 175. At the end of this century, in the year 2000—if a proper estimate of population has been made and bearing in mind the quota of one Member to every 85,000 electors that has been selected by the Government—the size of the House of Representatives will be 290.

"If we do not have a greater number of Senators in the Government party room but have a greater number of Members of the House of Representatives, in which Tasmania will never have more than five Members in the next twenty years, New South Wales and Victoria will have an absolute majority or a complete preponderance."

Senator Turnbull (Independent): "If the Senate is to remain any kind of force at all then we as a body should rise up and condemn this Referendum, because all it will achieve is a weakening of the power of the Senate by increasing the numbers in the House of Representatives without increasing our numbers. This is of particular importance to a State such as Tasmania, and I know that in Tasmania the Referendum proposal will be thrown out by the biggest majority ever. . . . In Tasmania we will throw out the proposal because we can see that what little chance we have of representation in a big Parliament rests in the Senate and nowhere else."

5. *The "Yes" and "No" Cases circulated to the Electors*

Section 6A of the Referendum (Constitution Alteration) Act, 1906-65, provides that within four weeks after the passage of such a proposed law through both Houses of Parliament the arguments for and against it—consisting in each case of not more than 2,000 words—shall be forwarded to the Chief Electoral Officer for subsequent distribution, within a further two months, to each elector. The two cases must be authorised by a majority, respectively, of those Members of Parliament who voted for the proposal, and of those who voted against. If no Senator had opposed the motion, the case *for* the breaking of the nexus would have been the only case presented to the electors.

Printed copies of the two cases were issued by the Chief Electoral Officer to all electors on 6th April, 1967.

The "Yes" case was shown as having been prepared by the Prime Minister, the Rt. Hon. Harold Holt, Leader of the Federal Parliamentary Liberal Party; by the Deputy Prime Minister, the Rt. Hon. John McEwan, Leader of the Australian Country Party; and by the Leader of the Opposition, Mr. Gough Whitlam, Leader of the Australian Labour Party. It listed arguments for the breaking of the nexus in question and answer form.

The "No" case was similarly set out in question and answer form, but to use a colloquialism it "pulled no punches". It presented vigorous political as well as conventional arguments. This will be appreciated from the fact that it commenced with the following:

Vote NO because—

* We do not need more parliamentarians.
* Australia is already over-governed.
* A Yes vote would be a vote against the interests of the States particularly the small States, and country districts.
* A No vote will tell the Government that you do not want an increase in the size of *either* the House of Representatives *or* the Senate.

and ended with—

Vote NO—we do not need more parliamentarians.

Vote NO—protect the small States and country districts.

Vote NO—prevent unnecessary increases in the size of the House of Representatives.

Vote NO—prevent unnecessary increases in the cost of government.

The Prime Minister's protest. The Prime Minister protested against the "No" Case as circulated to the electors. He did so during a debate in the House of Representatives on 18th May, 1967, when he moved the following motion:

> That this House, having studied the arguments set out in the Official No case, reaffirms its view that it is in the interest of good parliamentary government in Australia to remove the need now existing under the Commonwealth Constitution to increase the number of Senators whenever the number of Members in the House of Representatives is increased, and to impose the limit proposed on the extent to which the House of Representatives can be increased.

It was a sad thing, said Mr. Holt, that instead of making an objective, dispassionate and logical appeal to the people on the strength of the arguments of their case, the advocates of the "No" case had resorted to "prejudice . . . and to misleading argument in order to frighten people by the bogies they create".

Mr. Holt's motion was supported by the Leader of the Opposition, Mr. Whitlam, and the Minister for the Interior, Mr. Anthony (Country Party) and carried unanimously.

The D.L.P. protest. Senator Gair, Leader of the Democratic Labour Party, had also earlier voiced a protest on behalf of the "No" supporters. It had been known for some time prior to 18th May that the Prime Minister would be moving the motion referred to, and that the debate would take place while the House of Representatives was being broadcast—thereby, it was claimed, giving the proponents of the "Yes" case an undue advantage of broadcast time.

Senator Gair was reported in the press of 16th May as having written to the Prime Minister protesting against this as "indefensible" and seeking an arrangement whereby he and Senator Wright could appear at the Bar of the House of Representatives to put the "No" case during the debate.

Senators Gair and Wright were not invited to appear at the Bar of the House.

6. *The Referendum results*

On Saturday, 27th May, the voting on the Referendum proposals took place. The Aboriginals proposal was carried and the Parliament proposal rejected.

Details of the voting on the nexus issue are as follows:

	Yes	*No*	*
New South Wales	1,087,694	1,044,458	(49%)
Victoria	496,826	1,112,506	(69%)
Queensland	370,200	468,673	(56%)
South Australia	186,344	363,120	(66%)
Western Australia	114,841	280,523	(71%)
Tasmania	42,764	142,660	(77%)
Total	2,298,669	3,411,940	(60%)

New South Wales was thus the only State to return a "Yes" majority; the smaller States, and Tasmania in particular, were overwhelmingly against the proposal; and the large "No" vote in Victoria (the Prime Minister's home State) was a special blow to the advocates of the constitutional change.

A Constitutional question left undetermined. The 40 per cent. "Yes" vote at the Referendum thus fell far short of the requirements of the 4th Paragraph of section 128 of the Constitution ("Mode of altering the Constitution") which reads:

> And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's Assent.

The proposal for the breaking of the nexus was thereby decisively disposed of.

If, however, the "Yes" vote had met the minimum requirements of the paragraph stated, an interesting situation may have arisen because of the possible application of a further paragraph of section 128—the 5th and final paragraph—which reads:

> No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions

* Percentage of formal votes NOT IN FAVOUR of proposed change.

of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law

The question could have arisen: could the Referendum validly be regarded as carried without an affirmative vote in *every* State? The Government had obviously believed it could, but its view may have been challenged in the High Court.

The Democratic Labour Party had given hint of this. On 2nd December, 1965, immediately after the Constitution Alteration (Parliament) Bill, 1965, had been passed by the Senate, Senator Gair had made a press announcement in which he stated that his party would be seeking counsel's opinion with a view to challenging the Government's view that the Referendum could be carried if agreed to by four of the States and a majority of the electors. It was understood, he said, that the Joint Committee on Constitutional Review in 1959 had examined this fifth paragraph of section 128, and some of the opinions given to the Committee by very eminent counsel had supported the view that a Referendum to sever the nexus would have to be carried in *every* State.

Although not directly relevant to the breaking of the nexus issue, a view expressed by a former Chief Justice of the High Court, the Rt. Hon. Sir John Latham, in relation to any proposal to abolish the Senate, is worthy of note in this connection. In an article entitled "Changing the Constitution", published in the April, 1953, issue of the *Sydney Law Review*, the former Chief Justice stated:

> Amendments (those referred to in the last paragraph of S.128 of the Constitution) thereby require the consent of a majority of the electors in each State affected. The result is that some amendments could not be made without majorities in all the States. A proposal to abolish the Senate would raise an interesting question. The abolition of all representation of all States in the Senate would certainly be an alteration of the representation of each State—but would the diminishing of representation to the point of extinction be an alteration of the *proportionate* representation of any State? The representation of the States would be equal—at zero. But, even so, the abolition of the Senate and of all representation therein would be an alteration of the Constitution which would "affect" the provisions of the Constitution "in relation to" proportionate representation of States in the Senate, and would therefore require the approval of majorities in all the States.

These interesting constitutional issues are still undetermined.

X. THE RESEARCH BRANCH OF THE CANADIAN LIBRARY OF PARLIAMENT

BY PHILIP LAUNDY
Chief of the Research Branch

The provision of research service to Members of Parliament, although a relatively new development in the Parliamentary Libraries of the Commonwealth, is a recognition of the realities of modern parliamentary life. The parliamentarians of today require facilities beyond a conventional library service if they are to perform their duties effectively. In the older countries of the Commonwealth the pressure of parliamentary business has been mounting steadily for years, and there is every reason to believe that it will continue to increase. Today the responsibilities of government extend into virtually every sphere of public activity. In consequence, government business consumes most of Parliament's time, and the parliamentary sessions occupy the greater part of the year.

One of the principal functions of the Member of Parliament is, of course, to scrutinise and criticise the proposals, policies and conduct of the Government, and the ever-increasing extent of government participation in the life of the nation has greatly enlarged the range of subjects on which a Member requires to be well informed. It is necessary only to recollect that matters which once lay outside the public sector (matters such as health, education, social welfare, agriculture, labour and employment, industrial conciliation, town and country planning, housing, transport and communications, the control of road traffic) now compete with the more traditional areas of government jurisdiction (external affairs, defence, the administration of justice, the promotion of trade, etc.) for the attention of the legislators.

The business of government has thus become very complex and time-consuming, and Ministers are largely reliant on the professional advice of their departmental experts to assist them in the framing of their measures and the promotion of their programmes. Backbenchers have no such resources available to them, but if they are to perform their watchdog function effectively, they obviously require some measure of the expert assistance which is available to Ministers through their departments. Apart from the fact that no Member of Parliament could hope to become an expert on every matter which demands his attention, he is prevented by sheer lack of time from

personally researching each issue on which he hopes to arrive at a balanced assessment or a sound judgment. It is sometimes forgotten that, in addition to the duty of attending debates in the House itself, a Member also has commitments to his constituency, to his party, and to any committees, both parliamentary and extra-parliamentary, of which he may be a member. The provision of research service is, therefore, an attempt to ease the Member of Parliament's burden in at least one important area of his responsibilities.

In pursuance of this aim the Research Branch of the Canadian Library of Parliament was established in June, 1965, and at that time it is believed to have been the first such service in a Commonwealth Parliamentary Library. The Branch was inaugurated following the recommendations of the Parliamentary Librarian and the Special Committee on Procedure and Organisation which sat in the session 1964-65 under the chairmanship of the Speaker of the House of Commons. Although it has doubled its size in its first three years of operation it is nevertheless a small unit, consisting of only ten research officers backed up by secretarial and clerical staff. Such a small establishment cannot, of course, be a substitute for the immense departmental apparatus at the disposal of the Government, but experience has shown that it can go a long way towards balancing the advantages which the Minister has over the backbencher.

The service provided is one of strict objectiveness and impartiality. Its incorporation within the Parliamentary Library guarantees its independence of any political or pressure group influences. The question as to whether a Member should also be provided at public expense with research service at the political level is a separate issue, consideration of which is beyond the scope of this article. The Research Branch recognises only one allegiance, namely that towards Parliament, and its duties are inconsistent with any form of partisanship or bias. As with the other services of the Parliamentary Library, the Research service is available to Members of both Houses of Parliament, and the Member is free to make such use of the material he receives as he sees fit. If he can make it serve his political purposes he cannot be prevented from doing so, but it is not a function of the Branch consciously to provide political ammunition. The experience of the Branch so far supports the view that Members using its services tend to do so because they are pursuing a serious interest or require background information. There is little evidence that they have come to regard the service as a prime weapon in their political armoury.

The kind of research which is provided by the Branch is not original academic research of the kind associated with universities. The requirements of Members are normally far too pressing to permit of such work being undertaken, apart from which it is only rarely that the circumstances of political life would enable a Member to extract much practical value from an ambitious long-term study

involving an original investigation and original conclusions. The research officer's function, depending on the nature of the request with which he is dealing, is to organise, analyse, evaluate, interpret and summarise the available material; to draw such conclusions as may be justified by the available facts; to present the pros and cons of an issue when requested to do so; and to assemble such authoritative opinions as may be available in respect of the question under consideration.

In the interests of preserving its political impartiality the Branch does not undertake the preparation of speeches. However, although projects are not prepared in such a way as to constitute a speech, they are often designed to provide the basis for a speech. and there is nothing to prevent a Member, if he wishes, from quoting directly from a study he receives.

Research service is a logical extension of the service which has traditionally been provided by the Library through its reference librarians. One of the first questions which had to be decided when the Research Branch was inaugurated concerned the method of distinguishing between the two levels of service—reference and research. The basic function of the Parliamentary Library has always been to provide Members with information and material in accordance with their requests, but prior to the establishment of the Research Branch it was not equipped to offer facilities other than those which could be provided through the expertise of librarians. The reference service includes the answering of questions of a factual nature; the selection and assembling of material in a specific subject area; the location of information and sources of information; the provision of specific publications and other reference materials; the compilation of bibliographies, abstracts, annotated accessions lists, etc.; and other related functions.

These services have in no way been absorbed by the Research Branch; rather the Reference Branch has assumed a new dimension following the introduction of a research service. Many research projects require the assistance of the reference staff in the location and assembling of material, and co-operation between the two services is an essential factor in the research operation. The Research Branch is designed to carry the service to Members much further than before, although the distinction between a research project and a detailed reference investigation is sometimes difficult to determine. In doubtful cases consultation takes place between the chiefs of the Reference and Research Branches and a decision is agreed between them, a decision which often involves a co-operative endeavour. The end result of a research project is an original documented report—original in the sense that it is an original piece of writing. In general terms, therefore, a research request as distinct from a reference request is one which calls for the preparation of an original paper or essay.

A request may be received by the Research Branch in a variety of

ways. It may be embodied in a letter written by the Member to the Chief of the Branch; it is frequently telephoned to the Branch either by the Member or his secretary; it is just as frequently sent in on one of the stereotyped forms provided by the Library for the convenience of Members; it is sometimes received by the Reference Branch and passed on to the Research Branch; it may be directly requested by a Member through a visit to the Research Branch; or it may result from a personal conversation or casual encounter between a Member and a research officer. Whatever the method by which a request is received it is a cardinal principle of the Branch's method of operation that there should be direct contact wherever possible between the Member making a request and the research officer to whom it is referred. Messages received indirectly as often as not fail to reflect exactly the nature of the Member's requirements. Therefore, the research officer's first step when embarking upon a new project is to seek a personal interview with the Member concerned if he has not already had an opportunity of discussing the project with him. A certain, although admittedly minimal, proportion of the services rendered by the Branch is provided through the medium of verbal discussion. A request is dealt with in this way only when a Member's requirements are so urgent as to leave no time for the preparation of a written paper, the verbal advice of a research officer being offered in its place.

Communication between Members and the Research Branch is completely confidential. The source of a request and the nature of any discussions held are never revealed by the staff, although a project once prepared may be made available for use on a subsequent occasion. It is recognised that a Member must feel able to rely implicitly on the discretion of the staff if the service is to be of the maximum value to him. Absolute trust is, therefore, a most essential element in the relationship between Members and research officers.

The establishment of a research service raises important questions with regard to the staffing of the Library since it expands the Library's professional requirements far beyond the field of librarianship. There is virtually no limit to the range of matters which may conceivably come before the attention of Parliament. For this reason a parliamentary library tends to be fairly general in its coverage, and by the same token a parliamentary research service must recruit its professional staff from various areas of specialisation.

When the Research Branch was first established it was decided in principle that no limitation would be imposed in relation to the subject content of inquiries handled by the Branch. At the same time the practical limitations inherent in a small establishment have to be accepted since the range of expertise it can provide is of necessity limited by its numbers. In filling the Research Branch positions it was necessary to anticipate the types of inquiry which would most frequently be received. It was essential to ensure adequate subject

coverage in such obvious broad areas as economics, law and international affairs. But while it was clear that the Branch would require specialists, it was equally clear that at the outset its backbone would need to be a good hard core of generalists—i.e., researchers with a good academic background in such subjects as history and political science and having the ability to work in a wide range of non-technical fields.

Even in recruiting the specialists it was necessary to ensure that the individuals appointed were versatile in their research ability. It would have been impracticable in the early stages of development to have recruited people whose specialisations were too narrow. In such a small organisation there are inevitably occasions when a researcher is called upon to deal with an unfamiliar subject. In such areas as law and economics, therefore, it was necessary to recruit specialists who were able to work within the broadest limits of their fields.

The extent to which the Branch should accept the obligation to offer service within the general area of science and technology was a problem which called for special consideration. It was not anticipated that a high proportion of the requests received during the early years of the Branch's operation would fall into this category, and a decision had to be taken as to whether or not a scientific or technical appointment would be justified at all at the outset of the Branch's existence. It was eventually decided, notwithstanding the modest size of the establishment, that it would be desirable to allocate one of the research positions to a scientific or technical officer. Since agriculture was the subject likely to engage the attention of Parliament more frequently than any other scientific subject, it was decided that for the purposes of recruitment the emphasis should be placed upon this area of specialisation.

The professional staff of the Research Branch currently comprises two lawyers (one of whom is a constitutional expert, and the other an international affairs expert), two economists, an agriculture specialist (who is familiar with the language of science and technology in general and is currently covering the Branch's requirements in this very broad field), and four generalists, one of whom was appointed for his special knowledge of defence matters. The Branch is under the direction of a librarian who is also a specialist in parliamentary procedure. Between them this team have produced over four hundred projects since the inauguration of the Research Branch and have managed to deal with every request which has been referred to them.

Broadly speaking the projects prepared by the Research Branch fall into two categories—the study in depth and the study in outline. The former is provided when a Member, having a long-term interest in a particular matter, requests a thorough study of it and is prepared to give the Branch ample time in which to prepare it. The latter is provided for the Member who, at short notice, requires background information for a speech or for some other immediate purpose. Re-

search service in its most essential form is reflected in the study in depth, but the "rush" project involving research of a more superficial nature will probably constitute the main element of parliamentary research work for the foreseeable future. Although not all of the projects handled involve sophisticated research, it has been found that the service has had a maturing effect both on those who supply it and those who receive it. Requests have tended to become more sophisticated with a growing appreciation on the part of Members of the nature of the service which the Branch is equipped to provide. The research officers themselves have improved their skills as they have come to understand more clearly the nature of Members' requirements and the application of their work to the functions of Parliament.

A complicating factor in the provision of research service to the Canadian Parliament is the requirement that it should be available in both English and French, both languages being the official languages of Canada at the federal level. In an ideal situation every member of the Research Branch staff would be fluently bilingual, but since such a requirement would make recruitment virtually impossible, the staffing of the Branch has to accord with practical reality. In the first three years of its operation about 13 per cent. of the work prepared by the Branch has been required in French. The staffing of the Branch must, therefore, take account of the predominating demand for service in English. All ten research officers are able to prepare papers in English, and four of them are also fluent in French. When a paper is required in French, and the subject does not fall within the competence of one of the French-speaking officers, it is prepared in English and sent for translation. When the Chief of the Branch is of the English language, it is necessary for the Deputy Chief to be of the French language and carry the supervisory responsibility for all the work prepared in French.

Many of the projects prepared, and particularly those of a more superficial nature, are required to meet stated deadlines, and this factor adds greatly to the pressure under which the research officers must work. Although the Branch has not yet been forced to decline to accept a request, it is frequently necessary to negotiate an extension of a given deadline. It is also fair to state that many a deadline could not have been met had the research officers concerned not worked overtime on their projects.

Although the service is restricted to Members of both Houses of Parliament, it is available to them in both their individual and corporate capacities. In addition to handling requests from individual Members, projects are prepared for parliamentary committees, party caucuses, groups of Members sharing a common interest, and parliamentary delegations travelling to other countries. The service is available to Cabinet Ministers, but strictly in their capacity as Members of Parliament. In other words, a direct request to the Branch

from a Minister or from the Cabinet as a whole would be dealt with on the same basis as a request from an individual Member or a group of Members. A request from a member of a Minister's staff would not be entertained unless the Minister himself directly confirmed that it had been made on his specific instructions.

The Speakers of the two Houses are served both as individual Members of Parliament and as the heads of the parliamentary establishment. In terms of the Branch's duty to the Speakers and to Members collectively, projects are prepared for senior officers of either House in connection with their parliamentary duties; for parliamentary associations where information is required on a subject of Canadian interest; or for any purpose which could be construed as furthering the interests of the Canadian Parliament as a whole.

The service to parliamentary committees does not as yet extend to the point where the Branch can afford to second a research officer to a committee on a full-time basis. The extension of the service to permit of full-time secondment to committees would, in the opinion of the writer, be a logical development, but a considerable number of additional staff would need to be recruited in order to provide it. Another school of thought holds the view that a research section independent of the Research Branch of the Library should be established for the benefit of committees. At present a collective project for a committee is one which is received from the Chairman on behalf of the committee as a whole. The officer preparing the project is available for consultation with the Chairman, and if necessary to attend committee meetings, but it would not be feasible at the present stage of the Branch's development for an officer to devote himself to a committee's work to the exclusion of all other duties. An individual member of a committee has every right to request a project on his own initiative, whether or not it is required by the committee collectively, but such a request would not be treated as a committee project.

A significant development of the service has been the provision of background papers to Members of parliamentary delegations attending conferences of international parliamentary bodies such as the Commonwealth Parliamentary Association and the Inter-parliamentary Union. The agendas of such conferences are supplied to the Research Branch well in advance and an attempt is made to prepare background studies relating to each item on the agenda. This service is regarded as very valuable by those who have derived advantage from it. Members attending inter-parliamentary conferences now feel that they can arrive at their destinations well briefed and able to make informed contributions to the discussions without too great an expenditure of their own time. From the point of view of the Branch this aspect of research service permits one project to do the work of several, since each study prepared for a delegation reaches a fairly wide and representative cross-section of Members.

Despite the establishment of the Research Branch the complaint is still heard that Members lack adequate research facilities. Sometimes it is made by Members who are as yet not fully aware of the extent of the service which can be provided by even a small team of researchers. But it is also heard from Members who, although frequent and conscientious users of the service themselves, feel that parliamentarians should be entitled to more ambitious facilities. Some Members believe that research at the partisan political level should be provided at public expense in addition to the impartial service provided by the Library. Others claim that each Member should be entitled to his own personal research assistant.

The issue as to whether political research should be a charge upon the public revenue is arguable and will not be considered here. The argument in favour of the allocation of a research assistant to every Member is one which can be appreciated by anybody who understands the nature of the modern parliamentarian's duties and commitments. Such a solution would not be conducive to the economic use of manpower, however. The answer to the problem, in the opinion of the writer, lies again in the extension of the existing operation. In view of the wide range of subjects on which a Member requires to be informed, the attachment of a single research assistant to his office would not solve all his problems. No one research assistant could be an expert in law, economics, and a dozen other fields combined, but if the personnel of the Research Branch were to be expanded in the various directions necessary, it would then have the resources to second an officer to the personal service of a Member from time to time in accordance with the Member's varying requirements.

While there is every reason to believe that the Research Branch will continue to expand, it is impossible to predict whether or not it will ever reach the proportions of the Legislative Reference Service of the Library of Congress in Washington. This outstanding research organisation, administratively autonomous and comprising ten separate divisions staffed by specialists of every description, offers service to the legislators of Washington which is bounded by few, if any, limitations. The writing of speeches, for example, is regarded as a legitimate service, and they may range in content from a critical analysis of a major aspect of national policy to a few formal words for delivery on some ceremonial occasion. It also handles requests from constituents, and while most of the inquiries received are straightforward, the shrewd citizen who is aware of the opportunity available to him is in a position to extract some highly expensive research work from the Legislative Reference Service under the guise of a constituent request. Such a service has no place in the Canadian operation, neither is any such extension of the Research Branch's activities planned for the future.

The service provided at Washington is greater than that of Ottawa,

not only in range but in depth. The Librarian of Congress is statutorily empowered to appoint senior specialists in various specified subject areas, some of whom head the subject divisions and some of whom work independently. These specialists are people of international repute in their fields and they ensure that the Legislative Reference Service is equipped to undertake research at the highest academic level. The aim of this article is not to discuss in detail the service provided at Washington, but the provision of research service to parliamentarians at the highest academic level raises issues which anyone involved in the development of a parliamentary research service is bound to consider. Clearly the abilities of the senior specialists at Washington would be wasted if they kept strictly to their terms of reference and worked only on projects, many of them relatively unsophisticated, assigned to the service by legislators. Although this is in theory their function, in practice they initiate projects themselves and guide the research inquiries of legislators along directions of their own choosing. As a result, the senior specialist tends to win the confidence of a select circle of legislators for whom he finds himself providing a semi-exclusive service. On his retirement his particular working structure is likely to break down and his successor, not having the same contacts, might find it difficult to pick up the threads.

The Canadian Research Branch is a very long way from providing research at this level, but as it grows the question as to whether it would be desirable to enlarge the service in this way will one day have to be faced. Should a legislative research operation work only at the direction of Members, or should it, in addition, provide Members with research initiatives? If the latter policy were to be adopted, how would the impartial and objective spirit which currently motivates the operation of the Branch be affected? These are important questions which will have to be decided in the future.

XI. A CONSTITUTIONAL DIFFERENCE BETWEEN THE ISLE OF MAN AND THE UNITED KINGDOM

By T. E. Kermeen
Clerk of Tynwald

When in 1959 a Commission was considering the constitution of the Isle of Man, the contribution of the United Kingdom Government to the deliberations contained a memorable phrase, which is, of course, applicable to other Commonwealth developments, that the constitution of the Island " has changed, is changing and is susceptible of further change ".

The following story of events in the relationship between this small self-governing island of only 50,000 and its immensely larger British neighbour has by its very nature no beginning or end.

For a thousand years, longer than anywhere else in the world, there has existed in the Isle of Man a Parliament, based on the ancient Norse folk meet held on the assembly ground or Thing Völlr from which the name of Tynwald is derived. Its history throughout this millennium has been a chequered one—conquered in the Dark Ages by the Vikings, Scots and English in turn, it became in medieval times a feudal fief of the Earls of Derby and reverted to the British Crown just two hundred years ago.

The Manx people's progress towards political control of their own affairs has necessarily been a slow and laborious progress, unlike the rapid and spectacular attainment of independence elsewhere in the Commonwealth.

The amazing feature has been the manner in which they have tenaciously persisted in retaining and expanding their autonomy in the face of immense external pressures and persuasions—significant, indeed, is the Three Legs emblem on the Manx flag and the Island's motto, " Whichever way you throw it, it will stand ".

It was against this background that this story is told of the application to the Isle of Man of the United Kingdom Marine, etc., Broadcasting Offences Act, 1967.

The Isle of Man has achieved in Tynwald control of its domestic legislation but, as the United Kingdom Government is responsible for the external relationships of the Island, certain legislation originating in Westminster is applied either directly to the Isle of Man or by Order in Council.

To remove the " pirate " radio stations which were operating out-

side the International Convention on Wireless Telegraphy, it was necessary for the decision of the Council of Europe to be implemented by legislation in each of the constituent countries.

Therefore, when Westminster introduced legislation to make it an offence to service the offshore ' pirate " stations, a similar Bill was brought before the lower House of the Isle of Man Parliament, the House of Keys. The Bill, however, was discharged on its second reading. It became apparent shortly afterwards that, to close any loophole on the western seaboard and particularly to take action against " Radio Caroline North ", anchored only five miles off the Manx coast, the United Kingdom Government would extend their legislation to the Isle of Man by Order in Council as soon as it was enacted. By Petition in Tynwald to Her Majesty the Queen in Council, four requests were made. They were:

That Her Majesty in Council may—

1. Bear in mind that a measure in similar terms has been discharged by the House of Keys as detrimental to the economy of this Island and repugnant to the wishes of the Manx people as reflected by their duly elected representatives.

2. Be aware that H.M. Government in the United Kingdom has (without consultation and the concurrence of the Manx Legislature), prepared legislation to effect such application to the Island.

3. Be informed of the opinion of this Hon. Court that the issue is of fundamental importance to the constitutional relationship between the Governments of the United Kingdom and the Isle of Man.

4. Be graciously pleased to hear and accept any elaboration of the views of the Isle of Man Government which Her Majesty in Council may deem necessary.

As a result of this Petition, a special Committee of the Privy Council which had been provided for several years ago, but which had never met, was convened, and representatives of Tynwald set out in full the substance of their case against the extension of the Westminster legislation. This Committee reported in turn to the full Privy Council. On the 31st July, 1967, the Privy Council notified the Manx Government that the Petition had not been granted.

Although by this time the Manx Parliament had adjourned for the summer recess, an emergency meeting was called on 8th August at which one member moved that:

Tynwald, conscious of its ancient rights and privileges, representing as it does the liberty of the Manx people and reaffirming the loyalty of this Island to Her Majesty the Queen as Lord of Man—

(*a*) rejects as incompatible with the freedom of a self-governing democracy the enforcement by Orders in Council of the domestic policies of Her Majesty's Government in the United Kingdom on the people of this Island against their wishes, as expressed by their elected representatives in Tynwald;

(*b*) considers that the interests of the Manx people will be best served by the immediate submission of a request to the Committee of the United

Nations charged with protecting the interests of colonial and subject peoples for an urgent investigation into the intention of the United Kingdom administration to extinguish the rights of self-government vested in Tynwald, the oldest continuous democratic assembly in the world.

This was subsequently amended to an appeal to the Commonwealth Secretariat which, in terms of Article 13 of its constitution by the Commonwealth Prime Ministers in 1965, had a special task for the remaining dependent countries within the Commonwealth.

Although the upper House of Tynwald did not agree with this proposal, the House of Keys persisted in passing the motion, and subsequently the Speaker of the House of Keys was invited to meet the Minister of State at the Home Office who wished to explain the reasons why the United Kingdom Government were applying their Marine, etc., Broadcasting Offences Act to the Isle of Man.

Arising from this meeting, the Minister visited the Island in September and, after discussions with the Isle of Man Government, a Joint Working Party has been set up for the purpose of considering—

(1) The instances during the past where it has been felt that Her Majesty's Government in the United Kingdom has intervened in affairs domestic to the Isle of Man which should be the sole province of Tynwald;

(2) The ways, if any, in which the Isle of Man wishes to see a change in the manner in which Her Majesty's Government in the United Kingdom operates the principles set out in the Home Office Memorandum to the McDermott Commission;

(3) The development of the constitutional relationship between Her Majesty's Government in the United Kingdom and the Isle of Man.

This Party is now pursuing its task with some degree of urgency, as the whole constitutional relationship between the Isle of Man and the United Kingdom is overshadowed, as it is with the Channel Islands, by the loom of the Common Market.

XII. THE GAMBIA: PRESENTATION OF A SPEAKER'S CHAIR TO THE HOUSE OF REPRESENTATIVES

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

The Gambia achieved independence within the Commonwealth on 18th February, 1965. To mark the event, the House of Commons resolved unanimously on 10th July, 1967, to present a humble address to Her Majesty the Queen, praying that she should give directions that there should be presented, on behalf of the House of Commons, a Speaker's Chair to the House of Representatives of The Gambia. A favourable answer was received three days later and on 27th July, 1967, a delegation of four Members was appointed by the House to travel to The Gambia to make the presentation.

The Chair was designed by Mr. Charles Bastable, M.S.I.A., under the guidance of Mr. Jeffrey Young, M.S.I.A., on behalf of the Ministry of Public Building and Works. The red leather covered chair is supported on stainless steel bars which continue up the back of the chair to carry the copper canopy which is suspended by wires from each of the bars. The coloured carved Gambian Coat-of Arms is fixed to the bars underneath the canopy.

The delegation consisted of Mr. Jack McCann (who was the leader), Mr. Elfed Davies, Mrs. Margaret Thatcher and Mr. John Tilney. They were accompanied by the writer. There were thus two representatives of the Labour Party and two of the Conservative Party, but for the purposes of the visit they represented primarily the House of Commons. Only one Member had been to The Gambia before, Mr. John Tilney, when he was Parliamentary Under-Secretary for Commonwealth Relations from 1962-64. Mr. McCann was at the time Vice-Chamberlain of Her Majesty's Household and is now a Lord Commissioner of the Treasury and a Government Whip. Before they left they were received by the High Commissioner for The Gambia, Mr. G. F. Valantine.

