The Table

BEING

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

EDITED BY

J. M. DAVIES AND R. B. SANDS

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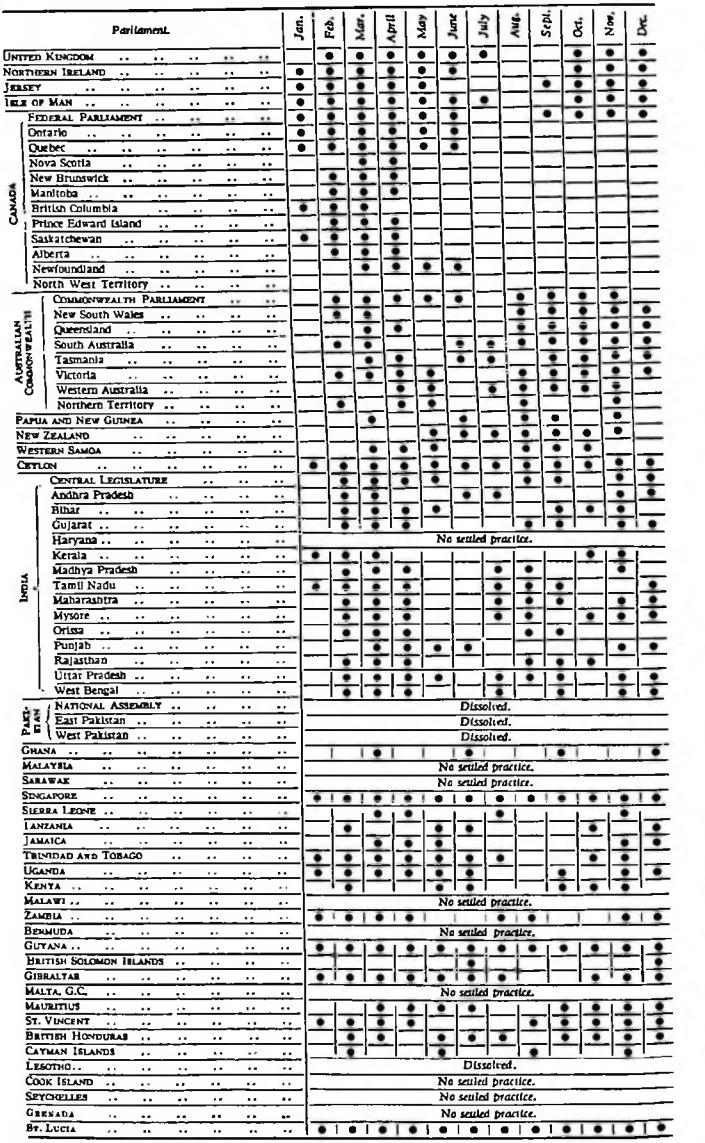

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THE JOURNAL OF THE SOCIETY OF CLERKS-AT-THE-TABLE IN COMMONWEALTH PARLIAMENTS

I. EDITORIAL

Each year the editors have appealed for articles for THE TABLE, but these appeals have usually produced little result. At last year's General Meeting of the Society in Canberra clerks from throughout the Commonwealth were present. This large meeting created great interest in the affairs of the Society and it was hoped that the interest thus generated would result in a much wider contribution to THE TABLE.

This has not proved the case and, in fact, even the annual Questionnaires have not been returned from many legislatures. The editors feel most strongly that the Journal will become a great deal more valuable to all who use it if it can include notes or articles from all over the Commonwealth. And so, once again, we appeal for more contributions, especially from India, Africa, the Caribbean, and the Pacific territories.

Previous editions of THE TABLE have contained a brief index to rulings by the Chair in the United Kingdom House of Commons in the preceding session. The index was derived primarily from the index to the relevant volumes of *Hansard* and rarely gave full information on the content of the rulings; for this reason a warning was customarily appended that reference to the text of *Hansard* was advisable if the ruling was to be quoted as an authority.