The delegation travelled by air from London to Bathurst, the capital of The Gambia, by way of Las Palmas. They arrived at the airport about midday on 26th September on a warm, wet day. They were met by the Deputy Speaker, Mr. E. D. N'Jie, the Parliamentary Secretary, Prime Minister's Office, Mr. Yaya Ceesay, Mr. Sissoho, the Clerk of the House, and the British High Commissioner, Mr. G. E. Crombie. The delegation stayed at the Atlantic Hotel, situ-

ated almost on the seashore, as guests of the Government of The Gambia.

The first engagements were visits to the Speaker, the Hon. A. S. Jack, the acting Prime Minister, the Hon. S. M. Dibba, and the Governor-General, H. E. Alkaji Sir Farimang M. Singhateh, K.C.M.G., from all of whom the delegation received a very warm welcome. Unfortunately, the Prime Minister himself was out of the country. In the evening they attended a reception given at Government House by the Governor-General, at which they met many people of all walks of life and of all nationalities.

The presentation of the Chair took place on the following afternoon. A rehearsal took place the day before, always very necessary, as however carefully a ceremony may be planned some alterations of detail are invariably found necessary. The actual ceremony was superbly organised and was most impressive. It took place in the Chamber of the House of Representatives before a full attendance of all available Members and a large gathering of distinguished guests. Fortunately the weather, though hot, was perfect. The delegation arrived by car, to music from the Police Band. They were, in due course, led by the Serjeant at Arms in procession into the Chamber to chairs opposite the Speaker. The Speaker made a most friendly welcoming speech, and then Mr. McCann and Mrs. Thatcher made speeches preparatory to the unveiling of the Chair. This had been placed on the dais, covered by the British and Gambian flags. Mr. McCann pulled a cord and the flags were drawn back revealing the Chair. Mr. Speaker thereupon took his seat on it, and his old chair was removed.

A motion of thanks was then moved by the Acting Prime Minister and seconded by the Leader of the Opposition, Mr. P. S. N'Jie. This was agreed to unanimously and the ceremony ended by the Speaker leading the procession, which included the delegation, from the Chamber.

On return to England, Mr. McCann reported to the House of Commons that the Chair had been duly presented, and expressed the appreciation of the delegation on the efforts of the Gambian Parliament and, in particular, of Mr. Speaker, who went out of his way to make their stay so interesting. He also reported the resolution of the Gambian Parliament to the House and it was ordered to be entered in the Journals of the House.

Apart from this impressive ceremony, the delegation were able to see some of the growing development of The Gambia. Schools, hospitals, public works and agricultural stations were visited. They also had a most enjoyable day going up the river to James Island in the Governor-General's yacht, which he kindly placed at their disposal. This island is the place where the original British Garrison was stationed. It is now very small and the fort is in ruins, but it gave them some idea of the hardships which they must have endured.

On the way, they stopped at a small village on the north bank, where they were given a rapturous welcome by a large number of children, who were particularly delighted at being photographed.

In addition to this expedition the delegation were entertained at a dinner by the Speaker at the Atlantic Hotel and by the British High Commissioner at his house. At both parties they were enabled to meet many Gambians, and both evenings were most enjoyable.

On Friday, 29th September, the delegation left for home—in a thunderstorm. They stayed that night in Dakar, where they were hospitably entertained by the First Secretary at the British Embassy, and flew on to Paris and London the next day. I am sure I am speaking for all members of the delegation when I say that no expedition could have been more enjoyable, the welcome more friendly, or the arrangements more efficiently organised and carried out. Their gratitude to all concerned is profound and they look forward to the day when they can pay a return visit.

XIII. PRESENTATION OF A GIFT BY THE UNITED KINGDOM HOUSE OF COMMONS TO THE HOUSE OF REPRESENTATIVES OF MALTA

BY LOUIS F. TORTELL
Clerk of the House of Representatives

It having become the established tradition of the Parliament of the United Kingdom to present a gift to former colonies on the attainment of fully self-governing status, the House of Commons, at its sitting of the 11th May, 1967,* passed the following resolution, moved by the Lord President of the Council and Leader of the House of Commons:

Resolved,
That an humble Address be presented to Her Majesty, praying that Her Majesty will give directions that there be presented, on behalf of this House, a bookcase containing Parliamentary and Constitutional reference books to the House of Representatives of Malta, and assuring Her Majesty that this House will make good the expenses attending the same.

At the sitting of the House of Commons held on Thursday, 1st June, 1967,† the Vice-Chamberlain of the Household reported Her Majesty's answer to the Address, as follows:

I have received your Address praying that I will give directions for the presentation on behalf of your House of a bookcase containing Parliamentary and constitutional reference books to the House of Representatives of Malta and assuring Me that you will make good the expenses attending the same.

It gave Me the greatest pleasure to learn that your House desires to make such a presentation and I will gladly give directions for carrying your proposal into effect.

On Monday, 10th July, 1967, the following delegation entrusted by the House of Commons to present the bookcase was welcomed in Malta: Mr. Maurice Edelman, M.P., Leader of Delegation; Miss Joan Lestor, M.P.; Rear-Admiral Morgan Giles, M.P.; Mr. Simon Wingfield Digby, M.P.; Mr. D. Scott, Clerk to the Delegation.

The form of the gift was agreed upon beforehand. It consisted of a Honduras mahogany bookcase, 6 ft. 8 in. tall, built by the London firm of furniture makers, Beresford and Hicks. Silver bronze frames the glazed doors of the upper portion and the veneered machutta burr panels of the lower section. It contains a comprehensive collection of about 150 Parliamentary and Constitutional books

* H. of C. *Hans.*, Vol. 746, c. 1782-84.
† H. of C. *Hans.*, Vol. 747, c. 225.

of reference, some of which were specially selected by the Clerk of the House of Malta.

The delegation remained four days on the Island as guests of the Maltese Government. An elaborate programme for their entertainment was drawn up. The presentation of the bookcase was made during a special session of the House of Representatives on Wednesday, 12th July, 1967. The sitting commenced at 6.30 p.m., when Mr. Speaker took the Chair. The Chaplain recited the Prayers and the Minutes of the previous sitting were confirmed. The Senior Usher, addressing Mr. Speaker from beyond the Bar, said that a delegation sent by the United Kingdom House of Commons to present a bookcase to the House had inquired whether the House of Representatives was pleased to receive it. Mr. Speaker (Hon. Dr. A. Bonnici, M.P.) reported to the House the request, whereupon the Prime Minister (Hon. Dr Giorgio Borg Olivier, M.P.) rising in his place moved:

That a Delegation from the House of Commons of the Parliament of the United Kingdom of Great Britain and Northern Ireland be received on the Floor of the House.

The motion was seconded by the Deputy Leader of the Opposition (Hon. Dr. A. Buttigieg, M.P.) and agreed to.

The delegation, on being informed by the Senior Usher, as requested by Mr. Speaker, entered the Chamber led by Mr. Maurice Edelman, M.P., and took their allotted seats on either side of the Speaker's dais. Mr. Speaker welcomed the delegation and invited Mr. Edelman, as Leader, to address the House. Mr. Edelman addressed the House and formally presented to Mr. Speaker a book and the key in token of the presentation of the bookcase. Mr. Simon Wingfield Digby, M.P., also addressed the House on the invitation of Mr. Speaker. The Prime Minister then moved:

That this House accepts with thanks and appreciation the gift of a Bookcase and a number of Parliamentary and Constitutional Books of Reference from the House of Commons of the Parliament of the United Kingdom of Great Britain and Northern Ireland to mark the attainment of Malta's Independence and her entry into the Commonwealth.

The motion was seconded by the Hon. Dr. Buttigieg and agreed to unanimously. Mr. Speaker handed to Mr. Edelman the resolution as passed by the House requesting him to present it to the House of Commons. The delegation then withdrew beyond the Bar and the House adjourned.

After the adjournment, a reception in honour of the visiting delegation was held by the C.P.A. Branch in the precincts of the House. The delegation left Malta on the morning of Friday, 14th July, 1967, and Mr. Edelman later reported to the House of Commons on the successful completion of the Mission.*

* H.C. *Hans.*, Vol. 751, c. 333-4.

XIV. RECORDS OF PARLIAMENT: ANSWERS TO QUESTIONNAIRE

The questionnaire for Volume XXXVI asked the following questions:

Please give a general description of the records made and preserved in your Parliament, including answers to the following particular points:

1. In whose custody are the records kept?
2. How many members of the staff are concerned with their preservation—
   (*a*) full-time,
   (*b*) part-time?
3. What are the physical conditions of preservation, e.g. are any forms of air-conditioning in use?
4. Approximately what quantity of records is preserved? (number of volumes or files; or length of shelf-run in use).
5. List the main classes of record preserved with starting date in each case.
6. Are tape recordings of (*a*) some debates; (*b*) all debates, preserved?
7. Do the public have access to the records? If so, under what conditions?
8. Are copies provided for the public?

The replies to these questions have been analysed and a table showing answers to the main points, has been prepared. The table should be regarded only as a rough comparative guide to the practice of record preservation in the legislatures of the Commonwealth; for more accurate information the individual returns should be consulted. In addition, the tables should be used with some caution, in that the Editor may have misinterpreted the replies; for instance, when it is stated that the records are in the custody of the Clerk and that one full-time official is concerned with their care the Editor was not always certain whether the Clerk and the full-time official are one and the same person.

Westminster: House of Lords

Until the end of the fifteenth century, records made of proceedings in Parliament were transferred at the end of the session to Chancery, which in the middle ages was practically a governmental secretariat for all departments.* From 1497 onwards, however, an increasing quantity of documents was preserved continuously within the House of Lords by the Clerk of the Parliaments. These documents con-

* For a more detailed treatment of this and other points in the note, see the article by the present writer, "The Preservation of the Records of Parliament at Westminster", in Vol. XXXII of THE TABLE (1964), pp. 20-25.

Parliament	*Custody*	*Staff*		*A/C*	*Quantity*	*Earliest Record*	*Tape Recordings*	*Public Access*	*Public Copies*
		Full	*Part*						
United Kingdom: Lords	Clerk of the Parliaments	9	—	Yes	32,400 sq. ft.	1497	Temporary use	Open	Yes
United Kingdom: Commons	Clerk of the House	†	—	Yes†	200,000 items	1547	No	Open†	Yes
Northern Ireland	Librarian	—	2	No	2,000 ft.	1921	—	Research Students	No
Jersey	Greffier of the States	—	2	No	15 ft.	1524	No	Open	Yes
Isle of Man	Registry or Manx Mus.	—	—	No	15 ft. +	early 15th C.	Temporary use	Open	Yes
Canada: Ontario	Clerk	—	3	No	—	—	Temporary use	Yes	Controlled Supply
Canada: British Columbia	Clerk	*	—	Yes	—	1890	—	Open	Yes
Canada: Prince Edward Island	Clerk, Provincial Secretary/ Librarian	*	—	No	—	—	All debates kept	To Library	* *
Australia: Senate	Clerk	—	6	No	1,600 sq. ft.	1901	Temporary use	Open	Yes
Australia: House of Representatives	Clerk	—	4	No	2,680 sq. ft.	1901	Temporary use	Open	Yes

* No precise return + Controlled access * * Prints available † But see full answer

	Parliament	Custody	Staff		A/C	Quantity	Earliest Record	Tape Recordings	Public Access	Public Copies
			Full	Part						
Australia	New South Wales L.C.	Clerk	2	—	No	4,346 ft.	1856	No	Open	Yes
Australia	New South Wales L.A.	Clerk	*	—	No	565 ft. and 3,250 boxes	1825	No	Open	* *
Australia	Queensland	Clerk	4	—	No	2 strong rooms	1860	—	* *	+
Australia	South Australia L.C.	Clerk	—	3	No	160 feet + 3,100 vols.	1857	—	* *	Open
Australia	Tasmania	Librarian and Clerk of Papers	*	—	For recent records, yes	373 vols.	1826	No	Open	* *
Australia	Victoria L.A.	Clerk	—	2	No	—	1851	No	Yes	* *
Australia	Western Australia	The Clerks of both Houses	5	—	No	3,700 ft.	1871	Some tapes preserved	Open	No
Australia	Northern Territory	Clerk	*	—	Yes	50 ft.	1948	Temporary use	+	* *
	New Zealand	Clerk of the House of Representatives	*	—	No	800 sq. ft.	1860	No	Open	* *

* No precise return + Controlled access * * Prints available † But see full answer

	Parliament	*Custody*	*Staff* *Full*	*Staff* *Part*	*A/C*	*Quantity*	*Earliest Record*	*Tape Recordings*	*Public Access*	*Public Copies*
Ceylon		Clerk	*	—	No	—	1947	—	None	* *
India	Rajya Sabha	Secretary	4	—	Yes, for tapes	105 metres	1952	Some tapes	Yes	—
	Lok Sabha	Secretariat	4	—	No	197,417 items	1918	Some tapes	No	* *
	Andhra Pradesh	*	*	—	No	—	—	No	No	No
	Gujarat	Secretary	—	1	No	—	—	No	No	Yes
	Kerala	Secretary	2†	—	—	—	—	—	No	* *
	Madhya Pradesh Vidhan Sabha	—	—	2	No	5,182 files	1956	No	No	—
	Madras L.C.	Secretary	1	—	No	35 shelves	1937	No	+	Not†
	Madras L.A.	Secretary	1–3	—	No	98 feet	1937	—	No	No
	Maharashtra	Secretary	1	—	No	1,600 ft.	1921	Temporary use	No	* * Certificate of docs.
	Orissa	Recorder of the Secretariat	3	—	No	—	—	—	No	For some classes

* No precise return + Controlled access * * Prints available † But see full answer

Parliament		Custody	Staff		A/C	Quantity	Earliest Record	Tape Recordings	Public Access	Public Copies
			Full	Part						
India	Punjab Vidhan Parishad	Superintendent	2	—	—	5,269 files	c. 1953	—	—	—
	Rajasthan	Secretary	—	—	—	—	—	No	—	• •
	Uttar Pradesh L.C.	Secretary	2	—	—	6–700 files p.a.	—	No	No	• •
	Uttar Pradesh L.A.	Secretary	•	—	No	—	—	No	No	• •
	West Bengal	Secretary	8	—	No	1,500 files p.a.	1899	Temporary use	No	No
W. Pakistan		Secretary	3	—	No	3,000 files	1921	Temporary use	+	Yes
British Solomon Islands		Clerk of Leg. Council	•	—	Yes	10 files p.a.	—	—	None	—
Malta		Clerk	—	1	—	400 vols.	1835	No	+	• •
Gibraltar		Clerk	—	1	—	38 vols.	1950	—	Yes	• •
Cayman Islands		Clerk	—	3	—	—	1959	—	Yes	• •
Zambia		Clerk	•	—	—	—	—	Some tapes	Yes	—
Mauritius		Clerk	•	—	Yes	—	—	Temporary use	—	• •

• No precise return + Controlled access • • Prints available † But see full answer

sisted of two main types: (*a*) records relating to the work of Parliament as a whole, principally the authoritative texts of Acts of Parliament; (*b*) the domestic records of the Upper House such as its Journals, petitions presented to it, Bills considered by it, etc. Between 1621 and 1864 the greater part of these records were preserved in the Jewel Tower at Westminster; since 1864 they have been stored in the Victoria Tower. Throughout they have been in the custody of the Clerk of the Parliaments who, since the early seventeenth century has sworn, on taking office, to make " true Entries and Records of the things done and passed in [Parliament] ". From 1896 onwards, junior clerks in his office were assigned the task of arranging and calendaring the documents, until, in 1946, a separate department was established within the Parliament Office, the House of Lords Record Office, which now has full responsibility for preserving, repairing, listing, publishing and making available the records of the House.

The senior officer of the Record Office is the Clerk of the Records. He is appointed by the Clerk of the Parliaments, and to him " the Clerk of the Parliaments has delegated his custody of the records of the House " (*Companion to the Standing Orders*, 1963). The other members of the Record Office staff comprise two Assistant Clerks of the Records; five Office Assistants on clerical grades and a personal Secretary to the Clerk of the Records. A " Bindery " unit, staffed by eight craftsmen and one Microfilmer, is provided by H.M. Stationery Office, and works in close conjunction with the Record Office.

The repository in the Victoria Tower has, since 1963, been provided with air-conditioning plant that enables the temperature to be fixed at a level point within the range 55°-65°F., and relative humidity at a level point within the range 55%-65%R.H. No exact count has been made of the documents, but there are probably about 2 million separate items. The total area of the repository is 32,400 square feet, and the total length of steel shelving 5¼ miles—though this includes provision for the storage of records of the House of Commons and of other users of the Palace of Westminster.

The main classes of Lords' records preserved are as follows:

Acts of Parliament, 1497 to date.

Private Bill records, 1572 to date, including Transcripts of Evidence given in Committee, Deposited Plans, Sections and Books of Reference, 1794 to date.

Public Bill records, 1558 to date, including texts of Bills that failed.

Judicial records, 1621 to date, including Records of Appeal Cases from 1621; of Cases in Error, from 1621 to 1857; of Impeachments, from 1621 to 1805; of Cases of Original Jurisdiction, from 1621 to 1693; of Cases of Privilege, 1621 to date; of Trials of Peers, 1626 to 1936.

Parliament Office Administration Papers, 1609 to date.

Papers laid on the Table of the House, including Petitions, Command Papers, Act Papers and House Papers, 1497 to date.

Peerage Claim records, 1604 to date.

Journals of the House, 1510 to date.

Minutes of Proceedings in the House, 1610 to date.

Minutes of Proceedings of Committees, 1621 to date.

Smaller classes include Garters' Rolls, 1621 to 1964; Protest Books, 1642 to date; Proxy Records, 1625 to 1883; Royal Commissions, 1542 to date; Standing Orders, 1624 to date; Subsidies of the Clergy, 1543 to 1628; Test Rolls, 1675 to date; and Writs of Summons, 1558 to date.

In addition the House has, since 1920, been given or has purchased fairly extensive collections of documents including, for instance, the Braye Manuscripts containing invaluable Parliamentary material for 1572 to 1700, and the papers of the 1st Viscount Samuel, 1883 to 1962.

Debates were to a limited extent recorded in manuscript documents from 1610 to 1714; the principal accounts of debates appear in the printed *Parliamentary History* of William Cobbett for the period up to 1803, and subsequently in Hansard's *Parliamentary Debates*, which for the Lords, as for the Commons, have been verbatim since 1909. The entire sequence of more than 1,500 vols. (of debates of both Houses) is held, not by the Record Office, but by the House of Lords' Library. Since June, 1962, tape recordings of debates have been made in order to help the preparation of *Hansard*. These tapes, however, are not preserved as records but are re-used.

The public are given, so far as possible, general access to the records. This has been a constant tradition in the Lords and probably stems from the time when Acts might exist only in a single manuscript copy at the Lords. It is also a consequence of the Upper House, as the highest court of appeal, being a public court of law. Accordingly, members of the public may consult in the Record Office Search Room any record of the House, subject to the exceptions that use of Parliament Office Papers, Minutes of Proceedings in Committee and Committee Papers has a thirty year limit, and that donors and depositors may recommend similar limitations on the availability of their own documents.

Copies of documents are provided for the public in a variety of ways. Since 1870 the more ancient documents have been edited in calendars published by H.M. Stationery Office; 24 volumes now bring the series up to documents dating from the year 1714, and at the moment a volume for 1714-18 is in preparation, as well as a detailed guide to the records of both Houses. Typed copies of documents can be prepared by the Record Office staff at a standard charge, and since 1963 xerographic copies have also been supplied by them. Alternatively, members of the public may commission commercial photographers to attend in the Search Room and make photographic copies. The primary purpose of the Record Office is the service of Parliament itself, but since the establishment of the department in 1946 the use of the records of the House by the general public has multiplied perhaps twenty-fold. Students come to it

daily, many of them from overseas, and an historian has recently described the House of Lords Record Office as providing "a major historical workshop" for the country.

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

Westminster: House of Commons

The records of the House of Commons date from 1547, the year in which the first Journal of the House was compiled. By the end of the eighteenth century an extensive series of manuscript and printed records had been formed, but very many of these were destroyed by fire in 1834. The documents that survived, together with those of post-1834 date, are in the custody of the Clerk of the House of Commons, with the exception that certain copies of Papers are in the custody of the Librarian.* More recent examples of certain classes are retained in the immediate care of the Clerk of the Journals (notably the Test Rolls and the Election Return Books), but practically the whole of the remainder are stored in the Victoria Tower in the charge of the Clerk of the Records of the House of Lords. There they are preserved under the conditions described in the foregoing article. In all there are probably some 200,000 items. The main classes are:

Journals of the House, in manuscript, 1547 to 1800, and printed, 1547 to date.†

Minute Books, 1851 to date.

Votes and Proceedings of the House, 1680 to date.

Committee Proceedings and Evidence, 1833 to date.

Private Bill records, 1814 to date.

Printed Sessional Papers, 1801 to date, with earlier collections for 1715 to 1801.

Unprinted Sessional Papers, 1851 to date.

Petitions, 1621-49, and Public Petitions, 1951 to date.

Election Return Books, 1835 to date.

Court Evidence (Disputed Elections), 1869 to 1906.

Test Rolls, 1835 to date.

Parliamentary Debates (see the Lords return above).

No official records of proceedings on tape are preserved. The historic records of the House are available to students in the Lords Record Office Search Room, but records not ordered to be printed by the Commons are not available for dates within the last fifty years. Copies and photographs of historic Commons documents may be

* These comprise official copies of all Papers, other than those arranged in the published series of Bills and Commons Papers ordered to be printed by the House, and of Papers presented by Command.

† The House ordered the Journals to be printed in 1742; by 1762 all the volumes for 1547 to 1762 had been issued, and from then onwards volumes have appeared sessionally.

obtained from the Lords Record Office; copies of the printed Papers and *Debates* are obtainable from H.M. Stationery Office.

Northern Ireland

The Librarian has custody of the records both of the Senate and the House of Commons. Two part-time officials assist him in his duties. The records are stored on standard library steel shelving, either between millboards or in boxes, on a total shelf run of 2,000 feet. No air-conditioning is used. The records, which are comprised of Order Papers, Notice Papers, Notices of Motions, Votes, Proceedings and Records, Journals and *Hansards* from the House of Commons, and Notices and Orders of the Day, Minutes of Proceedings, Journals and *Hansards* of the Senate in addition to Committee Reports, Bills and Acts, date from the establishment of the Northern Ireland Parliament in 1921. Research students may be permitted access to the records at the discretion of the Librarian, but copies of records are not supplied except to the Stationery Office when their stocks are exhausted.

Jersey

The records of the States of Jersey consist of statements of the decisions made by the States. Legislation approved by the States is printed in detail, but no detailed record is kept of any debates.

Records have been kept since 1524 and, up to the end of 1966, the official copy was handwritten. Since then the official copy has been typewritten.

The records are in the custody of the Greffier of the States, and two members of his staff are concerned, part-time, with their preservation.

The official copy of the records since 1524 is kept in a ventilated strong-room, and is contained in 55 volumes occupying 12 feet of shelves.

No tape recordings are made of any debates.

Any member of the public may have access to the records of the States on application to the Greffier of the States and, if so requested, he will provide copies of the records to members of the public free of charge. Legislation approved by the States is available to members of the public at a price dependent on its size and printing costs.

Isle of Man

The Votes and Proceedings of Tynwald are compiled and kept for a short time by the Clerk of Tynwald, subsequently being deposited for safe custody in the Manx Museum. Acts and Resolutions of Tynwald are deposited under statutory authority in the office of the High Court (the General Registry). Accordingly, there are no members of the staff specifically dealing with the preservation of records.

The latest methods of preservation of archives are employed both in the General Registry and in the Manx Museum. The Votes and Proceedings of Tynwald and the Journal of the House of Keys do not take up any appreciable amount of space. The total number of the printed reports of debates of the Legislature runs to 84 volumes and they take up about 15 feet of shelf space. The record of debates commenced in November, 1887. Records of Tynwald exist from the early fifteenth century.

Tape recordings are made of all debates and its branches, namely the Legislative Council and the House of Keys. Once these tapes are transcribed to the official account of debates, they are obliterated for further use.

Records are available to the public under the rules of both the Manx Museum and the General Registry. Copies of the reports of the debates may be had on payment of the appropriate fee.

Canada : Ontario

The Clerk of the House has custody of the records, which are cared for by three part-time members of his staff. No form of air-conditioning is yet in use. Tape-recordings of debates are kept for one session. The public may consult documents in the Clerk's office and sometimes a copy is provided.

British Columbia

The parliamentary records are in the custody of the Clerk of the House who, together with his secretary, is responsible for their supervision. They are preserved in the Clerk's office for one year, then in a vault for some ten years, before being placed in an air-conditioned building containing other provincial archives. The records date from 1890, and they are open to inspection by the public in the Clerk's office. Copies are often provided.

Prince Edward Island

Bills and tape-recordings are preserved in the office of the Deputy Provincial Secretary, while all other documents are kept in the Legislative Library. The Clerk of the House, the Librarian and Deputy Provincial Secretary are the part-time custodians of the records, which are stored in somewhat poor physical conditions without the use of air-conditioning. Tape-recordings of all debates are kept. Members of the public have access to the records preserved in the Library, but copies of documents are provided only in limited quantities while supplies last.

Australia : Senate

The records of the Senate, mostly dating from 1901, include the Journals of the Senate, Senate Notice Papers, *Hansard*, Presidents' Rulings, Bills, Acts, Statistics of various kinds, Original Tabled

Papers, printed Parliamentary Papers, Minutes of Evidence of Select and Standing Committees, Correspondence files and miscellaneous records. They are in the custody of the Clerk of the Senate, as provided by Standing Order 41, "The custody of the Journals, Records and all Documents whatsoever, laid before the Senate, shall be in the Clerk".

Six officers are concerned part-time with the preservation of the records, which are largely housed in a basement area of 1,600 square feet situated beneath the Senate Chamber. They are stored in steel cupboards with doors, "compactus" movable steel shelving, four-drawer sliding drawer filing cabinets, and for some bound volumes, open shelving. Except for the four-drawer filing cabinets most units are eight feet high. Although no section of the storage area is air-conditioned, the area is vacuum-cleaned regularly and sprayed with powder insecticide. Other records are stored in cabinets in the offices. A minimum of fifty copies of printed Parliamentary Papers are kept, but varying in proportion to public and governmental interest. These sets of bound volumes of Parliamentary Papers are kept in the Senate Office. Twenty-five copies in loose form and eight sets of bound volumes are kept of Journals, Notice Papers, Bills, and Acts. Only one or two copies of other records are preserved. Tape-recordings of debates are made but not preserved. The tapes are kept by Hansard for a limited period of approximately one month.

Standing Order 362 provides that "All Papers and Documents laid upon the Table of the Senate shall be considered public". Therefore, Papers not ordered to be printed may be inspected at the Office of the Senate at any time by Senators, and, with permission of the President, by other persons, and copies thereof or extracts therefrom may be made. Copies are not generally provided by the Senate Records Office for the public if copies can be obtained from the Government Printing Office. Requests for documents not available from the printing office, are considered on their merits.

Australia : House of Representatives

All records are in the custody of the Clerk of the House of Representatives, as provided for in Standing Order 39, which states:

> The custody of the Votes and Proceedings, records, and all documents whatsoever laid before the House shall be in the Clerk, who shall neither take, nor permit to be taken, any such Votes and Proceedings, records, or documents, from the Chamber or offices, without the leave of the Speaker: Provided that on the application of a department any original document laid on the Table, if not likely to be further required by Members, may in the Speaker's discretion be returned to such department.

Four part-time officers look after the records of the House of Representatives, which are largely housed in a basement area of 2,680 square feet, situated beneath the House of Representatives Chamber.

They are stored in steel cupboards with doors, and in mobile steel shelving. The storage area is not air-conditioned. The classes of records, all dating from 9th May, 1901, are:

(a) *Original Votes and Proceedings* (shelf run, 357 feet).

(b) *Other records*, consisting of stocks of Notice Papers. Votes and Proceedings, Parliamentary Papers and Bills (shelf run, 3,735 feet).

(c) *Bound Volumes*. Votes and Proceedings, 14 sets of 37 volumes (11 sets in officers' rooms); Notice Papers, 8 sets of 39 volumes (6 sets in officers' rooms); Parliamentary Papers, 4 sets of 115 volumes; Bills, 6 sets of 55 volumes (3 sets in officers' rooms).

Tape-recordings of some debates are made but not preserved. The tapes are kept by Hansard for a limited period of approximately one month. The records are open to members of the public as provided by Standing Order 320:

> All papers and documents presented to the House shall be considered public. Papers not ordered to be printed may be inspected at the offices of the House at any time by Members, and, with permission of the Speaker, by other persons, and copies thereof or extracts therefrom may be made.

Copies are not generally provided by the Papers Office for the public, but if a particular document is not available from the Government Printing Office, any request from the public is considered on its merits.

New South Wales : Legislative Council

Legislative Council records are held in the custody of the Clerk of the Parliaments and two officers are engaged full-time in preserving them. The records are stored in steel cupboards and on open shelving, the total length of shelf-run being 4,346 feet. There is no air-conditioning.

The classes of records are the following:

(1) Minutes of Proceedings for each day's sitting (prepared in manuscript and then printed, the manuscript being retained until the end of the session and then discarded).

(2) Printed Notice Paper, Questions and Answers Paper, and Memorandum of Printed Papers, etc., available to Members.

(3) Reports from the Printing Committee, Committee of Subordinate Legislation, and Select Committees, together with correspondence, evidence, etc.

(4) Bills at various stages.

(5) Documents tabled (departmental reports, etc.).

(6) Inwards and Outwards correspondence.

(7) Journals of the Legislative Council. These are prepared at the end of each Session in bound form. They comprise Minutes

of Proceedings and an index thereto, reports of the Printing Committee and the Committee of Subordinate Legislation, Registers showing Petitions received and details relating to Bills dealt with, as well as returns showing details of Divisions recorded in Committee of the Whole, Addresses and Orders for Papers, the Attendance of Members and the occasions upon which they voted in Divisions, and a list of Members who took the Oath.

(8) Registers are maintained in the Council office of all documents laid upon the Table, subordinate legislation (statutory instruments) gazetted, inwards correspondence and memoranda and outwards correspondence created in the Council office.

Of the classes, the printed copies of Minutes of Proceedings, Papers ordered to be printed, Bills, Acts, and original documents tabled, as well as inwards and outwards correspondence, date from 1856. Bound volumes comprise Journals, Acts, Printed Papers dating from 1856 and Parliamentary Debates from 1879. Tape-recordings of debates are not preserved. The public may consult Legislative Council records upon application to the Clerk of the Parliaments. Documents tabled and correspondence from 1856 to 1934 have been microfilmed and are available in this form in the nearby N.S.W. Public Library. Xerox and photo copies of printed parliamentary material are available from the Parliamentary Library and of both printed and original items from the N.S.W. Public Library.

New South Wales : Legislative Assembly

Records made and preserved by the Legislative Assembly of New South Wales fall into three main categories, viz., Reports and other documents laid upon the Table (both in manuscript and printed form); correspondence, minutes, memoranda, etc., relating to day-to-day administration (including that of Parliamentary Reporting Staff, Parliamentary Library and Joint House services); and printed copies of those Papers laid upon the Table and ordered to be printed.