At the Eighth General Meeting of the Society, held in Canberra on 4th October, 1970, a proposal was received from the Canada Area Council of the C.P.A. that THE TABLE might carry an annual digest of important rulings of the Chair in Canadian legislatures and, if successful, in other countries. This proposal was referred by ballot to all Members of the Society and was approved by 51 votes to 27. The results of the ballot were circulated in April 1971, and, understandably, little material concerning Speaker's rulings has been received from Canada or from other legislatures in time for inclusion in this volume. However, the Editors have decided that it would be right to revise

the format of the existing section on Rulings by the Chair in the House of Commons to conform with the spirit of the recent ballot decision. The index has therefore been abandoned in favour of a more selective summary of important rulings, which it is hoped represents what was envisaged by the Canadian Area Council when they made their proposal.

The General Council of the Commonwealth Parliamentary Association has always provided an information service for its members and branches, but in October 1970 it decided that its collection of parliamentary materials should be reorganised and expanded in the form of an Information and Reference Centre under the management of a qualified Librarian. It is the purpose of the C.P.A. to make the Centre a repository of up-to-date and authoritative information on the Parliaments of the Commonwealth and also on certain kindred legislatures such as those of Western Europe and the United States of America, and in this way to provide as well some useful comparative materials of a parliamentary nature.

The Centre is under the direction of Mr. Ian Grey, the Editor of Publications of the C.P.A. General Council, and its early establishment and successful functioning will depend greatly upon the support given to it by many people with parliamentary information to provide, particularly upon Clerks who are uniquely equipped in this respect.

Sir Edward Fellowes, K.C.B., C.M.G., M.C.—On 28th December, 1970, Sir Edward Fellowes died peacefully at his Norfolk home, to the great regret of many friends in that county, at Westminster and around the world. He was 75, but, although a heart attack two years previously had compelled him to ration the activity to which he was naturally inclined, those who had met him recently had seen little change. He is survived by Lady Fellowes and their three daughters, to whom the Society will wish to offer their deepest sympathy.

Edward Fellowes went straight from school (Marlborough) to the First World War, in which he gave distinguished service in the Queen's Royal Regiment, gaining the Military Cross in 1917. On demobilisation he might, like many of his contemporaries, have proceeded, four or five years late, to the university. He preferred, however, to enter the service of the House of Commons as an Assistant Clerk in 1919. He was promoted to Senior Clerk some ten years later, and while in that rank he was for some sessions the Senior Clerk to the Public Accounts Committee, a post out of which he wrung every drop of the considerable interest which it can yield.

In 1937 he was promoted Second Clerk Assistant and so began a period at the Table which was to last more than 24 years. His duty in the lowest post spanned the whole of the Second World War, during which he was the obvious person to be made Commanding Officer of the Palace of Westminster Company of the Home Guard, the duties of which

post he performed with skill and, as always, with enjoyment. In 1948 he became Clerk Assistant, and in 1954 Clerk of the House, which post he held until the end of 1961. During his period in the highest office he edited, together with his successor Sir Barnett Cocks, the sixteenth edition of Erskine May.

After his retirement, he continued for some time to be active in public affairs. In particular, from 1962–7, he was Chairman of the General Advisory Council of the B.B.C., and Chairman of the Council of the Hansard Society.

Such were the bare bones of Edward Fellowes's career; but there was much more to it than that. His deep knowledge of the procedure and practice of the House of Commons was continually enriched through enquiry into the historical causes which had produced them and concern as to their effect upon the machinery of Government as a whole. *Finance of Government*, written by him in conjunction with the late J. W. Hills, M.P., and published in 1931, was for many years a textbook on its subject. He never completed his cherished project of a history of the public business Standing Orders of the House of Commons (though the results of his considerable researches remain at Westminster). This was perhaps not surprising, in view of the extent to which he was called upon, in the second half of his career, to exercise his great organising abilities. In this field his recognition, soon after becoming Second Clerk Assistant, of the latent potentialities of the Parliamentary Question, and his transformation of the departmental system for handling questions in time to meet the enormous post-war increase in their use, were particularly notable.

However, both his knowledge and his abilities were to be used in fields far beyond Westminster. As early as 1927 his older colleague Mr. (later Sir Bryan) Fell had interested him in the drafting of standing orders for legislatures in what were then the Colonies. In those days, this was mainly done through the Model Code of Standing Orders, the preparation of which Fellowes later described in an article in the *Journal* of 1952 (p. 32). He was always ready to express his admiration of Fell's work in this field, and his gratitude to his senior for introducing him to an interest which he never lost. After the war, when the transformation from Empire to Commonwealth began, Fellowes was ready and equipped to play an essential part in it. His visit to Ceylon in 1947, to give advice in advance of the inauguration of a sovereign parliament in that country, was the first such visit overseas ever paid by a Clerk at the Table of the House of Commons. The Standing Orders which he then drafted for each of the two Houses form the basis of those still in use today.

In Nigeria Fellowes not only helped in drafting Standing Orders for the House of Representatives and for the regional assemblies, but also, by invitation, acted as President of the House of Representatives for a number of sittings. In that capacity, though his visits to Lagos could only be intermittent, he prided himself on knowing every

one of more than 100 Members by sight, and on one occasion won the admiration of the House by pulling up a Member who sought to break a local rule by speaking from a place other than his own. He paid similar but shorter visits to the Sudan, and to the Central African Federation, and presided over a committee which met in Port of Spain, Trinidad, to draft Standing Orders for the Federation of the West Indies.

At the same time, Fellowes began the training and organisation of the Clerk's Department to carry on and expand its relations with Commonwealth legislatures. It was he who first thought of arranging for Commonwealth and other Clerks to visit the House of Commons on attachment, to study its working on the spot, and inaugurated a regular programme of such visits which has continued to this day. He was also a stout supporter of the Commonwealth Parliamentary Association, both in the arrangement of their annual Parliamentary Course (which has now become a Seminar) and in many other branches of their work. His services to the Commonwealth were recognised by the conferment of the C.M.G. and were recorded in the resolution through which the House of Commons thanked him on his retirement.

To his early and enduring concern with the development of parliamentary government in the countries of the Commonwealth, Fellowes later added a keen interest in the new international assemblies formed in Europe since the war. He continued and cemented the connection of House of Commons Clerks with the Council of Europe, begun under his predecessor Sir Frederick Metcalfe, and extended it to the Assembly of the Western European Union. He also took part enthusiastically in the activities of the Association of Secretaries-General, of which he was President from 1956 to 1960. He made many friends among its members in all parts of the world; and his presence at Conferences of the Inter-parliamentary Union was also much appreciated by British Members of Parliament.

None of his work, however, whether at home or overseas, would have been nearly as effective as it was without the enthusiastic and outgoing personality that lay behind it. He was an adept at engaging the enthusiasm of his colleagues at home and his opposite numbers overseas in the various projects he set in hand, and always generous in acknowledging their help. He aroused enthusiasm at work the more easily in that he readily shared in various forms of leisure—when he was young, in shooting, tennis and squash, always in golf and in foreign travel. Even in his later years, a Lords test match generally drew him to London, and a Saturday spent there with him was always delightful entertainment, whatever happened on the ground.

It was fitting that the last two occasions on which he visited the House of Commons were to lunch with other former members of the Palace of Westminster Company of the Home Guard on the twenty-fifth anniversary of their disbandment, and to attend, as a specially invited guest, the dinner given by the Parliamentary Golf Society to

honour the Leader of the House (Mr. William Whitelaw) as Captain of the Royal and Ancient. The pleasure which his presence gave at both of these functions was a measure of the respect and affection in which he was held by a great number and variety of people.

On 19th December, 1961, the then Leader of the House (the late Mr. Iain Macleod) moved a motion requesting Mr. Speaker to convey to Sir Edward Fellowes on his retirement " an expression of Members' deep appreciation of the service which he has rendered". In doing so he gave it as his opinion that Sir Edward would go down in history as one of the great Clerks of the House of Commons. " He has won his own place in our estimation," he said, " by his outstanding ability, by his devoted service and—and this, perhaps, we will remember most—by his courtesy and friendliness to us all." The Leader of the Opposition (the late Mr. Hugh Gaitskell) who followed also expressed his admiration, which was perhaps distilled into two of his sentences. " He was very fair minded," he told the House, " and was basically very full of common sense. He was decisive and he was genial." Among the many tributes that were paid to Fellowes at that time, these quotations perhaps best sum up for those who knew him the measure of his personality.