The Clerk of the Legislative Assembly has the custody of all records. Standing Order No. 53 states, "The custody of the Votes and Proceedings, Records, and all documents whatsoever laid before the House, shall be in the Clerk, who shall neither take, nor permit to be taken any such Votes and Proceedings, Records or documents from the Chamber or Offices, without the express leave or order of the Speaker".

No members of the staff are concerned either full- or part-time with the preservation of records. However, general care is exercised by members of the staff at all times and appropriate steps taken to prevent deterioration. From time to time stocks of Papers printed

by order of the House are examined and, when necessary, thinned out.

Further, in 1905, by Resolution of the House, the Clerk was authorised to destroy certain records, but in practice no manuscript records are destroyed.

Printed papers and correspondence records are stored in open shelving (wooden and steel) which is generally divided into boxes to take foolscap size varying between 12 and 18 inches in height. Original Reports and other documents laid upon the Table are stored in a steel "Compactus" unit which is virtually dust free. No air-conditioning is in use.

The following categories of records are preserved:

(*a*) Original Reports and other documents laid upon the Table. Stored in a "Compactus" unit, shelf height 10 inches, length of shelf in use approximately 480 feet. Starting date, 1825.

(*b*) Correspondence, minutes, memoranda, etc. Stored in open shelves, shelf height 16 inches, length of shelf in use 40 feet. Starting date, 1856. (Up to 1891 documents referred to in (*a*) and (*b*) were filed together. Since that date they have been maintained separately.)

(*c*) Printed copies of Tabled papers, stored in open steel and wooden boxes, average height 16 inches, approximately 3,250 boxes in use. Starting date, 1856.

(*d*) Records of Proceedings in Committee of the Whole on Bills and in Supply and Ways and Means on Financial measures. Stored in open shelving, shelf height 16 inches, length of shelf in use 45 feet. Starting date, 1856. (Bound since 1899.)

(*e*) Rolls of the House. Following each General Election a Roll is prepared and, upon taking the Oath or Affirmation of Allegiance, each Member signs the Roll. Rolls date from 1856, now number 42 and are stored in two fireproof steel boxes.

No tape-recordings are made of debates.

The public has access to documents laid upon the Table which may be inspected in the offices of the Clerk of the Legislative Assembly. Provision is also made for the Speaker to order that certain documents laid upon the Table and not ordered to be printed be made available to Members *only*. Copies of printed Papers may be purchased at the Government Printing Office.

Queensland

Standing Order No. 327 (Custody of Records) reads:

The Custody of the Journals and Records, and of all documents whatsoever laid before the House, shall be in the Clerk; who shall neither take, nor permit

to be taken, any of such Journals, Records, or documents from the offices of the House, without a resolution of the House: Provided, however, that in the event of the House being adjourned for any period longer than seven days, or prorogued, such leave may be given by Mr. Speaker, who shall report the same to the House upon its re-assembling.

Four Floor Officers are concerned full-time with record preservation. Records and copies are stored in shelves in two strong-rooms. Parchment Sessional Assent copies of Acts, in one bound volume, are kept in a tin box in a strong-room but no air-conditioning is used. The following categories of records are preserved from 1860:

(a) *Votes and Proceedings*
Manuscript copies (Records).
Revised copies—10 each sitting day.

(b) *Parliamentary Papers*
Papers tabled by Ministers (Records).
Twenty copies of each Paper ordered to be printed.

(c) *Bills*
Copy tabled and ordered to be printed (Record).
Interleaved copies — (Chairman and Clerk - Assistant) (Records).
Twenty copies—Second Reading.
If amended—10 copies Third Reading.
Third Readings—*Special*—signed by The Clerk (Records).

(d) *Acts*
Parchment Assent Copies (Records).
Twenty copies (paper).

(e) *Estimates*
Copy tabled and ordered to be printed (Record).
Interleaved copies (Chairman and Clerk-Assistant) (Records).
Twenty copies.

The public have access to records, subject to Mr. Speaker's permission, and under supervision of the staff of the House. Should any paper, *not ordered to be printed*, contain defamatory matter it is *not* released to the public. Under Standing Order No. 327, quoted above, privilege only attaches to records (not ordered to be printed) so far as Members of Parliament are concerned. If papers are ordered to be printed, copies can be purchased from the Government Printing Office.

South Australia : Legislative Council

The records, which are in the custody of the Clerk, consist of proceedings of Parliament, reports to Parliament, statutes and papers concerning the administrative workings of Parliament.

Three officers are concerned part-time with their preservation, in strong-rooms, the chamber and in various offices. Only the chamber is air-conditioned.

Approximately 3,100 volumes of bound records and 160 feet of loose files are held, comprising the following: Notice Papers, Minutes of Proceedings, Official Reports of Debates, Bills, Amendments and Messages between the Houses, Statutes, Parliamentary Papers—bound volumes of papers ordered to be printed; files of other papers laid on the Table, Statistical Record of the Legislature, General Indices, Members' Roll and Oath Book, Government Gazettes, Accounting Records and General Correspondence.

Most of these date from 1857, when responsible government was introduced.

All papers laid on the Table are available to the public on application to the Clerk. All printed papers may be purchased from the Government Printer.

Tasmania

In both the House of Assembly and the Legislative Council the basic Parliamentary records comprise:

Notices of Motions and Orders of the Day (daily business paper);
Votes and Proceedings (daily record of proceedings);
Papers (Reports tabled by command, statute or resolution);
Bills (in all stages);
Statutes;
Statutory Rules (subsidiary legislation).

These are under the custody and care of the Librarian of Parliament and the Clerk of Papers. The larger part of the accumulated records, including the earliest records, is stored on shelves and in space misers in a large concrete vault which is dry and reasonably airtight. The remainder, being more current, are stored in the Parliamentary Library and the Chamber, both of which are air-conditioned.

All records are preserved, with minor exceptions, since 1856, when responsible government was granted. Some earlier colonial records dating from 1826 are also available. The records comprise:

(*a*) Printed Papers, Notice Papers, Votes and Proceedings since 1856—total, 220 volumes.
(*b*) Statutes from 1851—116 volumes.
(*c*) Bills from 1930—37 volumes.

No records of debates are preserved since they are not recorded either by tape or conventional means.

Parliamentary records can be consulted but only by arrangement, and under supervision. However, all printed Parliamentary documents are widely distributed on publication to libraries, universities, individuals and organisations placed on a mailing list on application. Casual inquiries are satisfied as long as sufficient surplus copies remain. All are issued without charge.

Victoria: Legislative Assembly

The records of the Assembly are preserved in the custody of the Clerk of the House. They are looked after by two part-time assistants and are preserved on open shelves and in cupboards. The main classes are as follows:

(1) Six bound Sessional sets of Votes and Proceedings and printed papers of the original Legislative Council, 1851-56. (2) Six bound Sessional sets of Votes and Proceedings and printed papers of the Legislative Assembly since 1856. (3) Six bound sets of Bills introduced since 1856. (4) Six bound sets of *Hansard* since 1856. (5) Varying numbers of loose printed papers since 1856 and Bills since 1900 (copies of Bills prior to 1900 were recently discarded owing to lack of storage space). (6) All original papers presented to Parliament since 1851.

No tape recordings are made of debates. The public may have access to the records with the approval of the Speaker or the Clerk of the House. No copies are supplied but the public may purchase copies of printed papers at the Government Printing Office.

Western Australia

Five full-time persons are engaged in caring for the records of the Western Australian Parliament in the custody of the Clerks of both Houses. Storage space consists of open shelving without air-conditioning, and "Compactus" mobile storage units with mechanical ventilation. The open shelves have a run of about 2,000 feet and the "Compactus" units one of 1,700 feet. The following documents are preserved:

(a) *Hansards*. Western Australian, since 1876; *Australian States, since 1940; *New Zealand, since 1940; Commonwealth of Australia, since 1901; Britain, since 1854.

(b) *Statutes*. West Australian; *Australian States, from last consolidated reprint; *New Zealand, from last consolidated reprint; Commonwealth of Australia, since 1901; Britain, since 1887.

* Earlier volumes housed by State Library.

(c) *Votes and Proceedings* (including Parliamentary Papers). Western Australian, since 1871; *Australian States, since 1940; Commonwealth of Australia, since 1901.

(d) **Local Newspapers*, complete since 1948, indexed cuttings since 1919.

(e) *Sessional Records and statistical records and returns.* Loose copies retained approx. 10-15 years.

Experimental tape-recordings have been carried out in the Legislative Council, and some of these of more important debates have been retained. All the above records are open to inspection by members of the public but copies are not provided by the House.

Northern Territory

The Records are in the custody of the Clerk.

Since the records only run from 1948, no special action for their preservation has been taken, but they are boxed, and retained in an air-conditioned room, spread over fifty linear feet of shelving.

The following are the main categories of records preserved:

Original documents of all meetings of the Council, presentation copies of bills, notices of motions, amendments, Clerk's notes, papers, messages and statements presented, Assent copies of Ordinances, all records of committees of the Council including transcripts of evidence taken.

Tape recordings of debates are retained until approximately three months after printing, or until the conclusion of the meeting following the printing. Tape-recordings of evidence given to committees are retained until after publication of the committee's report or of the evidence.

The records generally are not available for public scrutiny, but papers presented to the Council are considered to be published, and members of the public are entitled to inspect them after obtaining permission from the President. Copies of published documents are provided.

New Zealand

The Journals and records of Parliament are placed in the custody of the Clerk of the House of Representatives in accordance with the Standing Orders as follows:

60. *Custody of Journals and records.*—The custody of the Journals and records, and of all papers and accounts whatsoever presented to or belonging to the House, shall be in the Clerk of the House, who shall neither take, nor permit to be taken, any of such Journals, records, papers, or accounts from the House or offices without an order of the House or by the leave or order of Mr. Speaker.

* Earlier volumes housed by State Library

61. *Authority to Clerk to destroy old records.*—The Clerk shall have authority to destroy at the end of every session the following records of the House:

1. Petitions presented to the House more than 20 years previously; and
2. Records more than three years old, being—

(*a*) Papers laid upon the Table which have been printed in the Appendices to the Journals of the House:

(*b*) Clerk's and Clerk-Assistant's notes (including notices of motion) taken at the Table and elaborated in the Journals:

(*c*) Manuscripts of Division lists:

(*d*) Minutes, proceedings, and papers of Select Committees which have appeared in print in the Appendices:

(*e*) Reports of Select Committees which have been printed in the Journals or Appendices:

(*f*) Record copies of Order Papers with Clerk's original notes:

(*g*) Messages from the Governor-General:

(*h*) Miscellaneous maps and plans which, in the opinion of the Clerk, are no longer of any value:

(*i*) Manuscript note and other books which can be of no further use:

Provided that the Clerk shall preserve such of the above records as he may consider of historic or other interest.

No members of the staff are engaged full time on the preservation of these records. The Committee Clerks spend some of their time during session assembling and labelling these records; only a minimum amount of time is involved. The physical handling of the bundles and other records is generally taken care of by the sessional messenger staff.

The records are housed on shelves in cellars approximately 40 by 20 feet. The cellars open on to a corridor and courtyard but no air-conditioning is in use.

In the main, records run from about 1860 onwards, and they comprise petitions, minutes of evidence, correspondence, notebooks, bound *Hansards*, Journals, Appendices, loose parliamentary papers, Bills and the like. In 1907 a fire destroyed a large part of Parliament House and many records were then destroyed. No tape-recordings of debates are preserved.

The public are allowed access to the records and may make copies thereof. If spare copies are available, they are sold to the public through the Government Printer.

In addition to the above parliamentary records, the Clerk of the House is required by statute to take custody of all ballot papers and to have them destroyed on the expiration of 12 months in the presence of himself and the Clerk of the Writs. The amount of electoral material at present awaiting destruction exceeds 20 tons.

Ceylon

The records consist of *Hansards* (six sets), Order Books, Order Papers, Minutes and Acts of Parliament (four sets), all dating from

1947. These are bound into volumes and are preserved in various rooms in the Parliamentary building, under the care of the officer in whose room they are placed. No air-conditioning is used and the records are merely placed in glass-fronted cupboards. The public have no access to these records but can purchase copies of *Hansard* and Acts from the Government Publications Bureau.

India: Rajya Sabha

The records of the Rajya Sabha consist, firstly, of archives relating to procedural matters and the business of the House, and membership rolls; secondly, those relating to the protection of the Chamber and its precincts and the regulation of visitors; thirdly, those relating to legislative and non-legislative matters, discussed in the House; and finally, matters appertaining to administration.

Under the first category are preserved papers appertaining to the summoning and prorogation of the Rajya Sabha, Calendar of sittings, Rules of Procedure and Rules Committee, Business Advisory Committee, Rolls of Members, Privilege Committee and questions involving privileges.

The second category includes papers relating to (i) security arrangements, that is, arrangements for guarding the inner and outer precincts of the House including deployment of Watch and Ward Staff of the Rajya Sabha Secretariat for the purpose and (ii) regulation of visitors to different Rajya Sabha Galleries.

In the third category are included: Records relating to Bills—both Government and Private Members'—including notices of amendments, notices of motion for introduction, reports of Select/Joint Committees, evidence tendered before the Committees and memoranda submitted to them; authenticated assent copies of all Bills (other than Money Bills) finally passed by the Rajya Sabha, Journals and Debates.

Among the last category of records are included papers relating to classification, recruitment, posting, control and promotion of Officers and Staff of the Rajya Sabha Secretariat and ancillary matters.

All the records mentioned above, with the exception of original notice of questions, have been retained since 13th May 1952. The original notices of questions are preserved for a specified period.

The records are kept under the custody of the Secretary of the Rajya Sabha. For the convenience of ready reference some of these records are preserved in the Sections which are dealing with the subject. The bulk of the records is preserved in a separate room designed for the purpose. Though this room is not air-conditioned, it is adequately ventilated and occasionally sprayed with insecticides to keep it in proper condition and the records are looked after by four full-time members of the staff. The total shelf-run in the record room is about 105 metres.

The proceedings of the Rajya Sabha are tape-recorded and pre-

served till the beginning of the next session, when the tapes are erased for re-use after obtaining the permission of the proper authority. Tape-records of important historic speeches are preserved for a considerable length of time. All tape records are preserved in an air-conditioned room.

The public may have access to the records with the permission of the Secretary of the Rajya Sabha.

India: Lok Sabha

In the Lok Sabha Secretariat, the files which are to be preserved for ten years or for ever, are recorded and sent to the Record Room for safe custody. The files for a lesser period are kept in the Branches concerned. Branch Pamphlet Series (reports of different Committees, publications for Branches, etc.), after distribution, are sent to the Record Section. These are issued on a formal requisition of the Branch concerned. Lok Sabha Debates (English and Hindi) are kept for the last five years only. There are separate Record Rooms for Pay and Accounts Office and Parliament Library, which are maintained by the said Branches.

The records in the Record Room are kept in the custody of an official of the Lok Sabha Secretariat and are in the immediate care of four full-time members of the staff. The records are kept in closed rooms. Naphthaline bricks are placed in each rack and fumigation is done periodically. There is no air-conditioning. The number of files and publications on 1st January, 1968, were 24,523 and 172,895 respectively.

The principal classes of record which are preserved are (*a*) Files from 1918; (*b*) Branch Pamphlet Series from 1950; (*c*) Registers from 1918; (*d*) Papers Laid on the Table of Lok Sabha from 1950; (*e*) Lok Sabha Debates for the last five years. Tape-recordings of some debates only are preserved. The public has no access to the Record Rooms, but Lok Sabha Debates are priced publications available on sale to the public.

Andhra Pradesh

A record section is being established, but at present individual offices maintain their own documents. No form of air-conditioning is in use and tape-recordings are not preserved. The public have no access to the records and nor are copies provided.

Gujarat

The records of the Gujarat Legislature Secretariat are compiled, preserved and destroyed in accordance with the Rules for the Compilation, Preservation and Destruction of records of the Gujarat Legislature Secretariat. The period of preservation of each type of record is fixed in accordance with these rules for a period of one year,

two years, three years, five years, seven years, or permanently, as may be considered necessary in each case.

The Secretary has custody of all documents belonging to the House, to any of its Committees or to the Gujarat Legislature Secretariat. The post of Steward-cum-Record Keeper exists on the establishment of the Gujarat Legislature Secretariat. He is in charge of all the old files which may be handed over after each Branch has taken action with regard to a particular file in accordance with the above Rules. The Record Keeper also has other duties.

No form of air-conditioning is used for the preservation of the records, and tape-recordings of debates are not preserved.

Members of the public have no access to the records.

Rule 280 of the Gujarat Legislative Assembly Rules provides as follows:

> The Speaker may, if he thinks proper, on an application received from a Member or any other person for a certified copy of extracts from the proceedings of the House or a copy of any document referred to in sub-rule (1) or an extract therefrom, permit a copy thereof to be given to the applicant on payment of the copying charges to be prescribed by the Speaker in this behalf.
>
> If the Speaker considers that specific approval of the House is necessary for allowing any document referred to in sub-rule (1) to be taken outside the Gujarat Legislature Secretariat or for giving a certified copy of anything referred to in sub-rule (2), he may refer the matter to the House for its approval.

Kerala

The Secretary of the Legislative Assembly is in charge of parliamentary records. The Manuscripts of the Proceedings of the Legislative Assembly are kept by the Chief Editor of Debates. Reports, etc., placed on the Table of the House are kept in the Library. Office files are kept in the Record Section under the supervision of a Superintendent who is assisted by one Assistant and one Peon. These documents are preserved in cupboards or on open shelves. Indices are prepared annually and copies of these are circulated to various offices in the Secretariat. Members of the public have no access to the records, but debates are available on sale.

Madhya Pradesh: Vidhan Sabha

The Secretariat for the Legislative Assembly of Madhya Pradesh State was established with effect from 1st November, 1956. The case files which originated and were disposed of in the constituent units before the formation of the State were received there and preserved in the Central Record Room; the files begun after the formation of the State are generally kept in the sections concerned, but some case files are transferred from the sections to the Record Room.

One of the Under-Secretaries is in charge of the Record Section, where one Assistant works as Record-keeper under supervision of the Superintendent.

The recorded files are kept serially on steel racks without air-conditioning in use. Nineteen feet of shelf-run is used with 5,182 files. Tape-recordings of debates are not preserved, nor is the public allowed access to the Record Room.

Madras : Legislative Council

The Records of Parliament preserved in this Department can be divided into the following categories:

(1) Admission orders of the Chairman on

Questions;
Legislative business;
Resolutions;
Adjournment Motions;
Privilege cases; and
Rulings on various items raised.

(2) Administrative matters relating to the working of the Secretariat Department.

All the records classified under category (1) are preserved in the Department itself. These start from the date of constitution of the Council in the year 1937. Records falling under category (2) are preserved in the Department for a period of five years and then weeded out periodically. Records of permanent interest are sent to the archives of the State Government, that is, to the Curatory, Madras Record Office.

The records are in the custody of the Secretary, who delegates his duties to one full-time record-keeper.

No special conditions or processes are needed for preservation, and the records are stored on approximately five big racks each with seven shelves.

No tape-recordings of debates are made, but the transcripts of the Reporters are preserved till the debates are printed and published.

The public has no access to the records for purposes of research except with the special permission of the Chairman.

Copies of notes and other minutes on the file are not provided, but if any requisition is received from a Court, then copies of the resolutions or final decisions of the House are furnished.

Madras : Legislative Assembly

The records are kept under the custody of the Secretary, Legislative Assembly.

There is one full-time Record Keeper in charge of the Record Room. During meetings of the Assembly two last grade servants are posted in the Record Room to give assistance to the Record Keeper.

The Record Room has not been air-conditioned. Records are kept in four rooms which form part of the main buildings of the Secre-

tariat, where the office of the Assembly Department and the Chamber of the Assembly are also situated.

Records are kept in sixteen racks, the total length of which is 98 feet.

Legislature Standing Orders, Office Orders, Budget Documents, Papers laid on the Table of the House, Copies of Bills, etc., relating to the period from 1937 are available in the Record Room.

Members of the public have no access to the records, nor are copies provided.

Maharashtra

The records consist of files, Legislature Committee Reports, Rulings from the Chair, Departmental Decisions, etc., dating from 1921. They are preserved in the Record Room; they are kept in the legal custody of the Secretary, and in the physical custody of Steward-cum-Record Keeper.

Only one member of the staff, i.e. the Steward-cum-Record Keeper, who is a full-time Government servant, is concerned with the preservation of the records. The records are kept on steel shelves in a Record Room which is not air-conditioned. Approximately 1,600 feet of shelf run are in use. Tape-recordings are preserved until the Legislature proceedings are printed and published. The public have no access to the records, but Proceedings of the Legislature, after publication, are available to the public as a priced publication. Certified copies of the proceedings, which include any paper or document laid on the table, are supplied on payment of prescribed fees, under the orders of the Speaker/Chairman, and when he so directs, under orders of the House (Rule 300 and 275 of the M.L.A. and M.L.C. Rules respectively).

Orissa

The records are in the charge of the Recorder of the Secretariat, with two full-time assistants to care for them. They are stored in cupboards and racks which are sprayed periodically with insecticides. The following documents are preserved: manuscript copies of the Debates of the House until these are printed, authenticated copies of Debates and of Bills, Minutes of Parliamentary Committees, important Resolutions of the House and Papers laid before the House. The public have no access to the records but reports of Parliamentary Committees are provided free on request.

Punjab : Vidhan Parishad

The records are kept by a Record Restorer, who works under the supervision of a Superintendent. Records date from fourteen or fifteen years ago and number some 5,269 files which are kept on open shelves.

Rajasthan

The Assembly records are preserved intact in the custody of the Secretary. Tape-recordings are not made of the proceedings, but copies of Debates are obtainable from the Government Central Press.

Uttar Pradesh : Legislative Council

The following records are preserved in general:

Files relating to: Bills, official and non-official; Resolutions, official and non-official; Election of Members to the House, and various Standing Committees of Government as well as the Committees of the House; Business of the House; Questions and other notices; T.A. and Salary Bills of Members; Journals.

Reports and Publications: Official Reports of Debates; Rules of Procedure and Conduct of Business of the House; Regulations made by the Chairman, U.P. Legislative Council; Reports of Various Committees appointed by the House; Rulings from the Chair; Members' *Who's Who*.

These records are kept under the custody of the Secretary, Legislative Council. One full-time Upper Division Assistant and one lower Division Assistant look after their preservation. The Records are preserved in wooden and steel racks and also in wooden almirahs. Approximately 600 to 700 files are opened every year on various subjects. So far as the keeping of old files is concerned, they are kept in accordance with the rules.

The main classes, together with the period for which they are preserved, are as follows:

Attendance Registers (1 year); Receipt and Despatch Registers (5 years); Proceedings Registers (Permanent); Extract Registers (5 years); Typewriter Registers (Permanent); Oath Registers (Permanent); File Registers (Permanent); Proceedings Reference Registers (5 years); Members' Attendance Registers (5 years); Typwriter Tools stock Registers (Permanent); Peon books (1 year); Press copies of Proceedings (5 years); Register for members speeches (1 year); Division lists (5 years); Journals (Permanent).

No system of tape-recording is in use. All proceedings of the House are noted down by the Reporters. After editing, they are sent to Press for printing and thereafter preserved. The public has no access to records, but the Official Reports and other saleable publications of the Secretariat are supplied to the public by the Superintendent, Printing and Stationery, U.P. Allahabad, on payment.

Uttar Pradesh : Legislative Assembly

A verbatim record of the proceedings of the House is permanently preserved as well as the Agenda and the Journals of the House.

The Secretary of the Assembly is the overall custodian of all the

records, but they are kept under the supervision of the Superintendents of the Sections concerned.

No separate staff is engaged for their preservation. The usual staff takes care of the records along with their normal duties.

The Records are kept on wooden or steel racks. No sort of air-conditioning is used for their preservation.

Four sets of each proceedings, along with their index and the manuscripts of the Journals of the House, are preserved permanently.

Proceedings of the House, which are not tape-recorded, its index and the Journals of the House, have been preserved since the formation of the Assembly in Uttar Pradesh.

Public have no access to the records, but the proceedings of the House, when published, and other reports of the committees, when laid on the table of the House, can be read in the Library.

Proceedings of the House are priced publications and anyone can have them on payment from the Superintendent of Printing and Stationery, Uttar Pradesh, Allahabad.

West Bengal

All records concerning the Legislature or its Secretariat including Questions, Resolutions, Motions and administrative Accounts and Bill matters, are preserved. Some are kept permanently and some for a certain specified period of years. Those that are preserved permanently are called "A" proceedings, those that are kept for certain period of years are called "B" proceedings and "C" proceedings. A review of the recorded files is made regularly, and those which are found unwarranted for the present times are destroyed under the direct supervision of the Secretary, West Bengal Legislature Secretariat, or some officer authorised by him for the purpose.

The following are the answers to the particular points:

1. The records of the above-mentioned types are preserved under the control of the Secretary, West Bengal Legislature Secretariat, and directly under the supervision of the Registrar of the Secretariat.

2. The work of maintenance of the records is done by one assistant of the Ministerial Establishment, five Record Suppliers and two Muhurrirs, under the direct supervision of the Registrar of the Secretariat:

(*a*) the staff are full-time; and

(*b*) no part-time staff are engaged.

3. The records are preserved in rooms which remain under lock and key for all times except when it is necessary to open them. They are kept on iron shelves constructed in iron racks. At certain intervals of time, these records are dusted off, and spraving of disinfectants is also made over them to keep them free from insects. No air-conditioning installations have been provided for their preservation.

4. Every year approximately 500 files on Administrative and Bill matters and on about 1,000 Disallowed Questions are recorded. In certain years the above numbers come up to about 2,000.

5. "C" cases of files have been preserved from the year 1899, "B" cases of files from 1931, and "A" cases of files from 1937. Some files among them which have been found unworthy for the changed circumstances of time have been destroyed under the direct supervision of the Secretary, West Bengal Legislature.

6. Tape-recordings of all debates are preserved until they are published in printed volumes.

7. As a standing practice, no member of the public can have access to the Record Rooms.

8. As a standing practice, no paper of the recorded files is supplied to any member of the public.

West Pakistan

The following records are made and preserved in the Secretariat of the Provincial Assembly of West Pakistan:

(i) Official Reports of the proceedings of the Provincial Assembly in the form of printed debates;

(ii) Reports of the Standing/Select Committees of the Assembly and the correspondence connected therewith;

(iii) Statute Book of the legislature yearly volume, embodying authenticated copies of all Bills passed by the Provincial Assembly and assented to by the Governor and authenticated copies of Ordinances promulgated by the Governor;

(iv) Files concerning administrative/service and financial matters dealt in the Assembly Secretariat; and

(v) Correspondence files of official and non-official Bills, Notices of Resolutions, Questions, Motions of various types, etc.

The Secretary of the Provincial Assembly has the custody of all records, documents and papers belonging to the Assembly or any of its Committees or to the Secretariat of the Assembly.

Records which are in current or semi-current use are kept in various working rooms of the Secretariat where they originate or accumulate, and are preserved by eight Record Keepers.

Records which have passed that stage are preserved in a separate record room known as the General Record Room, under the charge of Record Keeper (General), assisted by two subordinate officials, all of whom work full-time.

The records are all kept in iron safes and on well guarded shelves, but there is no air-conditioning. Approximately 3,000 files have been preserved.

The main classes of record are: (i) Bills passed by the Assembly since 1921 up to date; (iv) Debates of the Legislature; (v) Service and since 1956 up to date; (iii) Files regarding Adjournment Motions, Privilege Motions and other Parliamentary Affairs of the Assembly

since 1921 up to date; (iv) Debates of the Legislature; (v) Service and Financial Record. Tapes are re-used in the next session and taped record is not preserved,

In so far as the Assembly Debates are concerned, University Students and Research Scholars are permitted to make use of them for preparing their dissertation or thesis. They can do so only in the Library of the Assembly.

Copies of particular documents in exceptional cases, are provided to the public on demand against a payment for typing charges under the orders of Mr. Speaker.

Zambia

At the end of each session the Votes and Proceedings, Papers laid on the Table, Order Papers and Supplements to the Votes and Proceedings are bound up into volumes for archival purposes. These records are in the custody of the Clerk of the National Assembly and are in the immediate care of his Secretary. They are kept in normal office conditions and air-conditioning is unnecessary. Five copies of each of the above-mentioned records are preserved, but tape-recordings of Debates are kept only until the publication of *Hansard*, although it is envisaged that recordings of important Debates will be preserved longer. The public may have access to these records by permission of the Speaker.

British Solomon Islands Protectorate

Records are in the custody of the Clerk of the Legislative Council. No members of the staff are specifically concerned with their preservation, but air-conditioning is in use. About ten files of records are preserved each year, comprising Questions, Motions and Papers laid on the Table of the House. The public have no access to the records.

Gibraltar

Records are kept in the custody of the Clerk of the Council under the care of one part-time member of the staff. Documents, comprising 17 volumes of *Hansard*, 4 volumes of Minutes of Proceedings and 17 volumes of Ordinances, all dating from 1950, are stored in steel cabinets. The public can apply to the Clerk for permission to consult the records, but only *Hansards* are available as copies.

Cayman Islands

Records are preserved in a well-ventilated room in the Clerk's Department under the part-time care of three members of the staff. The main class of documents preserved is the Minutes of the Legislature, dating from 1959. Members of the public can consult copies of these records at the Public Library and can purchase additional copies.

Malta

The principal records of Parliament are without doubt the Minutes of the Sittings. In this connection, Standing Order 171 provides that:

> Every vote and proceeding of the House shall be noted by the Clerk and recorded in the Maltese and English Languages. Such votes and proceedings after being signed by the Clerk of the House, and after having been confirmed by the House shall be countersigned by the Speaker and shall constitute the Minutes of the Proceedings of the House.

With the Minutes are attached all documents which have a connection with the Sitting, excluding Papers laid on the Table, but including a copy of the Agenda, copies of Bills under discussion, Amendments, Division Papers and the like. These are bound in volumes and stored in appropriate bookcases.

Separately bound are all the Papers laid upon the Table of the House. These are indexed and made available to Members whenever they desire to consult them. The relative Standing Order states that:

> Every member of the House shall be entitled to read and if he shall so desire, take extracts from or copies of all papers laid upon the Table of the House.

Another important set of documents which is of the utmost importance are the laws passed by Parliament. The original of these laws, with the State Seal and countersigned by the Governor-General on behalf of Her Majesty the Queen, are preserved in the Office of the Clerk. The laws of the land are kept up to date with all the amendments, as approved by the House. Verbatim reports of the debates are preserved with other documents, but tape recordings are not kept.

As it will be seen, it is provided in the Standing Order that the Clerk of the House shall have the custody of all the minutes, records or other documents belonging to the House, and he shall neither take nor permit to be taken any such minutes, records or other documents from the chambers or offices without the express leave or order of the House. An officer from the staff of the Library Clerk is in part-time charge of these documents, under the direction of the Clerk.

Volumes of records are kept in appropriate bookcases in well-ventilated rooms. No form of air-conditioning is in use as this is not necessary. Altogether there are more than 400 volumes of records, comprising the following: Minutes and Papers laid on the Table, 256 volumes, since 1835; Original Laws, 34 volumes, since 1839; Debates, Verbatim Records, 104 volumes, since 1876.

Several other documents relating to periods prior to 1814, when the island became a British Colony, are preserved in the Royal Malta Library.

The practice is that the public have no access to these records, but special permission for perusal may be obtained by students of history or other interested persons. If permission is granted, such records are examined under the supervision of the officers of the House. No copies are provided for the public, but certain papers, such as those laid on the Table, are supplied to the Press when, and if, copies are available.

Mauritius

The records are kept in the Clerk's custody. Sessional Papers, Annual Reports, etc., laid on the Table of the Assembly, are bound into volumes and preserved under normal air-conditioning in the Clerk's Office. All debates are tape-recorded and the recordings are preserved for about three months. The public are not allowed access to the records except with the express permission of the Clerk. The papers are on sale at the Government Printing Department and the Press is provided with a copy of all documents laid on the Table.

XV. APPLICATIONS OF PRIVILEGE, 1967

At Westminster

Newspaper articles attacking a Member.—On 4th April, 1967, Mr. Gerard Fitt, Republican Labour Member for Belfast, West, raised a question of breach of privilege in the following terms: With permission, Mr. Speaker, I wish to draw to your attention a matter which I am informed reflects gravely on this House and many of its hon. Members.

On 23rd February I, with 85 of my hon. Friends, put a Motion on the Order Paper which called attention to certain facts taking place in Northern Ireland, with particular regard to the banning of the Republican Clubs. This excited a great deal of publicity in Northern Ireland and the next day a speech was made by the Minister of Home Affairs in Northern Ireland. It is to a report of that speech that I wish to draw your attention.

A newspaper reported:

> A blunt warning that the Unionist Party will resist to the full any attempt at Westminster to interfere with or limit the rights of Parliament at Stormont has been given by Minister of Home Affairs Mr. Craig.

The report continued:

> The Minister declared: " Let me sound a note of warning: That Ulster will fight and Ulster will be right, and that this sort of attack and interference would mobilise Ulster loyalists in the same way as attacks by bomb and bullet."

Further, the report showed that he attempted to intimidate me in the performance of my duties as an elected representative of this House. It stated:

> Mr. Craig said that the activities of those running to Westminster on matters concerning only the Parliament of Northern Ireland because there happened to be a Socialist Government in power in London represented an attack on Ulster's constitution that could not be ignored.

I have been informed that that speech by the Minister of Home Affairs in Northern Ireland constitutes an attack on my integrity as a Member of this House and on the affairs that it is the duty of this House to decide.

Allied with that, another publication in Northern Ireland known as the *Protestant Telegraph*, a bitter and virulent opponent of mine, had a headline:

"Why does Ulster's Rebel Leader go free?"

followed by:

"Arrest Fenian Fitt and rout the Republican Clubs."

The report underneath said:

Over 80 Labour and Liberal M.P.s have signed a motion tabled by Gerry Fitt, Republican Labour M.P. . . .

and called me "an arch-traitor".

Alongside that report there was a letter couched in such terms as to give one the impression that I am a member of an illegal organisation in Northern Ireland, namely, the Irish Republican Army. That letter, alongside the article, is calculated to damage my reputation as a representative in Northern Ireland and to cast reflection on my political associations.

Further, the report named the chief sponsors of the Motion, as myself, and my hon. Friends the Members for Manchester, Blackley (Mr. Rose), Reading (Mr. John Lee), Norwich, South (Mr. Norwood), Ealing, North (Mr. Molloy), and Salford, West (Mr. Orme). It continued by asking why I was not arrested for putting down the Motion with 85 of my hon. Friends.

The matter takes on a rather more sinister and serious aspect when one considers the speech of the Minister for Home Affairs and friendly correspondence which has taken place between him and the editor of that newspaper, as reported on page 4.

It would appear that there is collusion in this case and I wish you to give your Ruling, Mr. Speaker, on whether there has been a *prima facie* case of breach of privilege.

Mr. Speaker: The hon. Member for Belfest, West (Mr. Fitt) will now bring me the newspapers of which he complains.

Copies of newspapers handed in.

The hon. Member has asked me to rule on the question of whether there is a *prima facie* case of breach of privilege. In accordance with the usual practice, I shall give a ruling in 24 hours' time. (*Com. Hans.*, Vol. 744, cols. 55-6.)

The next day Mr. Speaker gave his ruling: Yesterday, the House will recall that the hon. Member for Belfast, West (Mr. Fitt) made a complaint of breach of privilege, on which I promised to rule this afternoon, having taken the customary 24 hours to deliberate upon his submission.

The hon. Member founded his complaint upon two newspapers, and when a complaint is made of an article in a newspaper, the newspaper containing the article or report must be delivered in at the Table as an entire document. This the hon. Member did.

I have now had the opportunity of studying the passages complained of in each of the two newspapers which the hon. Member

handed to me. The first newspaper is the *Belfast Telegraph*, dated 24th March, 1967, which contains a report of a speech by the Minister of Home Affairs in Northern Ireland.

Having considered all the precedents which might bear upon this case, I find that there is no *prima facie* case of breach of privilege which would entitle me to give priority over the Orders of the Day to the hon. Member's complaint founded upon the reports in the *Belfast Telegraph*.

The second newspaper which the hon. Member handed in was the *Protestant Telegraph* of Saturday, 1st April, 1967. A report in that newspaper dealt with proceedings in this House, namely, a Motion tabled by the hon. Member for Belfast, West and other hon. Members and urged the arrest of the hon. Member who tabled the Motion, describing him as an "arch traitor".

Again in the light of the precedents available to me, I have no doubt that the hon. Member's complaint founded on this newpaper constitutes a *prima facie* case of breach of privilege which entitles the matter to priority over the Orders of the Day.

Perhaps I should remind the House that it therefore becomes necessary for a Motion to be moved so that the matter can be dealt with now.

The Lord President of the Council and Leader of the House of Commons (Mr. Richard Crossman): In view of your Ruling, Mr. Speaker, it falls to me, as Leader of the House, in accordance with past practice, to move,

That the matter of the complaint be referred to the Committee of Privileges.

I think that it would be in the interests of the House as a whole if it were decided that no further debate should take place at this stage.

Mr. Heath: I support the Leader of the House in the Motion which he has moved and I hope that the House will accept his recommendation that no further debate should follow now. (*Com. Hans.*, Vol. 744, cols. 269-70.)

The motion was agreed to and the matter referred to the Committee of Privileges, which made its Report to the House on 27th April in the following terms:

Your Committee have held three meetings. The Clerk of the House submitted a memorandum which is printed as an Appendix to this Report.

Your Committee are satisfied that the publication complained of, taken as a whole, constitutes a breach of privilege.

Nevertheless Your Committee are satisfied that protracted investigation of the statements in the publication would merely give them added publicity. They are further of the opinion that it is not consistent with the dignity of the House that penal proceedings for breach of privilege should be taken in the case of every defamatory statement which, strictly, may constitute a contempt of Parliament.

It is for these reasons that they recommend that no further action be taken in this case. (H.C. 1966-67, No. 462.)

Trade Union alleged to be instructing certain Members how to vote.—On 17th July, 1967, Mr. Kenneth Lewis, Member for Rutland and Stamford, raised a matter of privilege as follows: Mr. Speaker, I beg to ask leave to raise a question of privilege of which I have given you notice, namely, the proceedings of the Conference of the Transport and General Workers' Union on Thursday last, 13th July, the result thereat, and the comment in support of that resolution as reported in the *Evening News*—it was, of course, reported in other newspapers, too—of that day.

It comes under the sub-heading:

" Cousins men to ' vet ' Ministers."

There is a main heading:

" Pop Pirates Walk Plank . . ."

but the heading with which I am concerned is:

" Cousins men to ' vet ' Ministers ",

and perhaps I might read the article concerned. It said:

The 26 Labour M.P.s sponsored by the Transport and General Workers Union can be " vetted " by Frank Cousins men as the result of a decision taken at the union conference here today.

I apologise for reading this. I understand that hon. Members have read it, but it is, nevertheless, necessary for me to read it again. The article went on to say:

There were cheers when a unanimous vote in favour of the resolution was announced after Mr. Cousins, general secretary, said it had the backing of the union executive.

When this Parliament ends, loyalty tests can be applied to the 26 M.P.s—they include some Ministers—and they can be asked to account for their actions.

Reason for today's decision is that some of the T.G.W.U. Members of Parliament backed the Government's wages policy in the teeth of union opposition.

The mover of the resolution, Mr. Len Burgess, a Midlands delegate, summed it up: " You can't expect us to buy dog licences for dogs that bite us."

The 26 are members of the union's Parliamentary Panel which will be reconstituted, with existing members having to apply for enrolment when the present Parliament ends.

These include the Foreign Secretary, Mr. George Brown.

At first it was thought that he had not been financially sponsored by the union since 1965, when £420 was given to his Belper (Derbyshire) constituency. But later it was learned that his constituency received £636 last year, although he is not included in the union's annual report listing sponsored M.P.s

Other financially sponsored members on the panel include Housing Minister, Mr. Anthony Greenwood, Public Works Minister, Mr. Reginald Prentice,

Housing Ministry Parliamentary Secretary, Mr. Robert Mellish, Economic Affairs Parliamentary Secretary, Mr. Peter Shore and Government Chief Whip, Mr. John Silkin.

Mr. Cousins, in his winding up speech, said they were asking M.P.s on their panel to report on their stewardship.

He made it clear that not all of them had voted against union policy. Some had done their best to get amendments to the Prices and Incomes Bill.

The T.G.W.U. chief revealed that he had the " sadistic satisfaction " of asking some of their M.P.s who believed in union policy if they were going to resign with him when he left the Commons.

They replied that unlike him they had no jobs to go back to.

" But they could have given voice to their opinions," he went on. " If they had, the Government might have had to look at the whole proposals in a different way."

He went on to say that he did not accept that if you " pay the piper you call the tune ". M.P.s have a right to think for themselves but if they had a conscience and could not support union policy they should say so.

" If they say they want to oppose you ", declared Mr. Cousins, " don't send another letter to us asking us to send £600 to wage a campaign against us.

We do not want to tell them what to do, say or think. We want them to come and tell us why they believe the workers' pennies should be put in the kitty if the political side of their activities is different from what we feel ", said Mr. Cousins.

Earlier Mr. Cousins had quelled a threatened revolt against the Government's incomes policy.

I apologise for having read that, but I have done so quickly because I know that hon. Members have read it.

As it should be, the House has always been jealous of the rights of individual Members. We are subject, it seems to me, and I think to most of us, only to those who elect us——

Mr. Speaker: Order. The hon. Member is submitting to the Chair whether an article of which he complains constitutes a *prima facie* breach of privilege. We cannot debate the issue yet.

Mr. Lewis: I am in some difficulty about this because there would appear to be variations in Rulings from the Chair on this matter. I have looked at Rulings on recent privilege cases. There was the case raised by the hon. Member for Orpington (Mr. Lubbock), who submitted——

Mr. Speaker: Order. With respect to the hon. Member, he must address me on this case. He must not consider any others.

Mr. Lewis: I am addressing you on this one, Mr. Speaker, but a similar matter was submitted by the hon. Member for Orpington, and he made a considerable case. I do not want to try to prejudge the issue. I am simply trying to put the case as I see it, and I ask that I be allowed to submit certain matters which I think are germane to it.

In that regard, I propose now to submit what has already been considered in the past by the Committee of Privileges, and I should like to quote two cases. Both these cases seem to confirm that where bodies pay Members to look after their interests, there must be limits to which such bodies may go in order to get absolute conformity from the Members concerned. The Committee seemed to take the view

that influence is one thing, but coercion is quite another. The first case——

Mr. Alfred Morris: On a point of order. Mr. Speaker, is not this submission out of order? I have read the report from which the hon. Member for Rutland and Stamford (Mr. Kenneth Lewis) appeared to be quoting. I did so at about 2 o'clock on Thursday afternoon of last week. I understand that an hon. Member must take the first opportunity to raise a matter of this kind.

Mr. Speaker: Order. This is a serious point of order. The simple answer is that the hon. Member for Rutland and Stamford is taking the first opportunity that he has to raise it. It may have escaped the notice of the hon. Member for Manchester, Wythenshawe (Mr. Alfred Morris) that the Sitting of the House on Thursday lasted through Friday.

Mr. Lewis: The first case is that of Mr. W. J. Brown and the Civil Service Clerical Association on 25th March, 1947. This case dealt with an expression on the part of Mr. Brown which was said to be at variance with the views of the Civil Service Clerical Association. No question of the rights of voting seemed to arise in that case. However, I want to quote from the Report of the Committee of Privileges on this matter. The second sentence in paragraph 13 says:

> It would certainly be improper for a Member to enter into any arrangement fettering his complete independence as a Member of Parliament by undertaking to press some particular point of view on behalf of an outside interest, whether for reward or not. Equally, it might be a breach of privilege for an outside body to use the fact that a Member had entered into an agreement with it or was receiving payment from it as a means of exerting pressure upon that Member to follow a particular course of conduct in his capacity as a Member.

The last part of that quotation seems particularly important, to the extent that it relates to the question that I have put before the House.

Mr. Speaker: Order. With respect to the hon. Member—and I know how interested and troubled he is about this matter—[*Interruption*]. Order. The issue of privilege is always a very serious one. I had hoped that the hon. Member would remember that what he is doing at the moment is submitting a newspaper report which he suspects is a breach of privilege. On this the Chair will rule tomorrow whether it is a *prima facie* breach of privilege. I hope that the hon. Member will therefore make his submission briefly.

Mr. Lewis: I will cut out some of what I was going to say arising out of that case, Mr. Speaker, and will go on to the second case, which is that of Mr. Robinson, the then Member for St. Helens, and the National Union of Distributive and Allied Workers, which union had requested the resignation of the Member because his views were at variance with those of the union.

Mr. C. Pannell: With the greatest respect, Mr. Speaker, the hon. Member is surely not helping his own case. The breach of privilege in respect of which he is asking for a *prima facie* ruling from you, Mr.

Speaker, arises from the quotation which he has made from a newspaper report. All the other matters are for the Committee of Privileges to adjudicate on, if the matter goes to it. I do not agree that the Robinson case is on all fours——

Mr. Speaker: Order. The right hon. Gentleman must not attempt, under the guise of raising a point of order, to debate the issue.

Mr. Pannell: Further to that point of order, Mr. Speaker. The point that I am making is that, the hon. Member having read out the newspaper report, there is nothing further to be done than to leave the matter to the Chair.

Mr. Speaker: The right hon. Member must leave the conduct of the Chair to the Chair.

Mr. Lewis: In fairness to myself, I must point out that I took some advice on how I could develop my case in connection with this matter and I was given certain advice. I was told that I would be allowed to quote from precedents, and, as I have already said, I have looked at past cases. I assumed that I would be given the attention of the House in making the case that I am trying to make——

Mr. Speaker: Order. I have been busy defending the rights of the hon. Member to speak. All that I am asking him to do, in the interests of the House and its business, is to speak briefly.

Mr. Lewis: I will speak as briefly as I can within my ability to make my case, Mr. Speaker. I have referred to the case of the then hon. Member for St. Helens, which was brought before the Committee of Privileges on 23rd May, 1944. Paragraph 4 of the Report says:

> While the payment to, or receipt by, a Member of money or the offer or acceptance of other advantage, for promoting or opposing a particular proceeding—

I emphasise that—

> or measure, constitutes an undoubted breach of privilege, it has long been recognised that there are Members who receive financial assistance from associations of their constituents or from other bodies.

I will now cut out most of the other things that I wanted to say, in deference to your Ruling, Mr. Speaker. Since the prices and incomes legislation is still before the House—a vote still has to take place on the recent Measure—and representations were made last Thursday, at the Conference of the Union of Transport and General Workers, it seems that the action taken then was to influence Members of Parliament not just upon a general attitude but upon a vote. This, therefore, goes further than in either of the cases to which I have referred. Because of this, I ask you to rule that there is a *prima facie* case of breach of privilege here. I ask you to look into the matter.

Mr. Speaker: Will the hon. Member bring to me the newspaper of which he complains?

Copy of newspaper handed in.

Mr. Speaker: The hon. Member brings to my notice an article in the *Evening News and Star* of Thursday, 13th July, 1967, the contents of which he has read to the House. I will give my Ruling tomorrow, in accordance with the usual custom, as to whether the matters that he complains of constitute a *prima facie* breach of privilege. (*Com. Hans.*, Vol. 750, cols. 1535-41.)

The following day Mr. Speaker ruled as follows: Yesterday the hon. Member for Rutland and Stamford (Mr. Kenneth Lewis) drew attention to a report in the *Evening News* on Thursday, 13th July, which appeared to him to constitute a breach of privilege. I have given very careful consideration to the hon. Member's complaint, and I have also studied the precedents to which he referred in support of his submission. It is my duty, however, to inform the House that, in my view, the report in the *Evening News* does not, *prima facie*, constitute a contempt of this House and does not, *prima facie*, involve a breach of any of its privileges.

This simply means that I cannot allow the hon. Member's complaint precedence over the Orders of the Day, but that has no effect on what the House may choose to do in the matter if it should be raised by the hon. Member or anyone else by a substantive Motion. (*Com. Hans.*, Vol. 750, col. 1724.)

Isle of Man

Contributed by the Clerk of Tynwald

A Committee of Privilege was appointed to consider alleged remarks made by His Excellency the Lieutenant Governor to a representative of the *Daily Telegraph* newspaper as reported in the issue of that newspaper dated 9th February, 1967, and to report to the House.

They perused the newspaper and the text of the interview given by His Excellency as quoted therein and also had the advice of the learned Attorney General, and gave thorough consideration to all aspects of the matter.

They were of the opinion that no breach of privilege had occurred, but in the course of their investigations they were made aware that the matter of the privileges of the House was one which required a thorough review.

They therefore recommended that the whole question of the privileges of the House be examined with a view to legislation being formulated and introduced to establish statutorily the rights and privileges of the House.

New Zealand

Contributed by the Clerk of the House of Representatives

Newspaper allegations against the Speaker.—On 2nd June, 1967, Mr. McCready (Otaki) raised a matter of privilege appearing in the 30th of May issue of the *New Zealand Statesman* (a local Labour Party journal) which cast aspersions on and made allegations against the Speaker of the House of Representatives. Mr. McCready moved that the matter be referred to the Committee of Privileges. The Clerk, after conferring with Mr. Speaker, the Prime Minister, and the Leader of the Opposition, advised the member to move to refer the matter to the Committee of Privileges without debate and, in the special circumstances, this was accepted by the House.

The Editor of the newspaper was summoned before the Committee and heard in explanation. On 30th August, the Attorney-General (Hon. J. R. Hanan) as Chairman of the Committee, brought down the following report, and introduced it to the House as follows: *

Hon. J. R. Hanan: I desire to present the report of the Committee of Privileges. The committee has carefully considered the statements contained in the *New Zealand Statesman* editorial published over the initials of "B.C.R." in the issue of 30th May, with reference to which a question of privilege was raised in, and referred to it by, the House. The committee has also examined the editor, Mr. B. C. Rudman, who appeared in response to its summons. The committee reports as follows:

(1) The allegations in the editorial that Mr. Speaker was willing to permit derogatory interjections based on racial prejudice, and that he was not willing to intervene to secure the withdrawal of such remarks, are completely without foundation and unwarranted. Indeed it should be said that, so far as the committee is aware, no member of the House has at any time had any thought that the Speaker entertains the slightest feelings of racial prejudice. It should also be added that Mr. Rata, M.P., the member speaking at the time of the incident on which the editorial was based, did not consider that there had been any lapse or lack of propriety whatever on the part of the Speaker.

(2) These allegations, together with the other reflections contained in the editorial, constitute a serious breach of privilege.

(3) This unjustified attack on the Speaker is an affront to Parliament itself and deserving of the censure of the House.

(4) The committee noted that an apology addressed to Mr. Speaker was published by Rudman on the front page of the *New Zealand Statesman* issue of 25th July in the following terms: "An editorial article was published in the May, 1967, issue of the *New Zealand Statesman* concerning the actions of the Hon. R. E. Jack, Speaker of the House of Representatives, in respect of an interjection by Mr. H. R. Lapwood in the House of Representatives on 17th May last. I acknowledge that the article contains statements against the character and integrity of Mr. Jack, more particularly as to racialism, which were unwarranted and I wish unreservedly to withdraw them and to apologise to Mr. Jack for having made them. I further acknowledge that Mr. Jack, as

* 1967, N.Z. *Hans.*, pp. 1163 and 2674.

Speaker of the House of Representatives, has always maintained the highest standards of personal integrity and impartiality, and I regret that the article should have made charges against his integrity and impartiality which were without foundation."

(5) Rudman, who was heard in explanation of his conduct, tendered his sincere regret to the committee and to the House for the offence which his editorial had given and expressed his sense of contrition.

(6) Following his examination, Rudman tendered the following written statement to the committee: "I was not fully aware of the forms and customs of Parliament and I much appreciate the opportunity of hearing the explanation of the rights and privileges of the House which I did not previously understand. I now realise that what I wrote did reflect very seriously on Parliament itself as well as upon Mr. Speaker who is its servant. I sincerely regret this action on my part and unreservedly disclaim any intention to reflect on the dignity of Parliament. I withdraw any words which could be so interpreted and apologise to the House for using them."

(7) Though it views with great displeasure any statements likely to diminish the dignity of the Speaker of the House and therefore of the House itself, nevertheless, in view of the fact that a gratuitous attack on the Speaker of this sort is unprecedented and is unlikely to be repeated, and in view of the fact that Rudman has made substantial expression of his contrition and regret, it recommends that no further action be taken.

I move, *That this report do lie upon the table.*

This motion was agreed to by the House without debate.

India: Rajya Sabha

Contributed by the Secretary of the Rajya Sabha

Newspaper editorial offending against the dignity of the House. On a motion adopted by the Rajya Sabha on 5th June, 1967, a complaint of a breach of privilege, alleged to have been committed by the editor of the *Hindustan*, a Hindi daily published from Delhi, was referred to the Committee of Privileges. The complaint related to certain statements contained in a leading article in the issue of that paper of 2nd June, 1967. The offending article contained the following, among other, statements:

> The storm raised in Parliament over such an unscientific, unauthentic and audacious Hazari Report, and the bogey of Birla Empire raised in the spirit of a missionary and with the zeal of a crusader, has in its root so much crookedness, timidity and perversity which perhaps have never been displayed on the floor of Parliament before. . . .
>
> The question is whether the display of absurdity, venom, character assassination and lack of wisdom from the forum of Parliament on the basis of the Hazari Report was in keeping with the dignity of the Parliament and its Members.

In considering the complaint, the Committee gave an opportunity to the editor of the paper to explain his position with reference to the question of breach of privilege. The editor in a letter tendered an unconditional apology in the following terms:

May I, at the outset, submit that it was not the intention of the writer of the editorial to offer any indignity or odium to the House. At any rate, without going into any other aspect of the matter, I express my deep and unqualified regret for any offence caused to the House or any Member thereof. I hope that the Committee, as well as the House, will accept this expression of regret and will accordingly discharge the notice.

The Committee, after considering the matter, together with the editor's letter of apology, came to the following conclusion:

A perusal of the impugned editorial will leave no doubt in the mind of anyone that it has been written in bad taste and without a sense of responsibility. While the Committee is conscious that the Press should have the liberty to express freely its views, without fear or favour, on matters of public import, it should not be overlooked that this liberty should not be abused by distorting facts and attributing motives. The offence becomes more serious if such distortions are indulged in in relation to proceedings of Parliament.

It does not require any argument to come to the conclusion that these and certain other similar statements in the editorial make serious reflections on the character and proceedings of Parliament and on the conduct of its Members, and thereby tend to bring Parliament and its Members into disrepute. This is a clear case of breach of privilege and contempt of the House.

Having come to this finding, the Committee took note of the apology of the editor of the newspaper and observed:

The Committee would not like to look at this matter with a view to punishing an offending person who commits a breach of privilege. If the finding in the present case serves as a warning, that, in the Committee's view, should satisfy the requirements of the case. In any case, in view of the apology tendered by the Editor of the paper and the expression of regret by him, the Committee would recommend to the House that no further action need be taken in the matter.

The report of the Committee was presented to the House on 14th August, 1967, which it took no further action in the matter.

Illegal arrest of a Member.—At the sitting of the Rajya Sabha on 7th April, 1967, Shri Rajnarain, a Member, raised, with the consent of the Chairman, a question involving a breach of privilege. The complaint related to his arrest in connection with a criminal case on a warrant which, the Member contended, was not a proper warrant, thereby making his arrest illegal and *mala fide*.

On a perusal of the original warrant, which had been produced by the Member, and after hearing Shri Rajnarain and some other Members on the complaint, the Chairman directed the complaint be referred to the Committee of Privileges for investigation and report.

The Committee called for, and obtained from, the Government of Uttar Pradesh, in whose jurisdiction the arrest took place, the facts relating to Shri Rajnarain's case.

From the facts supplied, it was ascertained that Shri Rajnarain was an accused in a case under Section 448 (Trespass) of the Indian Penal Code and the arrest had taken place pursuant to this Code.

In the course of service of legal process some confusion seemed to have arisen because of the entry and subsequent alterations of the dates on the back of the warrant of arrest without any signature or initial by the authority making the entries; and it was this confusion that led to the contention by the Member that his arrest was not valid in law.

The Committee, after examining the relevant law on the subject, came to the conclusion that the arrest of the Member was neither illegal nor *mala fide* and, therefore, there was no breach of privilege involved in the case.

The Committee reported to the House accordingly on 14th August, 1967. The House took no further action in the matter.

Leaflets thrown into Chamber.—On 21st December, 1967, two persons, namely Sardar Baint Singh and Shri Mahendra Pratap Singh, threw some leaflets into the Rajya Sabha Chamber from the Visitor's Gallery while the House was in session. Both these persons were apprehended by the security staff on duty, and later, on the adoption of a motion in the following terms by the House on the same day, were sentenced, for gross contempt of the House, to simple imprisonment till the conclusion of the session:

> This House resolves that the person who has disclosed his name to be Sardar Baint Singh/Shri Mahendra Pratap Singh, and who threw leaflets from the Visitors' Galley on the floor of the House at about 6.15 p.m./6.55 p.m. today and whom the Watch and Ward Officer took into custody immediately has committed a grave offence and is guilty of gross contempt of this House.
>
> This House further resolves that he be sentenced to simple imprisonment till the conclusion of the current session of the Rajya Sabha and detained in the Tihar Jail, Delhi.

Both these persons were accordingly detained in the Tihar Jail, Delhi.

On 27th December, 1967, the last day of the session, on a further motion being adopted by the House " that Sardar Baint Singh and Shri Mahendra Pratap Singh be released at 5.00 p.m. today ", these persons were released from the jail at 5.00 p.m. on that day.

INDIA: LOK SABHA

Alleged misleading and untruthful statements by Ministers.—On 5th April, 1967, the Speaker informed* the House that he had received notice of a question of privilege from Dr. Ram Manohar Lohia and Shri Madhu Limaye, Members, in which they had alleged that, in the light of a letter dated 23rd March, 1967, which Dr. Lohia had received from Mrs. Svetlana, the Ministers of External Affairs and

* L.S. Deb., dt. 5.4.67, cc. 2914-3001.

Commerce, and the Prime Minister appeared to have misled the House by making misleading and untruthful statements in the House.

The Speaker gave his consent to the raising of the matter and permitted Dr. Lohia to ask for leave of the House, which he did. As not less than 25 Members rose in favour of the leave being granted, Dr. Lohia moved the following motion:

It is the sense of the House that, *prima facie*, there is a discrepancy between the repeated and categorical assertions of the Minister of External Affairs, on his own behalf and that of the Commerce Minister and the Government headed by the Prime Minister, and the letters from Mrs. Svetlana to Dr. Lohia; and the House, therefore, resolves to refer the matter to the Privileges Committee.

Dr. Lohia stated that the Minister of External Affairs (Shri M. C. Chagla) had made the following statements; on 21st March, 1967:

It is absolutely incorrect to say that this lady made any request to the External Affairs Ministry, to any Minister or to the Prime Minister to stay on in this country. Leave aside a pathetic request but even an ordinary request was not made. . . .

and on 31st March, 1967:

I have the authority to state to this House categorically that at no time, either orally or in writing, did she make a request to him (Shri Dinesh Singh) either in his capacity as Minister of State for External Affairs or in his personal capacity as a relation of hers. . . .

Then Dr. Lohia quoted the following two paragraphs from the letter dated 23rd March, 1967, which he had received from Mrs. Svetlana:

Yes, there was a private talk between me and Dinesh Singh in January, in Kalakankar, about the possibility of my staying in India the rest of my life. I asked him whether it would be possible for me to approach the Prime Minister with such a request. Dinesh knew my feelings to my late husband, to Kalakankar, to India. It was no surprise to him that I wished to stay in India. But he told me that he thinks it would be impossible to settle because of the strongest opposition from the Soviet Government, which would inevitably arise. . . .

At the end of January, before Dinesh Singh left Kalakankar for Delhi, he talked with me again, to make quite clear to me, that the Indian Government, the Prime Minister, and he himself would not be able to help me, if I decided not to return to Moscow, and to stay in India. He said that I should try to find some ways myself to settle the problems with the Soviet Government and if I succeeded in that, then certainly I can expect help from the Indian side also.

Dr. Lohia pointed out that the above two versions were quite contradictory and *prima facie* the Ministers had misled the House. This, he felt, constituted a breach of privilege and requested that the matter be referred to the Committee of Privileges for investigation and report as to which of the two versions was true.

The Minister of Parliamentary Affairs then moved* the following motion:

* *Ibid.*, cc. 2928-29.

This House is of opinion that the Minister of External Affairs, Minister of Commerce and the Prime Minister have not committed any breach of privilege of the House with regard to the complaint of privilege brought before the House by Dr. Ram Manohar Lohia today.

Some members raised a point of order that the motion of Dr. Ram Subhag Singh was out of order under Rule 344 as it was in the nature of an amendment to the original motion which had merely the effect of a negative vote.

The Speaker ruled* as follows:

I have heard all the points of view, both for and against this point of order. I am of opinion that rule 226 is a self-contained rule, so far as the motions relating to the questions of privilege are concerned. Rule 226 reads as follows:

"If leave under rule 225 is granted, the House may consider the question and come to a decision or refer it to a Committee of Privileges on a motion made either by the member who has raised the question of privilege or by any other member."

This rule envisages that either one of the two motions or both the motions can be made under this rule. The original motion of Dr. Ram Manohar Lohia states that a *prima facie* case of breach of privilege has been made out and the matter should be referred to the Committee of Privileges for investigation. If this motion is voted down, it only means that the matter is not referred to the Committee of Privileges, and the substantive part of the question of privilege namely whether a breach of privilege or contempt of the House has been committed remains, and the House has to give a decision on the merits of the case.

Therefore, Dr. Ram Subhag Singh is within his rights to invite the House to come to a decision whether any breach of privilege or contempt of the House has been committed.

I rule that both the motions are in order and they should be put to the vote of the House one after the other. First, Dr. Ram Manohar Lohia's motion will be put to the vote of the House, and if it is not carried, then Dr. Ram Subhag Singh's motion will be put to the vote of the House.

After a lengthy debate, in which the Minister of External Affairs and the Minister of Commerce explained the facts of the matter, the motion moved by Dr. Lohia was put to the vote and negatived by 236 to 150 votes. The motion moved by Dr. Ram Subhag Singh was then put to vote and was adopted by the House.