(*Contributed by David Lidderdale, Clerk Assistant of the House of Commons.*)

Major George Thomson, C.B.E., D.S.O., M.A.—It was with deep regret that the Clerks at Stormont learned of the death in October 1970, of Major George Thomson, Clerk of the Parliaments of Northern Ireland from 1948 to 1962.

Major Thomson served with distinction in the First World War and in 1921 became Librarian of the newly created Parliament of Northern Ireland. His ability was such that within a few years he was appointed Second Clerk Assistant and then successively to the two higher posts.

As Clerk of the Parliaments Major Thomson organised and welcomed to Northern Ireland successive Parliamentary courses sponsored by the Commonwealth Parliamentary Association; and it is certain that many Commonwealth Parliamentarians who attended these courses will recall with affection and gratitude the tremendous enthusiasm with which Major Thomson looked after them, and the pains he took to ensure that their stay in Northern Ireland was both pleasant and instructive.

When Major Thomson retired in 1962, many tributes were paid to his long and devoted service to both Houses of the Northern Ireland Parliament. The then Leader of the Senate referred to Major Thomson's organisational ability, and Senator Lennon, on behalf of the Nationalist Party, said that they " learned to respect him as a gentleman and to have regard for his wisdom and his learning in the ways and the procedure of Parliament ". Senator Schofield, on behalf of the Labour Party,

spoke of the consideration and help which Major Thomson had given to all who sought his advice.

The Speaker of the House of Commons said: " I am sure Hon. Members will agree with me that we owe a great deal to Major Thomson for all he has done during his many years of service in this House. Major Thomson came here at the beginning and has served for over 40 years. I think perhaps I have had more to do with him than any other Member, and I realise what a very great help he has always been to me especially when I was new in the Chair. One of the things that Major Thomson will always be remembered for is for having been honorary secretary of the Commonwealth Parliamentary Association, and I know how much members of these delegations appreciated the very great help which he always gave them and how much he was appreciated by the Commonwealth Parliamentary Association in Westminster Hall."

Our sympathy goes out to his relatives.

(Contributed by J. S. F. Cooke, Clerk of the Parliaments in Northern Ireland.)

Mr. B. Coswatte, C.B.E.—Mr. Coswatte who was Clerk of the Senate, Ceylon, from February 1963 retired from the service of the House on 2nd March, 1969, on reaching the age of 60 years which is the retiring age provided for in the Constitution. At a sitting of the Senate on 3rd March, 1969, at which Mr. Coswatte was invited to take his customary seat at the Table, the Leader of the Senate and Minister of Justice, Senator the Hon. A. F. Wijemanne, moved the following Motion:

> That Mr. President be requested to convey to Mr. Bertie Coswatte on his retirement from the office of Clerk of the Senate the sense of appreciation of this House of the high services uniformly rendered to the Senate by him over a period of seven years during which period he has by his ready advice and unfailing courtesy endeared himself to all sections of this House.

In doing so he said:

> Mr. President, by this Motion we seek to express as clearly and as eloquently as we can the services which Mr. Coswatte has rendered to this House as its Clerk and the keen sense of loss we all feel in being deprived of his services in the future.
>
> In its history of 22 years Mr. Coswatte was the second to hold the office of Clerk of this House, having succeeded Mr. Vernon Samerawickrame who retired in 1963. Mr. Coswatte was educated at Trinity College, Kandy, and later at University College, Colombo, and he thereafter took to the study and practice of the law. After some years of practice at Kandy he was appointed Clerk Assistant to the House of Representatives in 1948 and held that office until February 1963 when he was appointed Clerk of the Senate.
>
> When he came to us he had a sound knowledge and experience of the procedure and practice of the other House. He was well-versed in the procedure of this House which is contained in the Standing Orders. That knowledge he made readily available in full measure to the President and Members of this

House with the happy consequence that we were able to conduct our business with smoothness and speed. He possessed the rare combination of knowledge, administrative ability and a quietness and charm of manner which helped him to discharge the duties of his office with much success and to the complete satisfaction of all sections of this House. He is, as the Latin saying goes, *bene meritus*: he deserves well of this House.