Non-intimation to Speaker of detention of a Member.—On 7th April, 1967, Shri Kanwar Lal Gupta, a member, raised† a question of privilege that intimation regarding the arrest and release of Swami Brahmanand, M.P., on 5th April, 1967, had not been sent to the Speaker by the authorities concerned, as required under Rules 229 and 230 of the Rules of Procedure and Conduct of Business in Lok Sabha.

On 8th April, 1967, the Minister of Home Affairs made the following statement in the House:

* *Ibid.*, cc. 2934-36.

† L.S. Deb., dt. 7.4.67, cc. 3534-39.

I asked the Chief Secretary, Delhi Administration, yesterday, to make an enquiry. He met Shri Brahmanand at the crossing near the north gate of Parliament House and recorded his statement. He also recorded the statements of the District Magistrate, the Additional District Magistrate, the Watch and Ward Officer of the Parliament House, the SDM Parliament Street and police officers concerned in the affair.

The Chief Secretary's conclusions are that Shri Brahmanand and his followers had been trying to court arrest; the magistracy and the police, however, did not consider their arrest necessary. . . .

By getting into the police trucks at about 3 p.m. on 5th April, Shri Brahmanand and his followers were under the erroneous impression that they had succeeded in getting themselves arrested. There was, in fact, no arrest and they were not forced to get into trucks. Shri Brahmanand and his followers were treated with courtesy at Parliament Street Police Station. They remained in the Police Station for about two hours with a view to getting themselves arrested. When they did not succeed, they dispersed. These are the conclusions of the Chief Secretary. . . .

The spirit behind informing Parliament about the arrest of a Member is there because a Member will have to attend the session of Parliament. But here is a Member of Parliament who wanted to be arrested and, therefore, the facts get confused. So, really speaking, the question is whether in fact the member in question was arrested or not. The conclusion of the Chief Secretary which I read is that he was not in fact arrested. . . . If, really speaking, the House wants and you want that the whole question should be gone into by the Privileges Committee, I would welcome it, because it is much better that these inquiries fix the responsibility. Because, the responsibilities of the Members of Parliament are also then made clear. Otherwise, the law and order agencies get confused. How are they to function? Here was a Member of Parliament who wanted to get himself arrested and, looking to their own responsibilities, they refused to arrest him. This has been made the issue of privilege. Therefore, I do not want to take a position as if I want to come in the way of the Privileges Committee going into the facts of the case. I am completely in your hands. If you feel that it should be referred to the Privileges Committee, I have no objection.

After some discussion, the matter was referred to the Committee of Privileges on a motion moved by Shri Atal Bihari Vajpayee, with instructions to report by the first day of the next session.

The Committee of Privileges, after perusing the report of the Chief Secretary, Delhi Administration, and the statements recorded by him and examining on oath Swami Brahmanand, M.P., the District Magistrate and the then Additional District Magistrate, Delhi, and other police officers concerned, in their First Report, presented to the House on 22nd May, 1967, reported *inter alia* as follows:

(i) Swami Brahmanand, in his evidence before the Committee, deposed that on 5th April, 1967, when he along with several others offered *satyagraha* outside the Parliament House Estate, the police asked them to get into the vans which were parked there. He said that a Police Officer told them that they were under arrest as they had violated the law, although he could not say whether he himself was specifically told that he was under arrest. Swami Brahmanand added that while two or three vans carrying his other associates were driven away to the Police Station he was asked by the Police to get down on the grounds that as he was an M.P., he should sit in a jeep. He was then taken to the Police Station in a taxi. He was kept at the Police Station for two

or two and half hours. At about 7 p.m. he and others were asked to go away after their names and addresses had been noted by the Police.

The Police Officers, who appeared before the Committee, however, maintained that Swami Brahmanand and his associates were not arrested and the vans were taken to the Police Station as those persons, having boarded the vans, were not vacating them in spite of repeated requests.

(ii) After a thorough examination of the evidence given before the Committee, the Committee have come to the conclusion that, irrespective of whether Swami Brahmanand was arrested or not within the strict legal meaning of the term " arrest ", he was in fact under some kind of detention by the Police on 5th April, 1967, from the time he was taken in a taxi from outside the Parliament House Estate (where he had offered *satyagraha*) to the Parliament Street Police Station (where his name and address were recorded by the Police) to the time he left the Police Station at about 7 p.m.

(iii) The Committee are, therefore, of the opinion that in the circumstances of the case, the authorities concerned should have informed the Speaker about the aforesaid detention and subsequent release of Swami Brahmanand as required under Rules 229 and 230 of the Rules of Procedure and Conduct of Business in Lok Sabha. The Committee consider that the failure of the authorities concerned to send the necessary intimation in the matter to the Speaker constituted, technically, a breach of privilege of the House.

(iv) The Committee, however, note that Shri B. N. Tandon, District Magistate, Delhi, during his evidence before the Committee, made the followin statement:

" As I said, we did not think that it was an arrest and so we did not inform the Speaker. But, if it is the opinion of this august body that there was a restraint on Swamiji, I have no hesitation in expressing regret. While I was not there on the spot and my A.D.M. or any magistrate was also not there, I take full responsibility of the happenings."

(v) The Committee again heard on 7th May, 1967, Shri B. N. Tandon, who was asked to elucidate the implications of the above statement made by him. At this hearing, Shri Tandon assured the Committee that he offered his unqualified regret for the happenings.

The Committee recommended that no further action be taken by the House in the Matter. Their report was agreed to by the House on 29th May, 1967.

Procedure to be followed when charges are made against Ministers or Members.—On 30th May, 1967, Shri S. M. Banerjee, a Member, called* the attention of the Prime Minister to the reported news about some of the Central Ministers being on the pay roll of Birlas and requested her to make a statement thereon.

The Prime Minister made the following statement:

At the recent meeting of the Congress Parliamentary Party, Shri Arjun Arora made a general statement to the effect that some Central Ministers were in the pay of Birlas. I have requested Shri Arora to furnish whatever facts or information he may have in his possession to support the allegation. He has promised to do so. When I receive this, I shall naturally look into it. Until then, it would be improper for me to say anything more.

While seeking elucidation of the Prime Minister's statement, Shri Madhu Limaye, a member, stated that he had given notice of a

* L.S. Deb., dt. 30.5.67, cc. 1743.

motion under rule 184 of the Rules of Procedure and Conduct of Business for constituting a Parliamentary Committee to investigate into the allegations.

The Speaker observed that he had not till then seen the notice given by Shri Madhu Limaye and he would give his decision thereon later.

On 31st May, 1967, the Speaker ruled* as follows:

"I have now looked into the notice by Shri Madhu Limaye. The hon. Member has tabled it under rule 184. The notice reads as follows:

'This House resolves that a Committee of 15 Members of Parliament be appointed to investigate into the charges against the members of the Cabinet that they are in the pay of Birla group, and that Rajya Sabha be requested to appoint 6 of these Members.'

"The hon. Member has not specified the names of the Ministers nor the charges against them. The notice is in the nature of an inquiry into the conduct of Members of this House or the other House. At present there is no Minister who is not a Member of either House. In order that a notice of a motion on the conduct of a Member may be admissible, certain preliminary procedures have to be followed. I would refer the hon. Member to the procedure that was adopted in 1951 when a Committee to inquire into the conduct of H. G. Mudgal, a Member of Provisional Parliament, was appointed. Briefly speaking, the procedure antecedent to the discussion of a motion in the House is as follows:

"Anyone who has reasonable belief that a Member of Parliament has acted in a manner which, in his opinion, is inconsistent with the dignity of the House or the standard expected of a Member of Parliament, may inform the Leader of the House (Prime Minister) or the Speaker about it. The person making such an allegation should first make sure of his facts and base them on such authentic evidence, documentary or circumstantial, as he may have. He should be careful in sifting and arranging facts because, if the allegations are proved to be frivolous, worthless or based on personal jealousy or animosity, directly or indirectly, he will himself be liable to a charge of the breach of privilege of the House. Therefore, it is of the utmost importance that allegations are based on solid, tested and checked facts.

"When information regarding the alleged misconduct on the part of a Member of Parliament is received, the usual practice is that the Prime Minister examines the whole evidence and if he is satisfied that the matter should be proceeded with, he should give a full and fair opportunity to the Member to state his own version of the case, to disprove the allegations against him and to place before the Prime

* L.S. Deb., dt. 31.5.1967, cc. 2045-47.

Minister such information as may assist him to come to a conclusion. After the Member's explanation, oral or written, is received by the Prime Minister, he sifts the evidence critically and together with his conclusions places the whole matter before the Speaker. If the Member has given adequate explanation and it is found that there is nothing improper in his conduct and he has cleared all the doubts, the matter may be dropped and the Member exonerated. If, however, on the basis of the explanation given by the Member and the evidence it is held by the Speaker that there is a *prima facie* case for further investigation the matter is brought before the House on a motion for the appointment of a Parliamentary Committee to investigate the specific matter and to report to the House by the specified date.

"However, if in the course of preliminary investigation it is found that the person making the allegations has supplied incorrect facts or tried to bring discredit to the name of the Member wilfully or through carelessness he shall be deemed to be guilty of a breach of privilege of the House.

"I will, therefore, suggest to the Members or anyone who wishes to make any charges against any Minister to follow the above procedure."

Alleged reflections on the conduct of a Member by a Member of the other House.—On 6th June, 1967, the Speaker informed* the House that he had received notice of a question of privilege from Shri Sant Bux Singh, Dr. Ram Manohar Lohia and Shri Rabi Ray, members, on the following allegation made by Shri Sheel Bhadra Yajee, a member of Rajya Sabha, on 30th May, 1967, during the course of a debate in Rajya Sabha:

When the Report of the Vivian Bose Commission was being discussed, even though there were 750 Members of Parliament, Sabu Jain did not find a single member to lament, and Dr. Ram Manohar Lohia had to take Rupees one Lakh and on receiving that amount, his signatures were taken.

The Speaker then observed.†

Shri Sant Bux Singh gave me notice yesterday; we did discuss it. Looking to the rules and procedures not only in this Parliament but in other Parliaments, I feel that the other House being equally sovereign it is not proper for us to refer the matter to a Privileges Committee here. I would only say that it is unfortunate that members make allegations against members of the other House—Rajya Sabha members saying against Lok Sabha members and Lok Sabha members saying against Rajya Sabha members—or that members make unsubstantiated allegations against each other in this House.

Therefore, I am not allowing the privilege motions to be referred to the Committee of Privileges.

* L.S. Deb., dt. 6.6.1967, c. 3215.
† *Ibid.*, c. 3216.

Again on 28th June, 1967, Shri Madhu Limaye, another member, sought* to raise a question of privilege on the same allegation.

Shri Madhu Limaye contended that the allegation was untrue and had not been substantiated. This, he felt, constituted a breach of privilege and contempt of the House and requested that the matter be referred to the Chairman, Rajya Sabha, for appropriate action.

The Speaker, disallowing the question of privilege, ruled† as follows:

This matter was first raised by Shri Sant Bux Singh a fortnight ago and I thought I could convince him that the privilege of that House is as much sacrosanct as the privilege of this House. Then, myself and Shri Fernandes discussed this matter in the Chamber a number of times. I tried to give as much chance as possible to members, either on the Congress side or on the Opposition to convince me or get themselves convinced by me about this point. As I said, Shri Fernandes did discuss it with me two or three times with the assistance of the Secretary and also of all groups here. The point now is, this House could take notice of it if the speech had been made, as in the case of Shri Arjun Arora, outside the House. In the British Parliament also, the case to which Shri Limaye referred, a member of the House of Lords made the speech outside the House. Therefore, the Parliament could take note of it. Here the position is a little different. An hon. member of Rajya Sabha made a speech on the floor of that House. The person against whom he made the allegations is an hon. member of this House. The point was raised by that House itself that it should be referred to the Privileges Committee. That House took notice of it. It is not as though they did not take notice of it at all. Then the Chairman said that he would look into the matter, he called the member who made the allegation, directed him to produce evidence and when that hon. member of the other House could not produce satisfactory evidence to the satisfaction of the Chairman, he said that there was absolutely nothing, the allegation was not proper.

I disallow it because the Chairman has already given a decision and I do not want to refer it to the same Chairman to take it up again.

Alleged reflections on the conduct of Ministers (Members of the House) by a Member.—On 23rd June, 1967, Shri A. B. Vajpayee, a Member, sought‡ to raise a question of privilege against Shri S. M. Banerjee, another Member, on the following allegations made by him on 30th May, 1967, while asking a question on a calling attention matter:

May I know whether it is a fact that a Cabinet Minister and a Minister of State who were on the Birla list of honorarium are still getting honorarium and the Cabinet Minister was Chairman or Vice-Chairman of the Birla Trust and the Minister of State was not a Minister of State, I believe, in 1966? I would like to know whether they are getting it still. Is it also a fact that a worthy son of a worthy Cabinet Minister got Rs.1,80,000 commission from Birlas in 1966? I would also like to know whether the hon. Prime Minister knows this fact and whether this fact about the Cabinet Minister was brought to the notice of Mr. Kamaraj who shamelessly said that he knows it.

* *Ibid.*, dt. 28.6.1967.
† L.S. Deb., 28.6.1967.
‡ L.S. Deb., dt. 23.6.67.

Shri Vajpayee contended that in the light of the Prime Minister's statement made* by her on 20th June, 1967, exonerating the two Ministers from the charges levelled by Shri Arjun Arora, a member of Rajya Sabha, Shri S. M. Banerjee had committed a breach of privilege and contempt of the House and requested that the matter be referred to the Committee of Privileges for investigation.

The Minister of Law objected† to the raising of the matter on the ground that a substantially identical matter had already been disposed of by the House in the same Session and, secondly, that Shri Vajpayee had not raised the matter at the earliest opportunity.

After some discussion, the Speaker reserved his ruling until 27th June, 1967, when disallowing the question of privilege, he ruled‡ as follows:

On 23rd June, 1967, Shri A. B. Vajpayee sought to raise a question of privilege against Shri S. M. Banerjee, M.P., for certain observations made by the latter on 30th May, 1967, while asking a question on a calling attention matter. Shri Vajpayee laid stress that the question arose out of my ruling on the 31st May, 1967. This request was supported by Sarvashri Madhu Limaye and George Fernandes. Shri S. M. Banerjee submitted that he welcomed the privilege motion against him and that if he had committed any offence by trying to defame the two Ministers he was prepared to undergo punishment for that.

The Minister of Law raised two objections: first, that rule 338 barred the raising of a substantially identical question on which the House had given a decision in the same session and, secondly, that Shri Vajpayee had not sought to raise the matter at the earliest opportunity. As regards the second objection of the Minister of Law, Shri Vajpayee stated that the Prime Minister had made her statement on Shri Arjun Arora's allegations on 20th June, 1967, in the House and that he had given his notice against Shri S. M. Banerjee on the same day.

After hearing the Members and the Minister of Law, I reserved my ruling. I have since considered all the points of view that have been urged and I have to state as follows:

(i) On 30th May, 1967, during the course of proceedings on the calling-attention-notice, Shri S. M. Banerjee had sought clarification on the reported news of certain allegations and the two Ministers whom he had named made statements in regard to those allegations the same day.

The statement of the Member Shri S. M. Banerjee, and the two Ministers are on record. Thereafter, Shri S. M. Banerjee did not move in the matter. The procedure laid down by me in my ruling dated 31st May, 1967, does not, therefore, apply in this case.

(ii) If as stated by Shri A. B. Vajpayee, his question of privilege arises after the Prime Minister made a statement on 20th June, 1967, then the objection raised by the Minister of Law that the matter is barred under rule 338 becomes pertinent, as the House has already decided on the question of privilege which directly arose out of the Prime Minister's statement.

* *Ibid.*, dt. 20.6.67.
† *Ibid.*, dt. 23.6.67.
‡ L.S. Deb., 27.6.67.

I, therefore, do not give my consent to raise this matter as a question of privilege.

Misreporting of a Member's speech in the House by a newspaper.—On 6th July, 1967, Shri C. K. Bhattacharyya, a Member,* raised a question of breach of privilege against UNI, a news agency, and the *Indian Express*, on the ground that the news report published in the newspaper's issue dated 5th July, 1967, was a misreporting of his speech in the House on 4th July, 1967.

Shri Bhattacharyya contended that the news report indicated his support to *gherao*, whereas he had not referred to it at all. This, he felt, constituted a breach of privilege and requested that the matter be referred to the Committee of Privileges for investigation.

The Speaker (Dr. N. Sanjiva Reddy) observed, and the House agreed, that, as per practice, he would ask the editors concerned to state what they had to say in the matter.

On 10th July, 1967, the Speaker informed† the House that he had received replies from both the parties and observed:

> The General Manager and Editor of the UNI in his letter dated 7th July, 1967, has stated " that there was no error in reporting nor any reference to *gherao* attributed to Mr. Bhattacharyya " in the news agency report circulated by UNI.

The Editor of the *Indian Express*, in his letter dated 7th July, 1967, has stated as follows:

> I have gone through the original copy of the UNI Parliamentary report and of the report published by us in our issue of July 5, 1967. Let me say at once that the mistake is ours. I find that one of our Sub-Editors, while trying to compress the copy for reasons of space, cut out a paragraph and in doing so created the erroneous impression that what Mr. Dange said had been said by Mr. Bhattacharyya. We are genuinely sorry about this mistake. The Sub-Editor concerned has been taken to task. Moreover, we made it a point to publish in our issue of July 7 the PTI report of Mr. Bhattacharyya's complaint which makes it clear that he had not said what had been attributed to him mistakenly in the *Indian Express*.
>
> I convey my apologies both to the Speaker and to the honourable Member concerned.
>
> If the House agrees, the Editor of the newspaper may be asked to publish the correction and his regret in the next issue of the paper and the matter be treated as clossed thereafter.

Display of a Shoe in the House.—On 28th July, 1967, Shri Nath Pai, a Member, drew‡ the attention of the House, under rule 377, to the fact that on the previous day when the House was discussing the question of excise duties on shoes as proposed in the Finance Bill, Shri N. N. Patel took out his shoe and said, " This is the shoe . . ."

* L.S. Deb., dt. 6.7.67.
† L.S. Deb., dt. 10.7.67.
‡ L.S. Deb., dt. 28.7.67.

and subsequently Shri S. M. Banerjee also took out his *chappal* and said, "This is the *chappal*".

Shri Nath Pai contended that even though the Members might not have meant any disrespect to the House, the practice of displaying shoes was dangerous and against the dignity of the House.

Shri N. N. Patel then apologised as follows:

> I respectfully submit to you that it was not my bad intention. If feelings are hurt . . . I offer my apologies.

Shri S. M. Banerjee also regretting the incident stated as follows:

> I wish to say that what happened yesterday was bad and was not in the interest of the House. There was nothing in it like that. Believe me, I have great respect for this House. I respect it so much that I consider it to be a temple and we to be its *Pujaries*.

The Deputy Prime Minister (Shri Morarji Desai), intervening, observed:

> May I say that while the intention of both the hon. members was not to create any ugly scene in the House, I agree entirely with my hon. friend Shri Nath Pai that such practices are not good and are reprehensible and, therefore, they should never be tolerated by the House. I for my part immediately censured Mr. Patel because I could. I could not do it to Mr. Banerjee.

The Speaker, treating the matter as closed, observed: *

> The point is this. Not only *chappals* but on many occasions in this House things are shown. Some papers can be placed on the Table of the House; some letters can be placed, I could understand; those can be handed over to the Speaker. But so many other articles, torn clothes and other things were shown here last year; I have seen that practice. We should give up that practice and set up healthy conventions so that the Assemblies may copy us; what we do here is done ten-fold in the Assemblies and we will not be in a position to say anything against them. I am sure the whole House is one with me and Mr. Nath Pai when we say this.

Alleged harassment of a Member by Police.—On 3rd August, 1967, Shri Nath Pai, a Member, raised† a matter under rule 377 that Shri Virendrakumar Shah, another Member, had been called by the Police at a Police Station at Bombay and questioned by the police without disclosing the purpose for which he was called and the police caused harassment to him and interference with his freedom. This, he felt, constituted a breach of privilege of the Member.

The Minister of Home Affairs explained as follows:

> Certainly what has happened is a matter of regret. I must say that the behaviour of the Sub-Inspector was, to say the least, stupid. We are all sorry for it. I also express my regret. As far as we are concerned, we will see that such things are not repeated.

* L.S. Deb., dt. 28.7.67.
† L.S. Deb., dt. 3.8.67.

The Speaker observed:

May I also add that it is not only an hon. Member. No citizen should be asked just to come to the police station. I would also request the hon. Minister to tell us after some time if any action is taken against the officer concerned.

Shri Chavan then stated:

The Maharashtra Government have informed me that they are themselves taking action against the Sub-Inspector. I entirely agree. It is not merely a question of a Member of Parliament. No citizen can be treated this way. Really speaking, unfortunately our police have not come out of their old tradition.

Thereafter, the matter was treated as closed.

Reflections on the conduct of Members and proceedings of Parliament by a newspaper.—On 7th June, 1967, Shri Madhu Limaye, a Member, raised* a question of privilege against the Editor, Columnist and Proprietor of the *Hindustan Times* on the ground that the following passages of the article captioned "Shades of the Star Chamber", published in its issue dated 4th June, 1967, cast reflections on the conduct of members and proceedings of both Houses of Parliament:

(i) But this is precisely what it amounts to if we are to take with any seriousness the wild charges which have been flung in Parliament against the Birlas.

(ii) The question that now arises is how far can we go in allowing Parliament to behave like some kind of a Star Chamber sitting in judgement on individuals and institutions who have no means of defending themselves without undermining democracy itself.

(iii) There are a hundred ways in which malefactors can be brought to book—even if they happen to be Birlas—but there are not many remedies against those who use the freedom of an open democratic society for the express purpose of subverting it.

(iv) Restraining members of Parliament is more difficult but while privilege may continue to apply to what is said in Parliament that privilege need not extend to published reports of discussions in Parliament.

This, he felt, constituted a breach of privilege and contempt of the House.

The Speaker permitted Shri Madhu Limaye to ask for leave of the House, which he did. As no member dissented, the leave was granted.

After some discussion, Shri Madhu Limaye moved, and the House adopted, the following motion:

That this question of breach of privilege against the Columnist, Editor, Publisher, Printer and Proprietor of the *Hindustan Times* be referred to the Committee of Privileges.

* L.S. Deb., dt. 7.6.1967, cc. 3514-25.

The Committee of Privileges, in their Fourth Report presented to the House on 12th December, 1967, reported *inter alia* as follows:

(i) The Committee, in the first instance, decided to give an opportunity to Shri S. Mulgaokar, the author of the impugned article as also the Editor-in-Chief of the *Hindustan Times*, to make his submissions in writing for the consideration of the Committee on the question of privilege against him. Shri S. Mulgaokar, in his reply, dated the 16th June, 1967, stated that it never occurred to him " that the article in whole or any of its parts could be interpreted as an encroachment on the privileges that Parliament must enjoy in a democratic constitution for its proper functioning " and that " though sometimes an error of view may occur, it cannot be Parliament's intention to act in a way to suggest that every error regardless of the intention behind it is in contempt of the privileges of Parliament ". Shri S. Mulgaokar, did not, however, offer any explanation or clarification with regard to the use of the words " Star Chamber " with reference to Parliament in the caption of the article, as well as in its text and the specific passages in the article to which objection was taken on the floor of the House as constituting a breach of privilege and contempt of the House.

(ii) The Committee, therefore, decided to examine Shri S. Mulgaokar in person.

(iii) Shri S. Mulgaokar, in his evidence before the Committee, did not deny that he had used the term " Star Chamber " with reference to Parliament because some odium was attached to that term and that he wanted to convey that. He admitted that he might have been " unwise " in using the expression " Star Chamber " which might be " unhappy " and that he was familiar with the background of the term " Star Chamber ". He also admitted that at one or two places the expression of the article was " rather loose " and that if he were to re-write the article, perhaps " the phrasing would be different ". He, however, asserted that the reference to the " Star Chamber " did not constitute an offence against the privileges of Parliament. He said that in his article he had not referred to a large number of Members of Parliament who functioned in a completely irresponsible manner, misbehaved and attacked the people outside without proof but that " certainly there have been some " such members. He stated that he had nowhere indicated that he was trying " to condemn the entire Parliamentary System as it functions " and that " it was not my intention to bring the institution of Parliament in disrespect ".

(iv) The Committee were not satisfied with the explanations offered by Shri S. Mulgaokar in his written reply and the oral evidence given before Committee.

(v) According to Webster's Dictionary, in English History, the " Star Chamber " was an ancient High Court exercising wide civil and criminal jurisdiction, which could proceed on mere rumour, examine witnesses and could apply torture. It is noted for " summary and arbitrary procedure ". This term is often used to mean " any secret, oppressive or irresponsible tribunal ".

(vi) The Committee are of the view that the use of the term " Star Chamber " with reference to Parliament by Shri Mulgaokar in his impugned article carries the insinuation that Parliament as an institution is a sort of an oppressive and irresponsible tribunal, and that a large number of Members of Parliament function in a completely irresponsible manner, misbehave and attack the people outside without proof. The Committee do not agree with the contention of Shri S. Mulgaokar in his evidence that, in using the term " Star Chamber " in his article with reference to Parliament, he was referring " to the assumption of judicial functions more than to the oppressive part of it ". He admitted before the Committee that he was aware of the background of the term " Star Chamber ". There is nothing in the impugned article to indicate

that Shri S. Mulgaokar was referring only to a few members of Parliament who, according to him, had used unjustifiable language in Parliament. In the opinion of the Committee, the impugned article gives the impression of condemnation of the institution of Parliament as such.

(vii) The Committee are of the view that the article read as a whole, and in particular the passages quoted in para. 1 above, cast grave reflections on the institution of Parliament as such and the members thereof and, therefore, constitute a gross breach of privilege and contempt of the House.

(viii) The Committee gave every opportunity to Shri S. Mulgaokar to express his regret for the offending expressions in the article. He, however, said:

> " . . . I shall readily express regret if that is the general impression created. But to the best of my own belief and conviction that is not what I intended to do.
>
> * * *
>
> " My difficulty is if I am not convinced. . . . I can understand that you, Gentlemen, have to do your duty as you see it. I have to do mine as I see it."

(ix) The Committee are of the view that Shri S. Mulgaokar, the author of the impugned article and the Editor-in-Chief of the *Hindustan Times*, is guilty of a gross breach of privilege and contempt of the House. The printer and publisher of the *Hindustan Times* is also technically guilty of a breach of privilege and contempt of the House.

(x) As regards the proprietor, apart from the fact that the *Hindustan Times* is a limited company, ownership of which vests in shareholders, and Shri Mulgaokar denied in his evidence that the Birlas had asked him to write the impugned article or that he had written it to please the Birlas, there is nothing to show that any one else was responsible for the writing or publication of the offending article.

The Committee of Privileges recommended as follows:

(i) The Committee feel that the penal powers of the House for breach of privilege or contempt of the House should be exercised only in extreme cases where a deliberate attempt is made to bring the institution of Parliament into disrespect and undermine public confidence in and support of Parliament. In the present case Shri S. Mulgaokar repeatedly disclaimed before the Committee that he had any intention to bring the institution of Parliament in disrespect and contempt and said that if that was the result produced by his article then he would be very sorry about it. While the Committee feel that Shri S. Mulgaokar should have unhesitatingly and gracefully expressed an unconditional and unqualified regret, they consider that in the totality of circumstances, it would be better to ignore it, as that would add to the dignity of the House. The Committee, therefore, do not consider it proper to recommend that any action should be taken against him.

(ii) The Committee, therefore, recommend that no further action be taken by the House in the matter.

The House agreed to the Report on 23rd December, 1967.

Alleged violation of the privilege of freedom of speech of Members by the Prime Minister in advising her Party Members not to criticise the Party on the floor of the House.—On 20th July, 1967, Dr. Ram Manohar Lohia, a Member, sought* to raise a question of privilege

* L.S. Deb., dt. 20.7.1967.

against the Prime Minister based on a report in the newspapers dated 20th July, 1967, wherein she was reported to have asked the Members of Parliament belonging to Congress Party not to speak freely or criticise the Congress Party on the floor of the House. Dr. Lohia contended that this was a violation of the privilege of freedom of speech of the Members of Parliament.

The Speaker, disallowing the question of privilege, observed* as follows:

> . . . At every party meeting, everybody has a right to discuss things, whether it be the Swatantra Party or the Congress Party or the S.S.P. How can we say that what is discussed at a party meeting can become a matter of privilege here?

Throwing of pamphlets by a person from Visitors' Gallery on the floor of the House.—On 15th December, 1967, at 5.5 p.m., when the House was discussing an adjournment motion, a person in the Visitor's Gallery shouted some slogans and threw some pamphlets on the floor of the House. He was removed from the Visitor's Gallery by the Watch and Ward Staff and, shortly thereafter, the Minister of Parliamentary Affairs moved the following motion which was unanimously adopted by the House:

> This House resolves that the person calling himself Shri Inder Dev Singh who threw Pamphlets from the Visitors' Gallery on the floor of the House at 5.5 p.m. today and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.
>
> This House further resolves that he be sentenced to simple imprisonment till 6 p.m. on 16th December, 1967, and sent to Tihar Jail, Delhi.

In pursuance of the above resolution, the following warrant of commitment, addressed to the Superintendent, Central Jail, Tihar, Delhi, was issued by the Speaker:

WARRANT OF COMMITMENT

WHEREAS THE Lok Sabha has adopted the following motion today, 15th December, 1967:

"This House resolves that the person calling himself Shri Inder Dev Singh who threw pamphlets from the Visitors' Gallery on the Floor of the House at 5.5 p.m. today and whom the Watch and Ward Officer took into custody immediately has committed a grave offence and is guilty of the contempt of this House.

"This House further resolves that he be sentenced to simple imprisonment till 6 p.m. on the 16th December, 1967, and sent to Tihar Jail, Delhi."

Now, therefore, I, N. Sanjiva Reddy, Speaker, Lok Sabha, in pursuance of the above decision of the Lok Sabha by this Warrant of Commitment require the Superintendent, Central Jail, Tihar, to take into custody the said Shri

* *Ibid.*

Inder Dev Singh and to keep him safely in the Central Jail, Tihar, till 6 p.m. on the 16th December, 1967.

Herein fail not.

Given under my hand at New Delhi, this 15th day of December, 1967.

N. Sanjiva Reddy,
Speaker, Lok Sabha.

Shri Inder Dev Singh was, accordingly, taken by the Watch and Ward Staff to, and lodged in, the Central Jail, Tihar, Delhi, where he served his sentence of imprisonment.

Alleged disorderly conduct of a Member within the precincts of the House.—On 18th December, 1967, Shri Madhu Limaye, a Member, sought* to raise a question of privilege on the ground that on 16th December, 1967, when lobbies were cleared and the doors were closed for a division on the Official Languages (Amendment) Bill, Shri N. Sreekantan Nair, another Member, tried to go out of the House, and when he (Shri Nair) found the doors closed, he knocked against the doors with his foot, as a result of which three glass-panes of the Lobby doors were broken.

This sort of conduct by a Member, he felt, was against the dignity of the House and requested that he be permitted to raise the matter for reference to the Committee of Privileges.