Although he is well able to continue longer in this House, he is retiring under an inexorable rule of the public service. It is our hope and wish that he will be blessed with good health and long life to enjoy the benefits of his retirement, and we venture to hope that even in retirement he will continue to be of service to the country.

In seconding the Motion, Senator A. P. Jayasuriya, Leader of the Opposition, spoke as follows:

Mr. President, it gives me pleasure to endorse the sentiments expressed by the Hon. Leader of the House while moving this Motion. Mr. Coswatte was already sufficiently experienced in the profession of the law and in Parliamentary affairs when he received appointment as Clerk to this Honourable House. It is common knowledge that with this experience he served us all well and efficiently and in a winsome manner. He was also, at all times, ready to offer his advice to Honourable Members and to you. I am happy to recall the fact that it was good and well-considered advice that he always willingly gave.

Mr. Coswatte is young yet, though he now retires from the service of this Honourable House. I therefore hope that his services will, in various ways, be available to the country in the future, too, and may I, while seconding this motion, wish him abiding strength in both body and mind to help him to acquit himself well in all spheres of activity.

After the Motion was agreed to *nemine dissentiente*, Mr. President added his own tribute thus:

May I be permitted to express on behalf of hon. Senators our appreciation of the services rendered to this House by our Clerk, Mr. Bertie Coswatte. I need only say on my own behalf that in all sincerity I associate myself with all that has been said about him. I had the privilege of knowing Mr. Coswatte when he was Clerk Assistant of the other House for a period of nearly 20 years. We are all aware of his efficiency and impartiality and the knowledge of Parliamentary procedure that he showed on all occasions. I must be thankful to him for his guidance to me in many a difficult situation. To new Members of the House he was a ready adviser, and I am sure they will be thankful to him for conducting them through the maze of Standing Orders. We shall certainly miss Mr. Coswatte's unobtrusive presence hereafter.

This House has rightly considered it its duty to accord him a farewell and wish him a happy retirement, and the gesture of hon. Senators in unanimously passing a vote of appreciation of his services is, I consider, the best and most fitting tribute that this House can pay Mr. Coswatte.

I would recommend that the House Committee do consider granting to Mr. Coswatte facilities of access to the Senate premises, and the use of the Senate Library and the Senate Refreshment Room.

(*Contributed by Mr. P. Weerasinghe, Clerk of the Senate*).

Mr. H. N. Dollimore, C.B.E., LL.B.—Mr. Dollimore, Clerk of the House of Representatives of New Zealand, retired on 1st April, 1971, after 44 years as a servant of Parliament, the last 25 of which were as Clerk of the House. On 18th March, the Deputy Speaker informed the House that he had received a letter from the Clerk, as follows:

Dear Mr. Deputy Speaker,

As was indicated to the House by the Prime Minister in December last, I had earlier sought leave to relinquish my office with effect on and from 1st. April when I shall have completed over 50 years in the service of the State, of which 44 have been as a servant of Parliament and of which the last 25 have been as Clerk of the House.

I desire to acknowledge with deep gratitude the uniform kindness and consideration I have received from yourself, from Mr. Speaker and from the former occupants of the Chair under whom I have served, from the Prime Ministers and Ministers who have held office during my period of Parliamentary service, and from the Members of 15 Parliaments.

I am proud that my career in the service of the State should have brought me to serve the Parliament of my country, and I greatly appreciate the very kind references which have been made to my work as Clerk.

Yours sincerely,

H. N. DOLLIMORE.

The Prime Minister (Sir Keith Holyoake) then moved, That Mr. Speaker be requested to convey to Mr. H. N. Dollimore, C.B.E., LL.B., on his retirement from the office of Clerk of the House, its acknowledgment of his long and distinguished services to Parliament and New Zealand during the 25 years he has held that office, and its appreciation of the advice and assistance he was at all times willing to render to Members of this House in the conduct of their business.

This motion was seconded and agreed to. Shortly afterwards, Mr. Dollimore received a presentation from the Members.