Shri N. Sreekantan Nair (to whom a copy of Shri Madhu Limaye's notice had been sent earlier) then explained the position as follows:

On Saturday, after polls were taken on amendments Nos. 102-118 to the Languages Bill, I felt disgusted and wanted to get out and breathe fresh air. I found the doors of the Lok Sabha lobby locked, even after the announcement of the results of the division, and at the time when the hon. Member, Shri Surendranath Dwivedy, was pleading to get his amendment No. 132 accepted. I explained to the Watch and Ward Officer that the result had been announced and that he had to open the door. He replied that he had orders not to open the door. I told him nobody had a right to keep me as a prisoner in a locked room. Yet he refused to open the door.

So I came back and told you, Mr. Speaker:

"Sir, in between voting I have got a right to go out. Why should they lock it?"

You then said:

"If anybody wants to go out, he may go out. The doors may be opened. Nobody can be prevented."

When I went back, I still found the doors closed. So I knocked against the door. Then another officer came and let me out.

I had no altercation with the Watch and Ward staff whose predicament I could very well appreciate and sympathise with. But I was also not prepared to concede to anybody, including you, Mr. Speaker, the right to restrain me within locked doors when no division is being recorded in the House. The proceedings of the House would substantiate the fact that I attempted to go out only between divisions.

The Minister of Parliamentary Affairs and Communications, intervening, stated:

* L.S. Deb., dt. 18.12.1967.

Sir, the seriousness of the matter is there. What we have heard from Mr. Sreekantan Nair, and the points that he made out are perhaps enough to drop this matter. I, therefore, suggest that the matter may be dropped.

The Speaker, on the request of Shri A. B. Vajpayee, a Member, postponed the matter till the next day.

On 19th December, 1967, Shri Madhu Limaye stated* that he did not wish to press the issue. Shri N. Sreekantan Nair expressing regret stated as follows: "Sir, may I submit, that I did not mean any disrespect either to you or to this sovereign House." The matter was then closed.

ANDHRA PRADESH

Contributed by the Secretary of the Legislature

Minister alleged to have misled the House.—Sarvasri Ratnasabhapathy and T. C. Rajan, both Members of Democratic Front, on 17th July, 1967, gave a notice of breach of privilege against Sri T. V. Raghavulu, Minister for Education, in which they alleged that he made an incorrect statement in the House by saying that writ petitions filed by the Principal were pending in the High Court in the matter of misappropriation of funds in the Engineering College Hostel, Kakinada, whereas in fact the writ petitions filed by Sri Damodaram were dismissed on 28th April, 1967, and that that constituted a breach of privilege.

When this matter came up for hearing in the House on the 18th, Sri Ratnasabhapathy and other Members, viz. Sri G. Latchanna, Sri C. V. K. Rao, Sri A. Madhava Rao, Sri Vavilala Gopalakrishnayya, Sri G. Sivayya and Sri T. Nagi Reddy, who supported him, practically reiterated what was stated in the notice and averred that the statement made by the Minister with regard to the writ petitions filed by Sri Damodaram was incorrect and as such amounted to breach of privilege.

Sri Raghavulu, while answering the charge against him, denied having made any such statement and stated that what he said with regard to the writ petitions was about cases pending trial against the persons responsible for misappropriation of Engineering College funds.

The Speaker ruled as follows:

I have perused the proceedings of the House dated 14th July, 1967, relating to this matter to find out whether any incorrect statement was made by Sri Raghavulu as alleged by Sri Ratnasabhapathy and other members.

It is seen that the Minister stated, when asked what action was taken against the Principal, that the Principal had filed writ petitions in the High Court but the Minister never stated whether they were pending or disposed off. In another context altogether, when asked about the refund of deposit amount to students, he stated the cases were filed in court for misappropriation and

* L.S. Deb., dt. 19.12.1967, cc.

they were pending trial. Beyond those two statements, one made in different context from the other in answer to specific questions put to him, there is nothing to show that Sri Raghavulu made any incorrect statement with regard to writ petitions filed in the High Court. The question whether he made any incorrect statement with the deliberate intention of misleading the House and if so whether it amounts to breach of privileges does not arise at all since on facts the allegation itself is not substantiated. For the same reason, it is also not necessary to take the trouble of referring to various rulings of either the House of Commons or the Legislatures in our own country. For the above reasons, I consider there are no grounds for referring this to the Committee of Privileges.

Failure to lay annual statutory accounts before the House.—Sri G. Ramaswami Reddy and Sri Vavilala Gopala-Krishnayya had given notice on 11th July, 1967, that failure on the part of the Government to lay on the Table of the House the annual accounts of the Andhra Pradesh State Electricity Board from 1959 till then, as required under sub-section (5) (*a*) of section 69 of the Electricity Supply Act of 1948, amounted to contempt of the House and as such it should be referred to the Privileges Committee for consideration and report. When this matter was taken up on 18th July, both members stated what was contained in the notice and also that, in their opinion, it was a fit case for reference to the Committee of Privileges. Sri K. Brahmananda Reddy, Chief Minister, had by his letter of 6th April, 1967, addressed to the Secretary, Andhra Pradesh Legislative Assembly, sought permission to lay on the Table of the House, under sub-section (5) (*a*) of section 69 of the Electricity Supply Act of 1948, a copy of the Annual Accounts of the Andhra Pradesh State Electricity Board for seven years from 1959 to 1966. It was clear from the very letter of the Chief Minister that he intended doing so in order to discharge a statutory obligation cast on the Government. Before according permission as sought for, the Speaker issued directions to find out the reasons for the inordinate delay to lay the accounts on the Table; who was responsible for the delay; and what action was taken against the persons responsible. In reply to this, Sri A. Krishna Swami, Special Secretary to Government, sent a letter setting forth in detail reasons for not laying the annual accounts of the Electricity Board for the last eight years. The Speaker understood from the letter that while the Secretary had laboured hard to narrate the several difficulties faced by the Electricity Board over the years in getting the accounts audited, he had not offered any reasons for not laying on the Table of the House annually at least a statement setting forth the reasons for not complying with the statutory provision.

The Speaker found the explanation far from satisfactory and thoroughly unconvincing. The next point which arose for consideration was whether this failure on the part of the Government to discharge a statutory obligation for nearly eight years, *prima facie*, amounted to breach of privilege or contempt of the House which deserved to be referred to the Committee of Privileges. A diligent

probe into the rulings of several Legislatures, both in India as well as in other democratic countries had not revealed a single instance of this nature where action was taken for breach of privilege, though the Speaker was sure that in a number of these democratic countries a similar statutory duty was cast on the governments in cases where autonomous institutions have been created by the Legislature and financed entirely by State funds. As far as Andhra Pradesh was concerned, a similar provision to sub-section (5) (*a*) of section 69 of the Electricity Supply Act 1948, was contained in every Act under which an autonomous body had come into existence and functioning with the finances allotted by the State.

The Speaker ruled, *inter alia*, as follows:

It now remains to be seen why such a provision has been invariably made in such cases. If it is purely one of formality, depending on the discretion of the Government, the provision need not have been made. I do not, however, think that this was the intention of the Legislature. It is seen that invariably in a case where an autonomous body has been created by an Act of the Legislature and is financed by State finances for its existence, it continues to exist during the will of the Legislature, for the Legislature which has created the institution can also dissolve it for reasons of misfeasance or malfeasance and make alternate arrangements for proper functioning. I consider that the object of the Legislature in making this provision is to provide an opportunity to the Legislature annually to have an insight into the working of the institution, to know whether the finances voted by the Legislature for the institution are being spent properly or not and to suggest various measures for the improvement of the same or take such action as is deemed necessary under the circumstances. That being so, gross neglect on the part of the persons responsible for fulfilling this statutory obligation for a number of years, or complete failure to do so, not only amounts to frustrating or defeating the very purpose for which this provision was made by the Legislature but deprives Members of the Legislature of a right to know the condition of the autonomous body and suggest remedies for improvement of the same; and persons responsible cannot set at nought this salient principle and easily escape with impunity. In the present case on hand, whatever the difficulties of the Electricity Board or the Government in getting the accounts of the Board annually, it was imperative on the part of the Board for which finances were voted from time to time by the Legislature, to cause to be laid on the Table of the House annually a statement showing the conditions of the Board and giving reasons for not getting accounts audited annually. Having failed to do so, the Board and the Government have to take the consequences which follow thereby. I am of opinion that it is a fit case which requires further investigation to decide whether it amounts to breach of privilege or treating the House slightly, which amounts to contempt, and also to find out who actually is responsible.

However in view of the fact that the Electricity Board expressed its regret for not being able to submit the accounts to be laid before the Legislative Assembly regularly so far, and in view of the assurances given by the Chairman of the Electricity Board and the Secretary to the Government, Public Works Department, that in future the annual accounts of the Electricity Board will be laid regularly before the Legislative Assembly, I do not consider it necessary to refer this matter to the Committee of Privileges.

Kerala

Contributed by the Secretary of the Legislative Assembly

Reflections on the Speaker by a Newspaper.—On 26th June, 1967, Shri K. Moideenkutty Haji sought permission to raise a question of privilege arising out of certain passages in an editorial. He pointed out that the particular paragraph in the editorial referred to by him was a reflection on the character of the Speaker and the Leader of the House, and would tend to lower the prestige of the House. The Speaker allowed the Member to raise the question, and on a motion by the Revenue Minister the matter was referred to the Committee of Privileges for investigation and report.

The Committee, at its sitting on 29th July, 1967, examined the question and, finding that there was a *prima facie* case of breach of privilege, decided to call for the explanation of the printer and publisher to show cause why action should not be taken against her and the paper. As authorised by the Committee, the Secretary wrote a letter on 2nd August, 1967, to the printer and publisher incorporating the decision of the Committee and requesting her to show cause before 3 p.m. on 17th August, 1967, why action should not be taken against her and the paper. The Committee, at its meeting on 13th September, 1967, considered the apology received from the Managing Editor (printer and publisher) for having published the editorial.

The Committee felt that the passage in question would constitute a breach of privilege but were of the view that, having regard to the apology tendered, the matter might be dropped. The Committee recommended thus.

The Second Report of the Committee of Privilege relating to this was presented on 18th January, 1968, and was adopted on 28th February, 1968.

Madhya Pradesh: Vidhan Sabha

Contributed by the Secretary of the Vidhan Sabha

Newspaper misreporting proceedings of the House.—On 6th July, 1967, the *Jagran*, a Hindi daily published from Indore, reported under the caption, "Forest Minister, Shri Tamot committed no breach of privilege", that a motion of breach of privilege was disallowed by the Speaker, whereas the fact was that the Speaker had reserved his ruling in the matter. Two Members, Shri P. Govindjiwale and Shri Khuman Singh, moved a motion of breach of privilege of the House against the editor, printer and publisher of the newspaper for wrong reporting.

The matter was referred to the Committee of Privileges for investigation and report. The Committee found that the newspaper had

corrected the news in their paper on 7th July, 1967, and had apologised to the readers for the mistake. The Committee, in their first report, presented to the House on 10th July, 1967, reported accordingly and recommended no further action in the matter.

Member threatened with dire consequences if he voted with the Government.—On 28th July, 1967, Shri Rukmini Raman Pratapsingh, a Member, moved a question of breach of privilege of one Member, Shri Prabhu Dayal Gehlot, by one Sardar Angre. The allegation was that Angre enticed away Gehlot from his place of stay and threatened him of dire consequences if he (Gehlot) voted with the ruling party or supported it.

The question was referred to the Committee of Privileges for its investigation and report.

The Committee were, however, unable to proceed in the matter, as both the Members, Shri Singh and Shri Gehlot, did not appear before the Committee to pursue the case though the Committee afforded them several opportunities to do so. The Committee, in their second Report, presented to the House on 30th November, 1967, recommended that the House need not take any further action in the matter.

MADRAS: LEGISLATIVE COUNCIL

Contributed by the Secretary of the Legislative Council

Alleged Breach of Privilege by the Speaker of the Legislative Assembly.—With reference to a motion raising a matter of privilege, given notice of by the Leader of the Opposition, arising out of the remarks of the Speaker of the Madras Legislative Assembly in the Assembly on 24th June, 1967, that the other House (Council) held up Bills passed by the Assembly to the maximum extent possible and delayed their passing, the Chairman gave a ruling on 19th July, 1967, withholding his consent to the raising of the matter, as he was very anxious, he said, to maintain an atmosphere of cordiality, good relationship and mutual understanding between the two Houses. In the course of the ruling, he observed:

> Reflections, that is to say, derogatory references to or criticisms of the Legislature itself or any of its Houses, are not permitted. It is quite obvious that the Legislature which makes laws for the people should not be brought into contempt by any utterances of its own Members; it is also necessary that the two Houses where they exist, should not be brought into conflict by any derogatory references to any of them in the other.
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> * * *
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> Each House of a Legislature possesses equal powers, privileges, and immunities, and one House is not in any way dependent on, or subordinate to, the other House. Speech and action in Parliament may . . . be stated to be unquestioned and free. But this freedom from external influence or inter-

ference does not mean any unrestrained licence of speech within the walls of the House.

The Parliamentary theory is that each House is ignorant of the speeches made in the other. (*Madras Legislative Council Debates*, 29.6.67, 19.7.67.)

MADRAS: LEGISLATIVE ASSEMBLY

Contributed by the Secretary to Government

Allegation of partiality against Mr. Speaker.—On 29th March, 1967, during "Question Hour", a Member rose on a point of order and stated:

> I had raised my hand for half an hour to put a question. But, I regret that the Speaker has given opportunities to put supplementary questions only to the Members of the Ruling Party and not to Members of the Opposition like me, even though we had raised our hands. I humbly request that this situation should not continue and also humbly invite a decision as to whether the Speaker should give opportunities only to the Members of the Ruling Party, or to us also.

Thereupon, the Speaker observed that the Member had levelled a charge that the Speaker was partial and *suo motu* referred the matter to the Committee of Privileges, as it contained, *prima facie*, a case of breach of privilege. The Committee of Privileges examined the case and decided to drop it, in view of the regret expressed by the Member before the Committee. The Report of the Committee was presented to the House on 17th July, 1967, and it was considered and adopted by the House on 18th July, 1967. (*M.L.A. Debates*, Vol. 1, No. 10, pp. 760-61, 29th March, 1967.)

A matter of privilege raised in another place.—On 30th June, 1967, a Member raised a matter of privilege against the Leader of the Opposition and the Chairman of the Madras Legislative Council in regard to a matter of privilege raised in that House on 29th June, 1967, in regard to certain observations made by the Speaker in the Madras Legislative Assembly on the 24th June, 1967. On 18th July, 1967, the Speaker gave the following ruling:

> When it was alleged that a Member of the other House had committed contempt against this House, this House could not take any disciplinary action or privilege against the Member of the other House. But the Speaker was bound to write to the Chairman of the Legislative Council with a request that that House might take action against the concerned Member. But this could not be done in respect of the Chairman himself against whom the privilege issue had been raised. There were two reasons for that: one was that he could not write to the Chairman and ask him to take action against himself; secondly, that House had no powers to take action against its own Chairman in the matter of privileges. For these two reasons, the Hon. Speaker ruled that no *prima facie* case had been made out against the Chairman of the Legislative Council.
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> As regards the Leader of the Opposition, it was possible to write to the other

House and send a communication asking the other House to take action against the Member. But the procedure as laid down in the House of Commons was that when such a communication was sent, it should be accompanied by evidence that a breach of privilege issue had been committed. As the Member who raised the privilege issue had not adduced any evidence, the Speaker decided to drop the matter. (*M.L.A. Debates*, Vol. III, No. 3, pp. 234-41, 30th June, 1967.)

MAHARASHTRA

Contributed by the Secretary of the Maharashtra Legislative Secretariat

Giving of incorrect and incomplete information to the House.—On 30th March, 1967, a Member of the Legislative Assembly gave notice of breach of privilege, alleging that the Chief Minister had given incorrect and incomplete information to the House while replying to the debate on the Governor's Address. The Chief Minister had stated in the House that instructions were issued by him to avoid the use of Government machinery for election propaganda by the ruling party.

The Member countered the statement of the Chief Minister, citing certain specific instances of the use of a Government helicopter for election work by the Chief Minister which entailed the use of Government personnel and machinery. He contended that this constituted a breach of privilege, since the Chief Minister had withheld the correct information from the House.

The Speaker mentioned the ruling given by the Lok Sabha in a similar case, which in substance is as follows:

> If any statement is made by any member or Minister which another member believes to be untrue, incomplete or incorrect, then there is no breach of privilege. The remedy which should be followed in such cases is that the member, who raised the issue, and the Minister, who is accused of making an incorrect statement, may be allowed to make their statements on the floor of House, so that they are on record for members and the public to judge who is right.

Following the above ruling, the Speaker held that there was no breach of privilege and permitted the Member and the Chief Minister to make their statements in the House. The matter was thus closed.

Preventing a Member of the Assembly from proceeding towards the Assembly Hall.—On 17th July, 1967, two Members of the Assembly gave a joint notice of breach of privilege, alleging that on the same day the Police Authorities prevented a certain Member of the Maharashtra Legislative Assembly from proceeding towards the Assembly Hall, Bombay, for the purpose of representing the grievances of the tenants of the Maharashtra Housing Board. It was further alleged that the Member concerned was also assaulted by the Police.

The Speaker disallowed the notice, saying that it did not involve any breach of privilege, inasmuch as the Member was leading a Morcha and was arrested for breach of the Order, issued by the Com-

missioner of Police, banning assembly of five or more persons near the Council Hall premises.

Orissa

Failure to inform the Speaker of the detention of a Member.— Shri Akulananda Behera, M.L.A., was an accused person whose case was received in the Court of Shri M. R. Nanda, Additional Munsif and Magistrate, 1st Class, Cuttack, on transfer from another Magistrate. Neither Shri Behera nor his representing lawyer appeared before the Court on 7th February, 1967, and as such the Court passed orders for issuing a non-bailable warrant against Shri A. Behera, M.L.A. On 18th March, 1967, Shri Behera surrendered in Court and moved for allowing him to go on previous bail and representation. The Court did not allow this petition on the ground that on six earlier occasions the representing lawyer, bailer and Shri Behera had defaulted. Since no fresh bail was offered, Shri Behera was remanded to jail custody. Though the Court passed orders for remanding Shri Behera to jail custody, in fact he was not sent to jail. He was, however, allowed to sit at Sadar Courts Police Office till the Court released him on bail under the orders of the District and Sessions Judge, Cuttack.

The Committee of Privileges, to whom the matter was referred on 19th June, 1967, considered the case and reported as follows:

> Under Rule 154 of the Rules of Procedure and Conduct of Business of the Assembly, when a Member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a Court or is detained under an executive order, the Committing Judge, Magistrate or Executive Authority, as the case may be, shall immediately intimate such fact to the Speaker, indicating the reasons, etc., in the appropriate form set out in the schedule.
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> According to May's *Parliamentary Practice*, it is well established under British law that " In all cases in which Members of either House are arrested on criminal charges, the House must be informed of the cause for which they are detained from their service in Parliament " (17th Edition, page 80). Again it has been stated at page 121, namely:
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> > " Although the privilege of freedom from arrest does not extend to criminal charges, it is the right of each House to receive immediate information of the imprisonment or detention of any Member, with the reason for which he is detained. The failure of a judge or magistrate to inform the House of the committal to prison of a Member on a criminal charge or for a criminal offence would, therefore, constitute a breach of privilege. . . ." (May's *Parliamentary Practice*, 17th edition.)
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> The Committee carefully considered the letter of Shri A. Behera, M.L.A., addressed to the Speaker, Orissa Legislative Assembly, and also the written statement submitted by him. The explanation submitted by Shri M. R. Nanda, Additional Munsif and Magistrate, First Class, was also carefully considered. All relevant papers in this case were examined.
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> The point to be decided by the Committee is whether the Magistrate failed to intimate to the Speaker the detention of Shri A. Behera, M.L.A., even

for a few hours before he was released on bail by the Sessions Judge. Except for this point the Committee are not concerned to go into the merits of any other point.

So far as this single issue is concerned the Magistrate categorically states that neither Shri A. Behara nor his lawyer indicated in any way that Shri Behera was an M.L.A. Shri Behera, on the contrary, states categorically that he told the fact of his being an M.L.A. to the Court. But he did not submit anything in writing to the Court, a fact which appears from the written statement of Shri A. Behera. The Committee have no means of securing evidence on this point, nor do they consider it necessary to do so.

Although it is expected that the Magistrates should have known the names of the M.L.A.s, especially of the districts where they are working, it is necessary that the M.L.A.s should be identified in the Courts. The names of the M.L.A.s were published in the *Orissa Gazette* on 1st March, 1967, and therefore it was expected that the Magistrate must have known the fact that Shri A. Behera was an M.L.A. on 18th March, 1967, when an order was passed that Shri Behera be remanded to jail custody. But the Committee are of opinion that mere publication of the names of M.L.A.s in the Official Gazette is not sufficient to have the persons identified in the Court of Law.

Since such identification was necessary under the circumstances of the case and since there was no positive evidence to show that there was such identification, the case appears to be doubtful. Even the Magistrate in his explanation has also stated that the Court had not the slightest intention of interfering with or disregarding the privileges of the Hon'ble Members of the Assembly.

The Committee are of the opinion that the case under reference does not appear to be a serious one and so, no action is recommended.

PUNJAB VIDHAN PARISHAD

Contributed by the Secretary of the Vidhan Parishad

Disclosure of Budget proposals outside House.—The question as whether a premature disclosure of major taxation policies outside the House while it is in session is tantamount to leakage of budget and resultantly a breach of privilege, was raised on the floor of Punjab Vidhan Parishad by Shri Prem Singh Lalpura, M.L.C. on 27th March, 1967. The Member contended that it constituted a breach of privilege of the House.

On this contention the Chairman gave reasonable opportunity to the Finance Minister, Shri Baldev Parkash, and the Chief Minister, to clarify the position of the Government in that respect. He also observed that, *prima facie*, a case of breach of privilege had been made out unless proved to the contrary.

While explaining the Government's stand, the Finance Minister described his statement as being of a general nature as distinguished from specific disclosure of any Budgetary proposal and hence innocuous. The Chief Minister pleaded that the Press reports were unreliable and hence could not be made a ground for breach of privilege. The Chairman, after listening to the views of the Government and the Opposition, referred the issue to the Committee of Privileges.*

* *Punjab Vidhan Parishad Debates*, 27.3.1967, Vol. XXV, No. 2.

The Committee then examined the point in its various meetings. On an invitation by the Committee of Privileges, Dr. Baldev Parkash, Finance Minister, appeared before it on 31st March, 1967, and *inter alia* stated that the statement about taxation, etc., which appeared in the Press was based on the decisions of the Cabinet already taken, and he merely repeated those decisions and he did not think there was any impropriety in his making that statement.

The Committee of Privileges felt that no case of breach of privilege was made out on the allegations made in the Privilege Motion and recommended that the matter may be dropped and no further action be taken.

The Committee, however, felt that the Finance Minister did exceed the limits of propriety. It would have been definitely more proper for him to make the declaration in either of the two Houses of the Legislature, which were in session, rather than outside. The Committee, however, recommended that the House need not take serious notice of the matter.

The Report of the Committee was presented to the Punjab Vidhan Parishad on 8th May, 1967, and was agreed to.

Derogatory editorial against the House.—S. Kapoor Singh, M.L.C., on 5th April, 1968, invited the attention of the House through a privilege motion to the fact that the editor of the *Daily Partap*, New Delhi, in an editorial, had used derogatory language regarding the House and in the impugned article he had also misstated the facts by writing that the Punjab Vidhan Sabha had passed a resolution abolishing the House and that the matter was now before the Central Government.

After listening to the views of Members, the Chairman referred the issue to the Privileges Committee with a directive that its report be submitted within one month.

The Committee of Privileges examined this point of privilege in detail. The editor, printer and publisher of the *Daily Pratap*, New Delhi, Shri K. Narinder, appeared before the Committee on 20th April, 1967, and argued his case before it, but refused to express regret, much less tender an apology for the offending article. Ultimately the Committee recommended that the said editor be summoned to the Bar of the House and reprimanded.

The Report of the Committee was presented to the House on 8th May, 1967. The said Report was considered by the Punjab Vidhan Parishad on the 9th May, 1967, and the House agreed with recommendations of the Committee. As *per* the decision of the House, the said Editor was summoned to the Bar of the House and reprimanded on 24th May, 1967.

The Government not appointing a Leader of the House.—S. Kapoor Singh, M.L.C., through a notice, raised a point of privilege

on 4th April, 1967, on the floor of the House in respect of the Leader of the House involving the following points:

(1) The desirability of having a Leader of the House.

(2) Whether he should be a Minister of Cabinet rank to represent the Government point of view.

(3) Whether the non-appointment of a Leader of the House is a calculated insult to the House in view of the definition of the Leader of the House in the amended Rules of Procedure of Parishad.

After propounding all the Constitutional and other arguments, the Member concluded that non-appointment of the Leader of the House was a calculated move of the Punjab Government, ignoring the House and abuse of Rules of Procedure of the House. The Chairman expounded the law and precedents on that issue and postponed his decision for the next day till the Chief Minister clarified the Government stand on the issue in the House.

On 5th April, 1967, the Chief Minister, S. Gurnam Singh, made a statement, quoting articles 177 and 208 of the Constitution, and observed that insertion of definition of "the Leader of the House" in the Rules of Procedure of Punjab Vidhan Parishad in the form as done contravened the provisions of Article 177 of the Constitution.

Thereupon the Chairman referred the matter to the Privileges Committee, with a recommendation that it should give its report to the House within a month. The Committee examined this point of privilege in detail. The Advocate General and the Chief Minister put their arguments before the Committee and ultimately the Punjab Government appointed Shri Krishan Lal, a Member of the Punjab Legislative Council, as a Minister, and nominated him as the Leader of the House. In view of this the Committee of Privileges recommended to the House that the matter may be dropped.

The Report of the Committee was presented to the House on the 24th May, 1967, and agreed to.

Derogatory remarks by a newspaper against a Committee Report.—On 17th April, 1967, the Secretary, Punjab Vidhan Parishad, brought to the notice of the Chairman, Punjab Vidhan Parishad, some derogatory remarks which had appeared in *The Prestige* These remarks were made in respect of the Fifth Report of the Committee of Privileges presented to the House on the question of Privilege arising out of the remarks earlier made by Sh. S. S. Bedi, against Bawa Daswandha Singh, then a member of the Punjab Vidhan Parishad.

After going through the said remarks, the Chairman referred the matter to the Privileges Committee.

The Committee of Privileges examined that issue in its various meetings. The Editor-in-Chief and the Editor-in-Charge of *The Prestige* appeared before the Committee and tendered an apology. The Managing Editor of *The Prestige* also submitted in writing his

unconditional apology, and the text of the apology was published in the said paper, on the 12th July, 1967.

While accepting the apologies tendered by the Editor-in-Chief, Editor-in-Charge and the Managing Editor of *The Prestige*, the Committee recommended that the matter may be dropped.

The above Report of the Committee was presented to the House on 14th December, 1967, and later agreed to.

Members molested.—A Member, Shri Kanwar Lal Sharma, raised a question of privilege, alleging that some Members of the House were obstructed from entering the Vidhan Bhawan and that they were also manhandled and molested by a number of outsiders on 5th May, 1967, while they were coming to the House for the performance of their duties.

After hearing the Government explanation, the Chairman referred the matter to the Privileges Committee of the House.

Since the complainant, Shri Kanwar Lal Sharma, M.L.C., was himself the Chairman of the Privileges Committee, the Chairman, Punjab Vidhan Parishad, constituted a special Committee of Privileges for the purpose.

The special Committee then examined the issue in detail. Shri Kanwar Lal Sharma, M.L.C., the complainant, appeared before the Committee and made a statement. From his statement the Committee found that he was not able to give the names of persons, though he affirmed that he could identify them if they could be produced. In view of that, the Committee recommended that the matter be dropped.

The said Report of the Committee was presented to the Chairman, Punjab Vidhan Parishad, on 15th April, 1968, under rule 248 of the Rules of Procedure and Conduct of Business in the Punjab Legislative Council, as the House was not in session. The report has yet to be considered by the House.

UTTAR PRADESH: LEGISLATIVE COUNCIL

Contributed by the Secretary of the Legislative Council

Minister misleading the House.—On 30th June, 1967, the Chief Minister made a statement in the Council regarding an alleged lathi charge on Women Government Servants while they were carrying out a "Gherao Andolan" (surrounding movement) on 24th April, 1967, at the residence of the Chief Minister. In the course of the statement and in reply to questions, the Chief Minister denied that any lathi charge had been resorted to on the Women Government Servants. On 26th July, 1967, Sarvasri Shiv Prasad Gupta, Kr. Devendra Pratap Singh and Shakir Ali Siddiqi, M.L.C.s, raised a question of breach of privilege against the Chief Minister alleging that the Chief Minister had

misled the House by giving a false statement, because medical reports in respect of the injuries to the Women Government Servants, which had been laid on the Table of the House, had revealed that some of the injuries inflicted on the Women Government Servants were inflicted by lathis. The matter was ruled as raising a *prima facie* case of breach of privilege and was, on motion, referred to the Committee of Privileges for investigation and report. The matter is still under consideration by the Committee and no report has so far been submitted by the Committee.

UTTAR PRADESH: LEGISLATIVE ASSEMBLY

Contributed by the Secretary of the Legislative Assembly

Threatening a Member.—On 26th July, 1967, Sri Bhagwati Prasad, M.L.A., made a complaint in writing to the Speaker that, "on 25th July, 1967, when he was passing through the lobby of the Congress (Opposition) Party to reach the House, Sri Banarasi Das, Sri Kedar Raj Jang Bahadur Rana and Sri Surendra Vikram Singh, Members of the Assembly, caught hold of him forcibly in the lobby and exerted pressure on him to vote for the Congress Party in the division. When he did not agree, the said three members forcibly made him to sit there and threatened him. At that time three other Members arrived in the said lobby and got him released. In this manner Sri Banarasi Das, Sri Kedar Raj Jang Bahadur Rana and Sri Surendra Vikram Singh had committed breach of privilege and contempt of the House." After hearing some Members on this complaint in the House on 26th July, 1967, the Speaker referred the matter to the Privileges Committee.

The Committee called for written statements from all the Members whose names were mentioned in the complaint, and obtained the same from some of them. The Committee also recorded the evidence of Sri Bhagwati Prasad, the complainant. After fully considering all the documents and facts of the case, the Committee arrived at the conclusion that it could not be proved that any of the Members against whom the complaint had been made had committed or had the intention of committing a breach of privilege against Sri Bhagwati Prasad, or contempt of the House. Therefore, the Committee recommended that the matter should be dropped. The report of the Committee was presented to the House on 20th December, 1967.

Obstruction in a Division Lobby.—On 26th July, 1967, Sri Raj Bahadur Chand, M.L.A., made a complaint in writing to the Speaker that, "on 25th July, 1967, at the time of a division, when Sri Nardeo Singh and Sri Basant Lal, Members of the Assembly, were going to the lobby to cast their votes, Sri Varmeshwar Pande, Sri Bhuwanesh Bhushan Sharma and Sri Malikhan Singh, Members of the Assembly

prevented them from doing so, and catching hold of their hands tried to take them forcibly to the 'yes' lobby. Two other members, Sri Prem Datt and Sri Shiv Nath Singh, tried to protect Sri Nardev Singh, and thereupon the first three Members used force against them also. Sri Varmeshwar Pande began to hit out with his chappals (slippers) and used kicks, as a result of which one of the members, Sri Prem Datt, was seriously injured and was unconscious for some time. Sri Shiv Nath Singh also received injury. In this manner Sri Varmeshwar Pande, Sri Malikhan Singh and Sri Bhunwanesh Bhushan Sharma caused obstruction in the business of the House, and committed breach of privilege and contempt of the House."

After hearing some Members regarding this complaint in the House on 26th July, 1967, the Speaker referred the matter to the Privileges Committee. The Committee had finalised its report before the dissolution of the House. The report has not yet been presented to the Assembly.

West Pakistan

Contributed by the Secretary of the Provincial Assembly

Derogatory remarks against a Committee of the Assembly.—A case of breach of privilege against a Member and the House occurred during 1967, when a responsible Government Officer uttered derogatory remarks against the Committee on Rules of Procedure and Privileges in a statement made by him to the Enquiry Officer in a Departmental Enquiry conducted against him. The Assembly referred the matter to a Special Committee, which is still considering it.

Members' status.—Another case of breach of privilege of the Assembly occurred when the warrant of precedence was not observed by the officials responsible to make seating arrangements on the occasion of staging a drama at Pakistan Art Council, Lahore, and allotted seats to Members of the Provincial Assembly in rows other than those which their status warranted.

The Assembly referred the matter to a Special Committee. The Report of the Committee has not yet been presented to the Assembly.

XVI. MISCELLANEOUS NOTES

1. Constitution

Australia (Constitution Alteration (Aboriginals) Act, 1967).—The Act made alterations to two provisions of the Constitution referring to Aboriginals, viz.:

(*a*) it repealed section 127 which provided that, in reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, Aboriginal natives shall not be counted.

This section had been included in the Constitution principally because of the practical difficulty of enumerating the Aboriginal population. What was a substantial problem in 1900, however, was no longer a serious difficulty. There was now no basis for the section; it was out of harmony with national attitudes and modern thinking, and had no place in the Constitution in this age.

(*b*) it deleted the words " other than the Aboriginal race in any State " from paragraph (xxvi) of section 51, which read " The Parliament shall, subject to this Constitution, have power to make laws for the peace, order and good government of the Commonwealth with respect to—

(xxvi) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws."

As the Constitution stood, the Commonwealth had no power, except in the Territories, to legislate with respect to people of the Aboriginal race as such. The deletion of the words meant that the Commonwealth Parliament had vested in it a concurrent legislative power with respect to Aboriginals as such, they being the people of a race, provided the Parliament deemed it necessary to make special laws for them. It was believed that the National Parliament should have that power.

The Bill providing for these alterations was passed by unanimous vote in both Houses respectively in March, 1967, and was subsequently submitted to the electors for approval (as provided by section 128 of the Constitution) on 27th May, 1967.

The proposed changes were approved by the electors of all States, with over 90 per cent. of the votes cast being in favour of the alterations.

(Proposals contained in the Constitution Alteration (Parliament) Bill, 1967, were submitted to the electors at the same Referendum. These proposals—to alter the Constitution so that the number of Members of the House of Representatives may be increased without necessarily increasing the number of Senators—are dealt with in detail in a preceding article.)

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

Australia (Ministers of State Act, 1967).—The purpose of the Act was to amend the Ministers of State Act to permit the appointment of one additional Minister, making twenty-six in all, and to increase the annual sum provided for ministerial salaries by $6,000 to $197,300.

The amendments to the Act arose out of the appointment of a Minister to administer the recently established Department of Education and Science. One Minister had been administering both the Department of Works and the new Department and the amendments permitted continuation of the practice of having one Minister responsible for only one Department.

Arising from the increase in the number of Ministers an increase in the annual sum set aside for Ministers' salaries was necessary. The sum currently authorised was $191,300. The amount proposed to be set aside is $197,300. The increase proposed, namely $6,000, was the minimum needed for the annual salary of one Minister at the present time. The new amount of $197,300 is derived as follows:

	Salary per annum		*Total Appropriation*
	$		$
Prime Minister	17,000		17,000
Deputy Prime Minister (not being Treasurer)	10,000		10,000
Treasurer	9,800		9,800
Senior Ministers (9)	8,500	each	76,500
Junior Minister (14)	6,000	each	84,000
	Total for all Ministers		197,300

Australia (Nauru Independence Act, 1967).—This Act was a short and simple one, designed to make it possible for Nauru to cease to be a Territory of the Commonwealth administered under United Nations Trusteeship by Australia, Britain and New Zealand.

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

West Pakistan (Constitutional).—An important change took place in the Constitution during 1967. According to Article 71 of the Constitution of the Islamic Republic of Pakistan, the Assembly consists of 155 Members out of which five seats are reserved exclusively for women. This Article has been amended by the Constitution (Eighth Amendment) Act, 1967. According to the amended provision, each Provincial Assembly will now consist of 218 Members. The number of seats reserved for women has been increased from five to eight and ten seats have been reserved for persons who have held office as President, Speaker of an Assembly, Governor or Minister, or have acquired high academic distinction in Art, Science or Literature, or have knowledge and practical experience of not less than ten years

in the field of law, medicine, engineering and journalism This amendment will, however, not come into force until the next general elections, which are likely to be held in April-May, 1970.

(*Contributed by the Secretary of the Provincial Assembly.*)

2. Ceremonial

The Prince of Wales.—At the Opening of Parliament on 31st October, 1967, the Prince of Wales and the Princess Anne attended for the first time. Her Majesty the Queen, as Princess Elizabeth, had come in her father's train to the Opening of Parliament two or three years before he died, and had had a seat prepared for her on the steps of the Throne. A similar seat was, on this occasion, prepared for the Princess Anne on the steps of the Throne at the Queen's left hand, and the Prince of Wales sat in a similar position on her right. Since the Prince of Wales will, when he reaches the age of twenty-one, be introduced into his seat as a Member of the House of Lords on the Queen's right hand beneath the Cloth of Estate, care was taken to see that he did not sit in this place on this occasion. He and his sister attended as members of the Queen's entourage, in the same capacity as Prince Philip or as Queens Consort in previous reigns.

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

Canada celebrates her centenary.—The parliamentary session which was in progress when the Centennial Year dawned turned out to be the longest in Canadian history. At its prorogation on 8th May, Parliament had sat for 250 days, breaking the 248-day record which had been established by the 1964-65 session. Before prorogation, the House of Commons had adjourned at 3.20 a.m. in the morning of 27th April, having completed the longest sitting of the longest session in an effort to dispose of its outstanding business before the opening of EXPO '67 at Montreal on the same day.

The new session of Parliament was opened at 4 p.m. on 8th May—the same day as that of prorogation. It was the first session of Parliament to be opened by the new Governor-General, Mr. Roland Michener, who had been appointed to his office in the Centennial Year, following the death of General Georges Vanier. In the course of his speech the Governor-General dwelt at length upon the foundation, the heritage, and the achievements of the Canadian Confederation, and ended by quoting the concluding words of Canada's first Governor-General in opening the first Parliament of the Confederation one hundred years previously:

> Within our borders peace, security and prosperity prevail, and I fervently pray that your aspirations may be directed to such high and patriotic objects, and that you may be endowed with such a spirit of moderation and wisdom as

will cause you to render the great work of union which has been achieved, a blessing to yourselves and your posterity, and a fresh starting point in the moral, political and material advancement of the people of Canada.

The 6th of November was the 100th Anniversary of the first meeting of the Parliament of the Confederation, and to mark the occasion a special Royal Assent ceremony was held in the Senate Chamber. The Chief Justice, the Hon. J. C. Cartwright, deputised for the Governor-General for this event, and delivered a speech in honour of the occasion. In the course of it he pointed out that, although the institution of Parliament had been inherited from Great Britain, it had been made, in all respects, Canadian. "Thus, everything done in this land in the name of the Queen is done by Canadians at the behest of Canadians. The giving of Royal Assent to Bills is not merely an ancient custom but an integral part of our own legislative process." In the House of Commons, earlier in the day, the Prime Minister and other party leaders had also delivered speeches honouring the institution of Parliament.

3. Procedure

House of Lords (Accelerated Business).—Recently four Bills have passed through the House at emergency speed. They were the Southern Rhodesia Bill, 1965; the Prices and Incomes Bill, 1966; the Prices and Incomes Bill, 1967; and the Commonwealth Immigrants Bill, 1968.* All stages of each Bill were taken on one day (except that the 1967 Bill had its First Reading a day earlier than its remaining stages). Such speed is exceptional in peace time for any Bill other than a Supply Bill, which goes through quickly only because it is not debated. The four Bills in question were all contentious measures and the subjects of substantial debate.

The illegal declaration of independence by Southern Rhodesia on 11th November, 1965, was accepted by all parties as good cause for emergency measures and the Southern Rhodesia Bill which was introduced in the Commons on 12th November, passed both Houses in four days. It was received from the Commons at 12.20 a.m. on 16th November (that is during the business of 15th November) and went through all its stages. Royal Assent was given at 1.45 a.m. The only procedural device adopted to ease its passage in the Lords was for a general debate to take place on 15th November on the motion of the Lord Chancellor "That this House takes note of the situation in Southern Rhodesia". This was accepted as a substitute for a Second Reading debate. Forty-three speakers took part and the actual Second Reading debate occupied only half an hour. Manuscript amendments were moved in Committee, though the Bill

* This note covers the procedural devices used in years other than 1967 in order to give a more informative account.

was not printed for the Lords, but none was pressed, and the Bill passed in the ordinary way.

The Prices and Incomes Bill, 1966, was introduced in the Commons on 4th July, and on 20th July the Prime Minister announced that a new Part, giving the Government power to compel a standstill on prices and incomes, would be tabled. The tabling of the new Part took place on 29th July. The Government wished to have the Bill on the Statute Book before the then imminent summer recess, but they could not get it through the Commons until after the Lords had risen on the night of the 10th August. In order to give the House a reasonable opportunity to study and debate the Bill, it was published on 29th July as a White Paper to an order of the House of Lords, complete with the new Part (at the same time as the new Part was tabled in the Commons). This "White Bill", as it came to be called, was the subject of a lengthy debate on 3rd August, and Peers were invited to table amendments to it. They were told that these would be adapted to fit the real Bill when it was received from the Commons. On 11th August both the Bill and the marshalled list of amendments were published, and the Bill was passed unamended. Royal Assent was given on 12th August.

Lord Shepherd, in proposing the White Bill procedure, assured the Marquess of Salisbury "that I will see that this is not a precedent"; but the same procedure as on the 1966 Bill was followed for the Prices and Incomes Bill, 1967. A "White Bill" was ordered to be printed on 28th June and was debated on 5th July. The actual Bill came from the Commons on 12th July, went through Second Reading and remaining stages the next day, and received the Royal Assent on 14th July. (No amendments were put down.)

Lord Shepherd explained that the "White Bill" procedure was being used again so that the Prices and Incomes debate would not be submerged in the congestion of business in July which was "particularly bad". He wanted the general debate to coincide with a motion (on 5th July) to approve an order relating to the Prices and Incomes Act, 1966.

The Commonwealth Immigrants Bill, 1968, was introduced in the Commons on 23rd February and was expected to reach the Lords on 28th February, to be taken through all its stages on 29th February. When it became clear that the Bill would not be finished in time in the Commons the Government looked for ways of making it available to the Lords, in order to keep to their time-table. The "White Bill" procedure was rejected on the grounds that

(*a*) assurances had been given on the Prices and Incomes Bills that it would not be a precedent;

(*b*) the Clerks advised that the procedure ought only to be used on the specific authority of the House obtained on Motion;

(*c*) the procedure created problems, e.g. what course should be followed on 29th February if the Bill had still not been brought from the Commons.

Since the principal need was to have a Bill available to which amendments could be put down (many were expected) the Government decided to introduce a "No. 2" Bill. Simultaneous Bills had been considered and rejected for Prices and Incomes because they invited the criticism that the Government were treating the Commons as a rubber stamp and because simultaneous consideration erodes the revising function of the Lords. These objections were less valid for the Commonwealth Immigrants Bills, the object of the second Bill being to allow the tabling of amendments and there being no intention of proceeding beyond the second reading of the Lords Bill.

The "No. 2" Bill was introduced on 27th February, in identical form to the Commons Bill. Amendments were tabled in advance of second reading and arrangements were made to proceed with this Bill on 29th February until the Commons Bill arrived. In the event the Commons finished at 7 a.m. on 29th February and their Bill with a marshalled list of amendments transferred from the Lords Bill was published by 10 a.m. The Lords took this through all stages during the night of 29th February-1st March and Royal Assent was notified before the House rose at 9.46 a.m.

India: Kerala (Laying files on the Table of the House).—On 21st July, 1967, while replying to the discussions on the Kerala Appropriation (No. 2) Bill, 1967, the Chief Minister in pursuance of the requests from the Opposition Members undertook to place on the Table files relating to disciplinary proceedings on Shri C. C. Kunjan, formerly a Director of Harijan Welfare and under suspension, who was reinstated in service and posted as Special Officer (Panchayats) and Ex-Officio Deputy Secretary to Government.

On 27th July, 1967, a letter was received by the Speaker from the Chief Minister on the above subject, stating certain practical difficulties. He pointed out that while giving, on the floor of the House, the undertaking to lay the files on the Table he had no clear idea of the implications of this move; that when a file is laid on the Table of the House it becomes part of the records of the House and cannot be removed. His action was motivated by the desire to keep the records straight and let the Opposition have complete access to the facts of the case. The Chief Minister therefore suggested that the files be handed over to the Speaker to be kept in the Legislature Library for reference purposes for as long a period as necessary, so that the Members could have access to them. He further requested that at the end of the period the files be returned to the Government.

As there was no precedent which could be followed in such a case, the Speaker referred the matter to the Committee of Privileges, for their examination and report, so that some definite procedure might be evolved on this question. The relevant files received by the Speaker, together with the Chief Minister's letter, were made available to the Committee for perusal.

The Committee met on 29th July, 1967, and considered the question in all its aspects. There were nine files covering the period from 1960 to 1967 and two of them voluminous. When the Opposition pressed for the laying of these documents on the Table of the House their intention might have been that all the facts connected with this enquiry and subsequent reinstatement should be available to the public. In that case the Chief Minister should place the files on the Table. But there was the aspect that Government would require these files for future reference. Having taken note of these aspects, the Committee were of the view that as a very special case these files might be returned to Government after three months, after retaining an attested copy of the documents in the Legislature Secretariat, and recommended accordingly.

The Committee presented its report on 31st July, 1967, and it was adopted on the same day.

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

4. General Parliamentary Usage

House of Commons (Questions to Ministers).—After Questio Time on 8th November, 1967, Mr. Tam Dalyell, a Government supporter, rose on a point of order to ask Mr. Speaker to clarify a matter which he regarded as one of principle concerning the rights of Members to table Questions. He said: Yesterday afternoon I handed in to the Table Office two Oral Ouestions to the Secretary of State for Education and Science, two Written Questions to the Secretary of State for Defence, and an Oral Question and five Written Questions to the Minister of Public Building and Works on the matter of the proposed staging post on Aldabra Atoll in the Indian Ocean.

These Questions were found all to be in order, and with characteristic courtesy and good humour the Clerk at the Table Office on duty said, " You are nearing the campaign limit ", or words to that effect.

To my surprise this morning, none of these Questions appeared on the Order Paper for future answer. On inquiry, I found that the Principal Clerk of the Table Office, for what was said to be " for my own good ", had withheld these Questions from the printer. Consequent on my inquiry this morning, I received the following letter at two o'clock from the Principal Clerk of the Table Office:

> You will recall that when you recently visited the Table Office one of my colleagues mentioned that the number of questions which you had down on Aldabra was nearing the point at which there was a possible danger of disallowance of further questions on the grounds that they were " multiplied with slight variations on the same point ". (May, p. 355.)
>
> By yesterday you had 39 such questions down; and in view of the fact that Speakers have occasionally in the past intervened at this stage or earlier, I felt it my duty to withhold from the paper the 10 further questions which you had

brought in last night, until I had had the opportunity of discussing the matter with Mr. Speaker.

This I have done, and he has asked me to let you know that in his opinion 50 questions in total is the absolute maximum which he is willing to permit in this case. I have accordingly sent your 10 questions to the printer, in the form agreed between yourself and the Table Office.

I put it to the House that two questions arise. First: should questions from an hon. Member be withheld without his knowledge which are acknowledged to be in order and accepted by the Table Office? Secondly, while I freely confess to conducting a so-called "campaign"—I myself prefer to call it a systematic inquiry to establish facts about the military, financial and scientific consequences of a potential British staging post in Aldabra before the Government's decision is taken—is there anything wrong in a Member of Parliament putting so many Questions to 11 different Ministers?

Finally, Mr. Speaker, would you care to comment on the doctrine that a Member of Parliament who sets himself up as an inquisitor of an aspect of future executive policy should be ruled out of order?

Mr. Speaker replied: I might, first, say that I am sorry that the hon. Member should not have accepted, as most of the House has accepted over many years, the discretion of Mr. Speaker in matters of the kind he has raised.

As the hon. Member knows, past Speakers have sometimes ruled Questions out of order on the ground that they

"multiplied with slight variations on the same point."

I regret that I should have had to find it necessary to apply this rule in the case of the hon. Member.

As far as I am aware, none of my predecessors has ever laid down a particular number at which this rule should always be applied. I think that it is quite right that this should be so, since some matters are more complex and more detailed than others. I do not think that in exercising my discretion as I have done on this occasion I have unfairly deprived the hon. Member of the opportunity of exploring the matter fully.

I understand that on an earlier visit to the Table Office the hon. Member was advised that the number of his Questions—it was 39 up to last night—was such as to raise the possibility of the rule being applied; and that the matter would be referred to me this morning. I myself was informed of this today and I was satisfied that the Table Office had acted quite properly in holding back the Questions which the hon. Member handed in yesterday evening until the matter had been referred to me today.

Mr. Speaker's ruling gave rise to a number of further points of order seeking elaboration of certain aspects of it. Mr. William Hamilton, another Government supporter, asked whether Mr. Speaker was aware "that several of us have an inquisitorial nature.

You will no doubt be aware, as many hon. Members are aware, that if my hon. Friend the Member for West Lothian (Mr. Dalyell) is not allowed to put down more than 50 Questions, there is a quite easy way of getting round that position by farming out his Questions.

"My hon. Friend, if he knows anything at all, will get a dozen of us each to put in 20 Questions and the consequence will be not 50, but 240 Questions. I ask you very respectfully, Mr. Speaker, very seriously to reconsider the statement you have just made."

Mr. Speaker: I have no comment to make on the very clever Parliamentary advice which the hon. Member for Fife, West (Mr. William Hamilton) is giving to his hon. Friend the Member for West Lothian (Mr. Dalyell). It has been the custom for many, many years —it was not invented by this Speaker—that there should be a limit to the number of Questions which were infinite variations on one topic. I am afraid that I must abide by that custom.

Mr. Frank Allaun: Further to the point of order. As one who is not unknown to ask Questions, I hope that you will bear in mind, Mr. Speaker, that the previous campaign for systematic inquiries conducted by my hon. Friend saved the country millions of pounds. Surely, there should be cautious treatment of any suggestion of suppressing Questions by my hon. Friend. If we are not to pursue campaigns, Mr. Speaker, for what reason are we in Parliament?

Mr. Speaker: I am certain that the hon. Member will acquit me of any opinion on any of the campaigns which hon. Members seek to pursue. On their merits or otherwise, Mr. Speaker has no opinion whatever. He has, however, to apply common sense and see that while no hon. Member is deprived of his right to put down Questions, there is a limit to what otherwise could be an infinite variety of Questions that he would put on exactly the same topic. That, I think, makes complete sense. I hope that we can move on.

Mr. Rankin: Is not a slight change in procedure involved in the Ruling which you have just given, Mr. Speaker? You have referred to the discretion of Mr. Speaker, which we all accept, but if what you have just said becomes a Ruling the discretion of Mr. Speaker would seem to disappear and it will be replaced by a rule of the House. There is flexibility in the discretion of Mr. Speaker, but there would be no flexibility in a rule.

Mr. Speaker: I am grateful to the hon. Member for what he has said. Certainly Mr. Speaker is not endeavouring to make a new rule.

Mr. Heffer: Further to the point of order. The whole House will, I think, agree that this is a serious matter. I would like to ask you two points, Mr. Speaker. First, can you tell the House when the first Ruling was given, which Mr. Speaker gave it and on what precedent this is based? Secondly, on what occasion, if ever, has the House pronounced upon this matter? This will enable us to get our minds clear about future procedures.

Mr. Speaker: I have already given the Erskine May reference.

There have been numbers of occasions when this sort of thing has happened. As far as I am aware, there has been no recent general pronouncement in the House. The matter has arisen only because one hon. Member has questioned the use of the discretion of Mr. Speaker.

Dr. David Kerr: May I ask you, Mr. Speaker, whether, in coming to your conclusion, you took into account the alteration in the procedure for Questions which has obtained during the last year or so? I ask this because it seems to me that the decision of the Table Office to delay until your considered opinion could be obtained deprived my hon. Friend the Member for West Lothian (Mr. Dalyell) of the right to get his Oral Question down in such time as to allow him to pursue it by the traditional House of Commons method of supplementary questioning.

This is a different matter, I submit, from the number of Questions which my hon. Friend has posed on a particular subject. It is a matter of considerable consequence if hon. Members are to be deprived by a decision of the Table Office, which is not answerable to the House, of the right to pursue a matter by supplementary questioning.

I would like further to ask, Mr. Speaker, whether you would be kind enough, for the benefit of your successors, to comment on what is becoming increasingly a matter of difficulty for us back benchers. I refer to the establishment of procedure by case law. What has happened in the past may be merely habit but the moment that you pronounce that 50 Questions are the maximum this fact will be referred to by yourself and your successors as being the established procedure of the House. That is a precedent which, in all fairness to all of us, we would want to look at carefully and to do so without any disrespect to your opinion or to your right to publish that to the House.

Mr. Speaker: I am grateful to the House for considering this matter. A public Ruling was given in 1953-54, at Vol. 524, c. 1905/6. There were, however, similar private Rulings as early as 1899 on the same issue and later in March, 1957.

I am apprised of the problem raised by the hon. Member in the first part of his question concerning the danger of depriving an hon. Member of the right to get an Oral Question on the Order Paper. The position concerning Questions in general is that hon. Members submit their Questions to the Table. If the Table in some way objects to the Question on any ground whatever, the hon. Member concerned has the right to come to Mr. Speaker. Similarly, if the Table is in any doubt, it asks Mr. Speaker.

Mr. Speaker's task is to protect the interest of every Member of the House, but also to protect the interest of the Order Paper. In a matter involving a multiplicity of Questions around the same subject, in my opinion a limit must be drawn from time to time.

The last thing that Mr. Speaker would want the House to think is

that there is anything inflexible in the number 50. This is a matter which must be left to the discretion of Mr. Speaker, and, indeed, of the hon. Member in question. Most hon. Members have accepted the point of view which has been put to them from time to time over the years. I hope that we can now get on with business. (*Com. Hans.*, Vol. 753, cols. 1029-34.)

5. Electoral

Western Australia (Electoral Act Amendment Bill).—As a result of a periodical review of the Electoral Act, a number of amendments were introduced and passed in the 1967 Session.

The most important of these were provisions which now permit a person to claim enrolment if he satisfies a residential requirement of six months continuously in the Commonwealth of Australia, three months in the State, and one month in the particular district.

Other amendments provide that the Act shall not be contravened by the failure of a person to enrol through physical incapacity or mental illness, and also for the removal of names from the roll for similar reasons.

A further amendment permits a candidate to withdraw his nomination for election up to the time of the closing of nominations. The existing provision relating to the forfeiture of the nomination fee was retained.

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

India (Representation of the People (Amendment) Act, 1967).—During the year 1967, Parliament passed the Representation of the People (Amendment) Act 1967, which modified the provision in the parent Act (the Representation of the People Act, 1951) concerning the due constitution of the lower Houses, both at the Centre and in the States, after a general election. The modification is noted below:

Under section 73 of the Representation of the People Act, 1951, it was provided that where a general election to the House of the People (Lok Sabha) or to a State Legislative Assembly was held, the Election Commission should notify, after the date previously fixed for the completion of the election, the names of all the Members elected from the various constituencies up to that date. Upon the issue of such notification, the new Lok Sabha or the State Legislative Assembly, as the case may be, was deemed to be duly constituted. This procedure, it was found by experience, resulted in unnecessary delay in constituting a new House after the general election, as the results of practically all the constituencies—except where a poll could not be taken for unavoidable reasons—were declared soon after the date of poll. In previous election years, this procedure even involved the holding of a " lame duck " session of the outgoing House to transact

essential financial business. This, it was considered, was an anachronism and accordingly section 2 of the amending Act of 1967 amended section 73 of the parent Act so as to enable the Election Commission to issue the "due constitution" notification immediately after the declaration of the results by the Returning Officer in all the constituencies other than those where poll could not be taken for any reason on the date originally fixed.

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

West Pakistan.—An important change was made in the Electoral College Act, 1964. According to section 4 of the Act, the Province of West Pakistan was divided into forty thousand electoral units for the purpose of Article 155 of the Constitution. This section has now been amended to increase the number to sixty thousand.

Some procedural amendments have been made in the Act. A new sub-section (7) of section 6 empowers the Commissioner to call for and examine the record relating to the delimitation of any electoral unit and direct the delimitation officer to correct any error in the electoral roll.

The Act has also been amended to provide that every electoral roll shall be revised within the period of 12 months immediately preceding the day on which the term of an electoral college is due to expire so as to complete such revision at least six months before such day.

Amendments have also been made whereby a person who has been, on conviction for any offence, sentenced to transportation for any term, or imprisonment for not less than two years or has been sentenced to death and that sentence has been commuted into transportation or imprisonment, shall be disqualified from being, or being elected as a member of the electoral college for any electoral unit. Prior to this only the persons disqualified under E.B.D.O. were ineligible for such election.

A new Section 59A has been added to the said Act, which empowers the Commissioner, either of his own motion or on an application made in his behalf by any of the parties at any stage to transfer an election petition from one Tribunal to another and the Tribunal to which an election petition is so transferred may, if it thinks fit, recall and examine any of the witnesses already examined. Rule 22(i) of the Electoral College Rules 1964, has also been amended providing that any person who claims that he is or has become entitled to be enrolled on the electoral roll may get his name enrolled without payment of any fee. Consequently sub-rule (4) of rule 22 which provided a fee of Rs.5 for the purpose has been deleted. Finally, in rule 22 of the Electoral College Rules 1964, a new sub-rule has been added empowering the registration officer of his own motion to correct any entry found erroneous in an electoral roll.

(*Contributed by the Secretary of the Provincial Assembly.*)

6. Emoluments

Australia (Parliamentary Retiring Allowances (Increase) Act, 1967).—The Act provided for the Consolidated Revenue component of existing pensions payable from the Parliamentary Retiring Allowances Fund to be raised to the level that prevailed for members of the Fund retiring on 30th June, 1967.

Since the rates of pensions provided by the Fund had remained unchanged since 1st November, 1964, the effect of the Bill was to increase only those existing pensions payable in respect of members of the Fund who retired prior to that date.

The increases were in line with increases provided for beneficiaries under the Superannuation and the Defence Forces Retirement Benefits Funds.

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

Queensland.—The Parliamentary Contributory Superannuation Fund Acts Amendment Bill was passed on 14th December, 1967, and provided that contributions by Sitting Members of the Legislative Assembly to the Fund should be increased from $20 to $24 per fortnight.*

The weekly rate of benefit, according to Parliamentary service, was increased as follows:

8½ years' service but less than 11½ years service	$42 (36)
11½ years' service but less than 14½ years' service	$51 (43)
14½ years' service or longer	$60 (50)

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

Maharashtra.—The Bombay Legislative Members' Salaries and Allowances Act, 1956, was amended so as to provide that the Chairman of the Committee on Public Undertakings could travel by air for the purpose of transacting business as Chairman. In such cases he would get one and a quarter of the air fare as travelling allowance for each journey. Further, Members of the Legislature are now entitled to reservation of seats free of charge in the State Road Transport Services.

The Maharashtra Legislature Members (Free Transit by Road Transport Service) Rules, 1961, providing free travel by members of the Legislature in service buses of the Bombay Electric Supply and Transport Undertaking and the Maharashtra State Road Transport Corporation, were amended so as to entitle the members to free travel in the service buses of the Bombay Electric Supply and Transport Undertaking and Maharashtra State Road Transport Corporation, as

* *Hansard*, pp. 2042-52, 2275, 2275.

well as in the luxury buses of the Maharashtra State Road Transport Corporation.

The Members of the Bombay Legislature Allowance Rules, 1959, were amended so as to provide that if the Session of a House exceeds fourteen days, then on the expiry of any continuous period of fourteen days, a Member who, after attending any seven meetings during such period of fourteen days, leaves the place of Session to any place in the State of Maharashtra, shall be entitled to travelling allowance for journeys undertaken by him at the rate admissible under the Rules.

The Maharashtra Legislature Members (Free Transit by Railway) Rules, 1965, relating to issue of railway coupon books to Members of the Legislature, have been amended so as to provide that no fresh coupon books shall be issued to any Member unless he furnishes an account of the used coupons in the prescribed form.

(*Contributed by the Secretary of the Legislative Department.*)

7. Standing Orders

Tasmania (House of Assembly).—The Standing Orders Committee made comprehensive review of the Standing Orders, and it recommended to the House a number of amendments.*

The main purpose of the review had been to consider the desirability of replacing the complex and time-consuming procedures governing the preliminary consideration of financial measures in the Committee of Supply and the Committee of Ways and Means, as well as for certain types of proposed expenditure in the Committee of the whole House. The House of Representatives of the Commonwealth of Australia had already made these changes, which have been in operation since 1963. So that the Committee would be fully informed on the changed procedures and the manner in which they operated in the House of Representatives, the Clerk of the House of Assembly of this State had spent several days in 1965 during the Budget Session at the House of Representatives in Canberra, following which he had made a report to the Committee.

During his visit to Canberra, the Clerk of the House was not only able to see the new procedures working, but also had the opportunity of many discussions with Members and Officers of the House as to their operation. As a result, he was able to report that the new financial procedures work in a most satisfactory manner and everyone concerned was strongly in favour of the new system. While it may be said that in earlier years the functions of the Committee of Supply and the Committee of Ways and Means were of considerable constitutional significance, it is nevertheless true that the conditions that made that system necessary have long since disappeared, and

* In the light of experience, some of the new Standing Orders were later amended.

under present-day circumstances, the functions of both of these committees have lost their meaning. The Committee, therefore, had no hesitation in recommending that similar procedures to those of the House of Representatives be adopted in the House of Assembly of this State.

To that end, the Committee recommended the repeal of the old Standing Orders covering the introduction of financial proposals in the House, and the substitution of new Standing Orders, modelled on the lines of those adopted in 1963 by the House of Representatives. The new Standing Orders governing the financial procedures may be compared with the old as follows:

In the case of annual appropriations.—The old procedure provided for the reference of Governor's Messages to the Committee of Supply and consideration of Estimates and Supply proposals in that Committee, following which a Bill was introduced to give effect to the Resolutions already agreed to in the Committee of Supply. Under the new procedure, the Governor's Messages recommending an appropriation for the purposes of an Appropriation Bill or a Supply Bill presented by the Treasurer are not referred to any Committee but are simply announced by the Speaker. The Budget Debate which used to take place on the Question—" That Mr. Speaker do now leave the Chair and the House resolve itself into the Committee of Supply "—under the new Standing Orders takes place on the Second reading of the Bill. It will thus be seen that the removal of the necessity for the House going into Committee of Supply does not in any way affect the constitutional provision for all expenditure to be recommended by the Governor, thus preserving the control of expenditure by His Excellency's Ministers.

Special appropriations.—Loan Fund Appropriations which had to first originate in the Committee of the whole House following the reference to the Committee of the Governor's Message are dealt with in the same manner, i.e., the Debate takes place on the Second reading of the Bill, prior to which the Speaker announces the receipt of a Governor's Message recommending the necessary appropriation.

Tax proposals.—Taxation measures had to be founded in the Committee of Ways and Means upon a Resolution moved by a Minister of the Crown, after which a Bill was brought in to give effect to the Resolution. The new procedure provides that a Minister must introduce the Bill and the Debate takes place on the Second reading.

Bills which have incidental financial provisions.—There was also another class of Bill which in the main was a machinery Bill; but had one or more clauses involving expenditure. In such cases the Speaker announces the receipt of a Message from His Excellency the Governor recommending the necessary appropriation before the Bill is read a Second time. The Message itself is not referred to any Committee.

It will be seen, therefore, that the new Standing Orders, which were recommended by the Committee, simplified the procedures for the passing of money Bills without in any way detracting from Members' right of debate.

Other Standing Orders to which the Committee recommended amendments require little, if any, justification, except perhaps the amendment to Standing Order No. 217. This in its old form provided for three classes of Bills, viz. Public Bills, Semi-Public

Bills and Private Bills. For many years, difficulties with regard to the introduction and passage of Private Bills had arisen because a strict interpretation of the Standing Orders, as they then stood, made many Bills with which the Government of the day was vitally concerned, Private Bills. The Committee gave careful consideration to this problem, and under all the circumstances, believed that the old procedure covering the introduction and passage of Private Bills should be rescinded, and recommended a Standing Order which provided for two classes of Bills only, i.e., Public Bills and Semi-Public Bills.

One other amendment to which perhaps special attention should be drawn is Standing Order No. 186. The Standing Order provided that a Notice of Motion challenging Mr. Speaker's ruling must be given and set down to be considered within three sitting days of the ruling. This frequently created difficulties, and the Committee had redrafted it to provide that any objection to Mr. Speaker's ruling should be taken at once and in writing and a Motion of Dissent moved, which, if seconded, should be proposed to the House and the Debate thereon should proceed forthwith. The Committee recommended, however, the preservation of the latter part of the existing Standing Order which provides for the limitation of debate on such a Motion. This Standing Order as now redrafted is substantially the same as that which operates under these circumstances in the House of Representatives. The old Standing Order would have permitted the Main Question before the Chair, upon which dispute had arisen, to proceed to its conclusion before the Motion challenging Mr. Speaker's ruling was dealt and disposed of. The Committee believed that it was desirable that as the Motion objecting to Mr. Speaker's ruling could on some occasions affect the Main Question before the House, it should therefore be dealt with before the Debate on the Main Question proceeded further.

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

West Pakistan.—Rule 31 of the Rules of Procedure was amended to increase the period of notice of a question from ten to fifteen days.

Rules 89A and 89B of the Rules of Procedure which laid down the procedure for the approval and disapproval of an Ordinance were also amended to bring it in consonance with the amended Article 79 of the Constitution which empowered the Provincial Assembly to amend an Ordinance.

XVII. SOME RULINGS BY THE CHAIR IN THE HOUSE OF COMMONS, 1966-67

The following index to some points of parliamentary procedure, as well as rulings by the Chair, given in the House of Commons during the second part of the First Session of the Forty-fourth Parliament of the United Kingdom is taken from Volumes 734-751 of the *Commons Hansard*, 5th Series, covering the period from 18th October, 1966, to 27th October, 1967.

The respective volume and column number is given against each item, the figures in square brackets representing the number of the volume. The references marked by an asterisk are rulings given in Committee of the whole House.

Minor points of procedure, or points to which reference is continually made (e.g., that Members should address the Chair, are not included, nor are isolated remarks by the Chair or rulings having reference solely to the text of individual Bills. It must be remembered that this is an index, and that full reference to the text of *Hansard* itself is generally advisable if the ruling is to be quoted as an authority.

Adjournment

—debate on, advocating matters that involve legislation not permitted [745] 546

—Motion on, is talked out automatically at ten o'clock [737] 1079

—*under S.O. No. 9 (Urgency Subjects)*

—*Allowed*

—Aden, dangerous situation in following withdrawal of U.N. Mission and need to debate statement of Government policy before departure to of Minister without Portfolio [744] 755-6

—*refused (with reason for refusal)*

—Aden, certain recent disturbing military happenings in Crater area (not raised at earliest possible moment) [749] 516

—Blake, refusal of Home Secretary to institute enquiry into the specific instance of escape of George Blake (contrary to practice when debate is about to take place on motion for adjournment) [734] 655-6

—Decimal currency, refusal of Leader of House to find time for a debate on, before Second Reading of Bill in question (would anticipate proceedings on an Order of the Day) [742] 728

—Defence, refusal of Government to take immediate steps to reduce costs in Germany (not within terms of S.O.) [738] 50

—Greece, danger to British civilians and forces in following the *coup d'état* (not within terms of S.O.) [745] 1166-7

—Malta, critical situation in (would anticipate an early debate promised by H.M.G.) [740] 43-4

—Malta, position of British forces in (facts in dispute and not yet available) [741] 1439-40
—Motor-car industry, paralysis of (not raised at earliest possible moment) [735] 465-6
—North Vietnam, bombing of Hanoi (not within terms of S.O.) [738] 463-4, [739] 49-50
—Parkes, arrest and imprisonment of Mr. Parkes on alleged desertion charge (substantial danger of debate prejudicing judicial trial) [741] 119-20
—Trawler, seizure of British trawler on the high seas by Icelandic ship of war (not within terms of S.O.) [746] 97-8

Amendments

—can be withdrawn only by leave of the House [739] 178, 182
—made in another place must be dealt with separately [739] 1549
—selected only for debate [750] 1255
—selection of, for discussion only, cannot be moved even for division [745] 1638

Bills, public

—*Consolidation, amendments permissible if within scope of amendment proposed by Law Commission [751] 1638-9
—English legislation cannot be dealt with in bill about Scotland [748] 999
—no *prima facie* case for reference to Examiners [744] 272-3

Closure

—acceptance of Motion for by Chair cannot be questioned except by putting down a Motion [740] 1423-4, 1428
—Mr. Deputy Speaker has no power to accept Motion for [740] 457, [746] 48

Debate

—cannot by running commentary [742] 108
—if intervention becomes speech, Member will lose right to speak again [745] 2000
—Member giving way must indicate to whom [734] 918-9
—Member must have leave of House to speak again [746] 669, [749] 308
—Member must not make same point again and again [750] 1234
—*Member must relate remarks to Amendment under discussion [741] 548
—Member must restrict remarks to Bill on Third Reading [735] 1474
—Member not entitled to attribute improper motives [741] 677
—to be conducted politically, not personally [736] 1141
—when quoting from official document usual to place such document before House [741] 1437

Divisions

—action in lobby which obstructs proceedings in House [749] 962, 995-6, 998, 1098
—Morning Sittings, division must stand deferred until end of business in evening [746] 1458, [750] 733

Government

—duty of to make available relevant documents in Vote Office [740] 1594

Judges

—ought not to be criticised except by Motion [744] 240

Members

—any who rise can attempt to catch eye of the Chair [740] 1404
—cannot discuss presence or absence of [748] 1315
—may not appeal to Mr. Speaker on matter of political argument [740] 190
—must resume seat when Mr. Deputy Speaker is on his feet [749] 1477
—must stand in place when making speech [743] 1248

Ministers

—cannot be compelled to give information in way Members want [739] 1778
—not compelled to answer questions [747] 256
—practice of Chair to call, if they intervene [749] 1444
—who summarises a correspondence but does not quote from it, is not bound to lay it on the Table [745] 251-3

Motions

—selection of amendments to [737] 642

Official Report

—*out of order to suggest that Member makes corrections in, apart from mere verbal corrections which, by custom, are recognised [748] 151

Order

—ambiguity, is not out of [736] 1589
—cases, etc., bringing of into Chamber, out of [743] 1843
—intervention not to be made from sedentary position [737] 1394, [738] 377
—newspapers, reading of, out of [741] 275
—not out of, to adduce arguments derived from judgment of Court of Appeal against amendment [748] 1524-6
—points of, to be stated briefly [750] 1859
—in, to give reasons why further consideration should be adjourned on Bill [739] 298
—to leave questions of, to Chair [750] 581
—waving of arms not permitted [749] 973

Questions to Ministers

—anticipating later question [747] 25
—Capital sentence cannot be the subject of a question while sentence is pending [737] 1583
—Member cannot raise, under guise of point of order, a Private Notice Question disallowed by Mr. Speaker [740] 49
—private notice, modification of rule against anticipation [747] 812-3
—putting down of, does not give prescriptive right to be called [738] 999
—to be within sphere of Ministerial responsibility [751] 1499

Statutory Instruments

—motion to approve of disputed validity not out of order [734] 842-4

Sub judice rule

—reference to case *sub judice* not permitted [748] 1930, [751] 1341

XVIII. EXPRESSIONS IN PARLIAMENT, 1967

The following is a list of examples occurring in 1967 of expressions which have been allowed and disallowed in debate. Expressions in languages other than English are translated where this may succinctly be done, in other instances the vernacular expression is used, with a translation appended. The Editor has excluded a number of instances submitted to him where an expression has been used of which the offensive implications appear to depend entirely on the context. Unless any other explanation is offered the expressions used normally refer to Members or their speeches.

Allowed

"A Member who was noted . . . for the time wasting frivolity that he went on with" (*N.S.W. Leg. Ass. Hans.*, p. 4510)
"blatant attempt to ridicule this House" (*Victorian Leg. Co. Hans.*, p. 1973)
"devil" (*Gujarat Procs.*, Vol. 19, No. 25, c. 2396)
"demon" (of the Government) (*Gujarat Procs.*, Vol. 19, No. 25, c. 1937)
"duplicity" (*Com. Hans.*, Vol. 743, c. 418)
"embarrassing question" (*N.S.W. Leg. Ass. Hans.*, p. 1290)
"His coward's castle" (*N.S.W. Leg. Ass. Hans.*, p. 3719)
"Hon. Member's purpose was simply to put on a pantomime" (*N.S.W. Leg. Ass. Hans.*, p. 495)
"Hon. Members opposite squibbed it" (*N.S.W. Leg. Ass. Hans.*, p. 1474)
"incompetent" (*Com. Hans.*, Vol. 740, c. 1402)
"irrelevant" (*Uttar Pradesh Leg. Ass.*, Vol. 272, p. 853)
"kaffir-corn" (*Zambia Hans.*, Vol. X, col. 267)
"Kolluvadhu" (kill) (*M.L.A. Debates*, Vol. III, p. 74)
"Liar" (if person is not specified) (*Uttar Pradesh Leg. Ass.*, Vol. 272, p. 399)
"Low mentality" (*N.Z. Hans.*, p. 1591)
"political dishonesty" (*Victorian Leg. Ass .Hans.*, p. 1183)
"Prevarication" (*N.Z. Hans.*, p. 2177)
"pseudo interest today by the Opposition in this debate" (*N.S.W. Leg. Ass. Hans.*, p. 1137)
"rats" (in context of leaving sinking ship) (*Zambia Hans.*, Vol. X, cols. 54-5)

"Reprehensible" (*N.Z. Hans.*, p. 2605)
"Snide remarks" (*N.Z. Hans.*, p. 4184)

Disallowed

"Aiwadilanchi chuk Ahe" (mistake on the part of his parents) (*Maharashtra Leg. Ass. Deb.*, Vol. 21, Part II, 29.7.67)
"Anbukkum panbukkum uriya Thunai Thalaiwar Avargale" (Kind and cultured Deputy Speaker) (when addressing the Chair) (*M.L.A. Debates*, Vol. I, p. 353)
"Attorney-General has deceived this Chamber" (*N.S.W. Leg. Ass. Hans.*, p. 2457)
"Ayoggiyathanamana" (dishonest) (*M.L.A. Debates*, Vol. II)
"Bajekatha" (nonsensical words) (*Orissa*)
"Baseless" (*Gujarat Procs.*, Vol. 19, No. 4, c. 292)
"Bhandami" (cheating) (*Orissa*)
"bombabomb" (to bowl out) (*Maharashtra Leg. Ass. Deb.*, Vol. 21, Part II, 19.7.67)
"breenging" (*Com. Hans.*, Vol. 736, c. 1541)
"broken-down brigadier" (*N.Z. Hans.*, p. 1390)
"chiselling" (*N.Z. Hans.*, p. 1278)
"clot" (*Victoria Leg. Co Hans.*, p. 1972)
"clown" (*N.Z. Hans.*, p 2392)
"coercion" (*Gujarat Procs.*, Vol. 19, No. 13, c. 1173)
"corrupt party" (*Punjab Vidhan Parished*, 5.4.67)
"deliberate" (misleading of the House) (*N.S.W. Leg. Ass. Hans.*, p. 2696)
"deliberate lie" (*Australian Senate Hans.*, p. 1891)
"deliberately deceiving the House" (*N.Z. Hans.*, p. 902)
"despicable" (*N.Z. Hans.*, p. 1407)
"despot" (of Chief Minister) (*Madhya Pradesh Vidhan Sabha Procs.*, 31.3.1967)
"disgraceful" (*N.Z. Hans.*, p. 1096)
"dishonest" (*Victorian Leg. Co. Hans.*, p. 1210)
"dishonest attempt to destroy the reputation of the workers" (*N.Z. Hans.*, p. 1303)
"don't twist things around" (*N.Z. Hans.*, p. 151)
"drunk, are you?" (*Zambia Hans.*, Vol. XI, col. 22)
"distortion of the truth" (*Australian Senate Hans.*, p. 1891)
"fascist mug" (*Australian Senate Hans.*, p. 452)
"fool" (*Lok Sabha Deb.*, 24.5.67)
"fool" (*Zambia Hans.*, Vol. XI, col. 78)
"fool or liar" (*N.Z. Hans.*, p. 4149)
"folly" (of a government scheme) (*Gujarat Procs.*, Vol. 18, No. 5, c. 196)
"Ghisadghai" (undue haste) (*Maharashtra Leg. Ass Deb.*, Vol. 21, Part II, 31.7.67)

"goondaism" (*Lok Sabha Deb.*, 1.6.67)
"gullible" (*M.L.A. Debates*, Vol. I, p. 786)
"half drunk" (*Zambia Hans.*, Vol. XI, col. 131)
"hallah" (rowdyism) (*W. Bengal Leg. Ass. Debates*, 7.4.67)
"has gone mad" (*Uttar Pradesh Leg. Ass.*, Vol. 274, p. 775)
"has not the capacity to put a bun in anyone's oven" (*Com. Hans.*, Vol. 749, c. 1021)
"has not the stomach to get up and argue in this way" (*N.Z. Hans.*, p. 3746)
"Hon. Member is only new here, and we know that he does as another Member dictates" (*N.S.W. Parl. Deb.*, Vol. 68, p. 1867)
"Hon. Member is being a hypocrite" (*N.S.W. Leg. Ass. Hans.*, p. 521)
"Hon. Member for Slushville" (*N.S.W. Leg. Ass. Hans.*, p. 1458)
"honesty, if he had any at all" (*Australian Senate Hans.*, p. 196)
"how low can you get" (*N.Z. Hans.*, p. 3680)
"humbug" (*Com. Hans.*, Vol. 749, c. 758)
"hypocrisy" (*Australian Senate Hans.*, p. 467)
"I am not a welsher" (*N.S.W. Leg. Ass. Debates*, p. 1216)
"injustice" (*Madhya Pradesh Vidhan Sabha Procs.*, 12.7.1967)
"irrelevant talk" (*Madhya Pradesh Vidhan Sabha Procs.*, 4.7.1967)
"is speaking a lie" (*Uttar Pradesh Leg. Ass.*, Vol. 272, p. 149)
"Leader of the Opposition has been inciting strikes throughout the State" (*N.S.W. Leg. Ass. Hans.*, p. 412)
"Leader of the Opposition influences by somebody outside this House" (*N.Z. Hans.*, p. 3708)
"liar" (*Com. Hans.*, Vol. 749, c. 1098)
"liar" (*Queensland Hans.*, p. 1906)
"libertines" (*Madhya Pradesh Vidhan Sabha Procs.*, 5.4.1967)
"lie" (*Australia Senate Hans.*, p. 1891)
"lunatic asylum" (*Madhya Pradesh Vidhan Sabha Procs.*, 14.7.1967)
"malicious lie" (*Australia Senate Hans.*, p. 501)
"Mela" (a fair) (*Lok Sabha Debates*, 30.5.67)
"Minister has been associated with members of the Communist Party" (*N.S.W. Leg. Ass. Hans.*, p. 221)
"Minister is nothing but a fascist" (*N.S.W. Leg. Ass. Hans*, p. 1303)
"Minister of Finance . . . gets his grubby little fingers on all the finance he can" (*N.Z. Hans.*, p. 913)
"Modhumati" (Luscious) (of a lady member) (*W. Bengal Leg. Ass. Debates*, 4.4.67)
"Nationalists obviously can say what they like but Labour is restricted" (*N.Z. Hans.*, p. 909)

"numbskulls" (*Queensland Hans.*, p. 840)
"notorious for electoral abuse" (of a constituency) (*Com. Hans.*, Vol. 741, c. 266)
"Out of the mouth of the Attorney-General we have listened to the greatest tissue of falsehoods that any Minister has ever given utterance to in this Chamber" (*N.S.W. Leg. Ass. Hans.*, p. 2457)
"Old billygoat" (*N.Z. Hans.*, p. 2529)
"Phoney Bachelor of Science from Armidale" (of a member of another place) (*N.S.W. Parl. Debates*, Vol. 68, p. 1849)
"Please do not lean towards the Government" (of the chair) (*Punjab Vidhan Parished*, 9.5.67)
"political dishonesty" (*Victorian Leg. Co. Hans.*, p. 1501)
"rattled" (*Queensland Hans.*, p. 1906)
"sala" (wife's brother) (*Orissa*)
"santhai kadai" (market place) (*M.L.A. Debates*, Vol. I, p. 639)
"Scapegoat" (*Lok Sabha Debates*, 9.6.67)
"simpleton" (*Queensland Hans.*, p. 1590)
"slick political trickery" (*N.Z. Hans.*, p. 940)
"smart Aleck" (*N.Z. Hans.*, p. 1384)
"smear" (*N.Z. Hans.*, p. 3696)
"smells" (*Com. Hans.*, Vol. 744, c. 398)
"snooping around Government Departments" (*N.S.W. Leg. Ass. Hans.*, p. 861)
"stupid" (*Com. Hans.*, Vol. 740, c. 1100)
"supporters of Chinese aggression" (*W. Bengal Leg. Ass. Debates*
"tell the truth" (*N.Z. Hans.*, p. 81)
"the Country Party are a lot of rat bags" (*Victorian Leg. Ass. Hans.*, p. 5690)
"the only people in this House who have ever associated with Communists sit on that side" (*N.S.W. Leg. Ass. Hans.*, p. 221)
"the Opposition has ratted" (*Australian Senate Hans.*, p. 669)
"the Premier lied to Members of this House" (*N.S.W. Leg. Ass. Hans.*, p. 222)
"those who pay no heed to the basic demands of the people" (*Gujarat Procs.*, Vol. 18, No. 6, c. 327)
"traitor" (*Com. Hans.*, Vol. 737, c. 1707)
"twisting it" (*N.Z. Hans.*, p. 2615)
"unethical conduct" (*Victoria Leg. Co. Hans.*. p. 94)
"untruthful" (*Australia Senate Hans.*, p. 1366)
"untrustworthy" (*N.Z. Hans.*, p. 1704)
"Urmatpana" (arrogance) (*Maharashtra Leg. Ass. Deb.*, Vol. 22. Part II, 28.11.67)
"waiful gappa" (fruitless talk) (*Maharashtra Leg. Ass.*, Vol. 20, Part II, p. 165)
"worthlessness" (*Uttar Pradesh Leg. Ass.*, Vol. 272, p. 167)

"You are a liar and a fraud" (*Queensland Hans.*, p. 1672)
"you are a low hound" (*Victoria Leg. Ass. Hans.*, p. 201)
"You are just nothing but a liar" (*N.S.W. Leg. Ass. Hans.*, p. 1302)
"You can't lie straight" (*N.Z. Hans.*, p. 168)

Borderline

"Goebells' propaganda" (*M.L.A. Debates*, Vol. II)

XIX. REVIEWS

Practice and Procedure of Parliaments (with particular reference to Lok Sabha). By M. L. Kaul and S. L. Shakdher, with a Foreword by Sardar Hukam Singh (Metropolitan Book Co., Private Ltd., Rs.55.00, $12.50, sh.80).

Ever since Shri Kaul visited London in 1948, and engaged officers of the House of Commons in a series of searching technical conversations, it has been clear to all who met him that Indian parliamentary procedure was in the hands of a master-craftsman. Though Shri Kaul has now retired from the post of Secretary of the Lok Sabha, which he was the first to hold, he is still in the thick of things as a Member of the Rajya Sabha. His successor in office, Shri Shakdher, has long been known as a zealous collaborator with his predecessor. These two have now embodied and described the product of twenty years' work in what must from now on be the definitive account of Lok Sabha and its procedure, parallel to May in the United Kingdom and Beauchesne in Canada (Mr. A. R. Mukherjea having already produced the Indian "Campion").

The ground plan of the book is set out with admirable clarity in the Table of Contents. To the practitioner of parliamentary procedure this is all important, since it is to the Table of Contents, rather than to the index, that he turns to run down the passage dealing with any particular point.

The material itself is arranged with a satisfactory logic, starting from the circumference of the subject and proceeding steadily to its centre. Having first set out the constitutional position, the authors then give a complete description of the various branches of procedure and follow this with a number of chapters dealing with various matters of administration, ending with a description of the Parliament House itself. Having reached the centre, the authors look out again to describe the relations of Parliament with the Judiciary, the Civil Service, the Press, Indian State Legislatures and the Parliaments of other countries.

Some vestigial origins of modern Indian procedure may be found in the pre-independence period as far back as 1853; and the authors refer also in the preface to conversations with colleagues from European Parliaments, the U.S. Congress and the Russian Supreme Soviet. They make clear, however, that the basis of modern Indian procedure was the Memorandum prepared by Shri Kaul after his visit to London in 1948. The fascination of this book, at least to an Englishman, but probably also to all practitioners and students of

parliamentary procedure, is the picture which it gives of how the procedure of the British House of Commons has been moulded to suit the needs of Lok Sabha. A proper appreciation of this would need a book in itself, and a few points only can be mentioned here.

To begin with, most of the differences which the authors themselves name—such as the omission of a Speaker's procession, and the absence of Speaker's robes—do not seem particularly important. The real differences are more profound or more subtle.

In the first place, the Speaker seems to be put upon an even higher pedestal than in the House of Commons. By his directions he can himself change procedure. This has been so from the first and surely that is how it ought to be in the early development of a new Parliament.

Legislative procedure shows a considerable degree of modification. After introduction, a Bill may proceed at once to "consideration", which is the equivalent of Second Reading; but this stage may be anticipated by reference to a select or joint committee (which may itself be preceded by "circulation for opinion"). This is followed by "clause-by-clause consideration", which takes place in the House itself (Lok Sabha does not use committees of the whole House), and amounts to a combination of the U.K. committee and report stages. More familiar ground is then reached with the Third Reading stage.

Financial procedure differs radically from that of the House of Commons in that consideration of expenditure is real and not nominal. It is probably here that the largest element of pre-independence procedure is still to be found.

The Committee system shows many familiar titles, notably those of the Public Accounts Committee and the Committee on Estimates. An interesting new invention, to the Westminster eye, is the Committee on Government Assurances. The purpose of this Committee is to ensure that "assurances, promises, undertakings" given by Ministers on the floor of the House "are in fact carried out and in reasonable time". Such a Committee would be heavily worked at the House of Commons, which ever party was in power.

Perhaps, however, the difference which is most interesting between this work and May is the treatment of the rules of debate. From the 14th edition onwards, May has contained Lord Campion's penetrating analysis of the rules of debate, which he first propounded in his "Introduction to the Procedure of the House of Commons". Shri Kaul and Shri Shakdher accept this analysis, and acknowledge its source. But their description of the rules of debate is never in fact so entitled, and is to be found partly under "Motions" and partly under "General Rules of Procedure". Probably the system of debate by motion, question and decision is so well ingrained in Indian procedure that it seems unnecessary to state that it is a system. But do all Indian Members realise this as well as their Officers?

To sum up, this work gives a complete description of the nature and powers of the Indian Parliament, and of the procedure of Lok Sabha. The text is readable to a degree surprising in such a study, and supported by a wealth of footnotes and appendices. The Secretary of Lok Sabha, say the authors, "is expected to know everything that is to be known about everything that has any reference to Lok Sabha and its business . . .". They have certainly lived up to their own definition.

(*Contributed by the Clerk Assistant of the House of Commons.*)

Australian Senate Practice. By J. R. Odgers. (3rd Edition, $4.50.)

The Editor was surely treading on dangerous ground in asking a Clerk in England to review the work of a senior colleague in Australia. Perhaps it escaped his notice that the Test matches between England and Australia were, at the time of writing, in progress? Otherwise he could scarcely have wilfully tempted Providence by adding to them such a notorious opportunity for internecine warfare as the book review columns. Moreover, quite apart from international incidents, in some at least of the bi-cameral legislatures I have encountered, the activities of "another place" are a well-established target for witticisms by the officers of the other House and *vice versa*. A review of House of Lords procedure, for example, might not be wholeheartedly welcomed from a House of Commons source.

However, despite the gulf between upper and lower Houses and the distance separating the United Kingdom and Australia, the impression I gained, most markedly, on reading Mr. Odgers's book was much more of the links and common features of our two Parliaments than of the differences between them; and at the risk of being called a "crawling sycophant" (which is one of the more colourful unparliamentary expressions listed in the book) I can truthfully say that I found Mr. Odgers's work fascinating and wholly admirable. Not only does it set out clearly but concisely the procedure of the Senate, it emphasises, throughout the book the spirit which animates that House. The tone is set at the outset by the quotations from two eminent Australian Statesmen in the preface: both pointing out that the Senate was deliberately designed to be more powerful than any ordinary second chamber, largely because of the need, in a federal constitution, to protect the interests of the States, and stressing the way in which its development has been coloured by the many compromises, concessions, discussions and even disputes which preceded its establishment.

This strength of the Senate is illustrated in many aspects of its procedure which differs, sometimes in quite a startling way, from the procedure of other "upper" Houses. One wonders, for example, how the British House of Commons would react to the financial

powers exercised by the Australian Senate if applied in the House of Lords. These powers, as Mr. Odgers points out, confer on a back-bench Senator more rights than are possessed by his colleague in the House of Representatives. A Senator may, for example. move motions for increases in taxation and expenditure, either of which would require the sanction of a Minister in the lower House and are wholly denied to any Member of the House of Lords. The general toughness of the Senate is shown in many other ways, not least perhaps in the rules with regard to guillotining its own proceedings, and in the full part it plays in the committee system of the Parliament.

All in all, it is made clear that, as one Senator is quoted as saying:

> "The Senate must be regarded as a pitiable thing if it is not strong enough to guard its own rights within its own walls."

There seems little danger of this happening while it has champions of Mr. Odgers's calibre.

(*Contributed by J. P. S. Taylor, a Deputy Principal Clerk in the House of Commons.*)

XX. RULES AND LIST OF MEMBERS

The Society of Clerks-at-the-Table in Commonwealth Parliaments

Name

1. The name of the Society is "The Society of Clerks-at-the-Table in Commonwealth Parliaments".

Membership

2. Any Parliamentary Official having such duties in any Legislature of the Commonwealth as those of Clerk, Clerk-Assistant, Secretary, Assistant Secretary, Serjeant-at-Arms, Assistant Serjeant, Gentleman Usher of the Black Rod or Yeoman Usher, or any such Official retired, is eligible for Membership of the Society upon payment of the annual subscription.

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3 (*a*) The objects of the Society are:

(i) To provide a means by which the Parliamentary pra tice of the various Legislative Chambers of the Com monwealth may be made more accessible to Clerks-at-the-Table, or those having similar duties, in any such Legislature in the exercise of their professional duties;

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(iii) to publish annually a JOURNAL containing articles (supplied by or through the Clerk or Secretary of any such Legislature to the Joint-Editors) upon Parliamentary procedure, privilege and constitutional law in its relation to Parliament.

(*b*) It shall not, however, be an object of the Society, either through its JOURNAL or otherwise, to lay down any particular principle of Parliamentary procedure, or constitutional law for general application; but rather to give, in the JOURNAL, information upon those subjects which any Member may make use of, or not, as he may think fit.

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6. In order better to acquaint the Members with one another and in view of the difficulty in calling a meeting of the Society on account of the great distances which separate Members, there shall be published in the JOURNAL from time to time, as space permits, a short biographical record of every Member. Details of changes or additions should be sent as soon as possible to the Joint-Editors.

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7. One copy of every publication of the JOURNAL shall be issued free to each Member. The cost of any additional copies supplied to him or any other person shall be 35s. a copy, post free.

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XXI. MEMBERS' RECORDS OF SERVICE

Note.—b. = born; **ed.** = educated; **m** = married; **s.** = son (s); **d.** = daughter (s).

Members who have not sent in their Records of Service are invited to do so, thereby giving other Members the opportunity of knowing something about them. It is not proposed to repeat individual records on promotion.

DaCosta, Emma Jean.—Clerk-Assistant, Legislative Department, Cayman Islands; *b.* 4th September, 1943; *ed.* St. Catherine's Academy, Belize, British Honduras; *m.* 5th August, 1966, 1 *s.*; appointed Clerk-Assistant 15th April, 1964; interested in social work, reading and swimming.

Desai, Dwijendra G., M.A., LL.M.—Secretary, Gujarat Legislature Secretariat; *b.* 21st September, 1926; enrolled as Advocate, May, 1950, to October, 1961; worked as Advocate with M/S Little and Co., Solicitor to the Government of Bombay, April, 1951, to November, 1952; as P.A. to Government Pleader Bombay High Court, December, 1952, to October, 1953, and with M/S Gegrat & Co., Attorneys and Advocates, High Court, Bombay, October, 1953, to October, 1961; joined Gujarat High Court as Deputy Registrar and Official Liquidator on 19th October, 1961; promoted as Additional Registrar of the High Court of Gujarat on 1st February, 1966; taken up as Additional Secretary, Gujarat Legislature Secretariat on 9th July, 1967; took over charge of the present post on 1st September, 1967.

Piercy, Grace Marjorie.—Stenotypist and Deputy Clerk, Legislative Assembly, Cayman Islands; *b.* 17th May, 1927; *ed.* George Town Government School, Grand Cayman, and privately; appointed Clerk/Typist, Judicial Department, Grand Cayman, Cayman Islands, 1948; Secretary/Stenographer to Stipendiary Magistrate, 1957; Stenotypist and Deputy Clerk, Legislative Assembly, 1967; interested in legal work, photography, travelling, outdoor sports, postcard collecting.

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(Art.) = Article in which information relating to several Territories is collated. (Com.) = House of Commons.

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2. *Interference* with Members in the discharge of their duty, including the Arrest and Detention of Members, and interference with Officers of the House and Witnesses.
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