Some months earlier, at the end of the 1970 session, the Prime Minister had referred to Mr. Dollimore's impending retirement as follows:

This is the end of the last session for a very distinguished parliamentarian; and I use that word " parliamentarian " in the widest possible sense. I refer to the retirement of Henry Nelson Dollimore, Clerk of Parliaments, who leaves us on 1st. April, most likely before Parliament meets again. I wish to put on record that when he retires next year he will have given this House 44 years of distinguished and dedicated service. We Members come to this House from time to time—some of us have been here 1 year, 4 years, 7 years, and so on —and we take Mr. Dollimore as just a part of the show. We presume he has been here a little longer than we have, whatever that time is; my time is 38 years—and I suppose I share the same feeling as the man who came in last year, " Well, there is Mr. Dollimore and his officers, and he will give me advice; I suppose he has been here a little while before I came and therefore knows all about it." I repeat, he has given 44 years of very distinguished and absolutely dedicated service to many Parliaments, many Prime Ministers, many Speakers, many Chairmen of Committees, and to many individual Members of Parliament and to visitors. He has also given very dedicated service to the International Parliamentary Union Association, the Commonwealth Parliamentary Association, and other organisations.

I am sure that everybody would have liked me to say what I have said and every Member would have liked to say it, and perhaps more; I feel I have not been adequate. I am sure every Member of the House will join me in paying Neil Dollimore a very warm tribute for his tremendous contribution to our parliamentary system during those 44 years.

The Leader of the Opposition (Mr. Kirk) also referred to Mr. Dollimore:

I wish to express our gratitude for the services he has given to Parliament and to New Zealand. I thank him for the very real assistance he has given to Members on this side of the House in the way of advice, and for the manner in which he has carried out his responsibilities. Of course, Mr. Dollimore speaks in every debate. He has the safest seat in Parliament, and he has never been known to correct his *Hansard*, which alone puts him in a unique position. I also wish to refer to somebody else who has been associated with Mr. Dollimore and whose life, of necessity, has been affected by his services to the country, but who from time to time has made a considerable sacrifice while he has pursued the work that has been his chosen occupation. I refer to Mrs. Dollimore.

I should like to wish Mr. and Mrs. Dollimore a very long, healthy and happy retirement.

Finally, the Speaker added his tribute:

I should like to refer to the Clerk of the House, who is now completing his last session. I, too, join with others in paying a tribute to him. I should like to record the fact that he has made a most marked contribution to the development of the procedures of the House and the evolution of our Standing Orders. His task is exacting and at times thankless, serving, as he does, both sides of the House and being, as he is, an officer of Parliament. Any real or imagined error can frequently become the source of hostile comment, while a hundred courtesies and acts of assistance pass unnoticed and unacknowledged. He has discharged his duties with outstanding ability, and I offer him my warm thanks for all his help and support during my 16 years in the House, but particularly during the past four.

Mr. A. D. Le Brocq.—Mr. Le Brocq retired as Greffier of the States of Jersey after more than 40 years in public service. A ceremony was held in the States, when he was presented with a silver tray and a cut-glass decanter and six glasses by the President of the House, the Bailiff, Sir Robert Le Masurier. In the course of his speech, the President spoke as follows:

More than 40 years devoted public service is a good reason for earning our gratitude and respect. Fred Le Brocq had earned them both. There is some comfort to be found in the fact that he is not severing his connection with the parliamentary scene. I hope he will enjoy his well-earned retirement.

He has done his task well and he has had a lively interest in his work. Our loss will be the gain of the Commonwealth Parliamentary Association.

The Members of the House then rose and the President made the presentation to Mr. Le Brocq, asking him to accept the gift " for all he had done for the House and the Island."

Senator Krichefski, the Senior Member of the House, then rose and said that it was his privilege to support the President.

He said that it had been his pleasure to know the Greffier since he was elected to the House in 1945. At that time Mr. Le Brocq had held a modest position, but he had risen to a senior officer:

> I have known him as a man of friendship who would always help and give advice when asked. It is as a friend that everyone will remember him and we wish him much success in his new post.
> On behalf of the Members, Fred, I wish you well and we wish you happiness (he concluded).

Mr. Le Brocq, replying said that it was certainly a unique occasion since the Greffier was usually " only permitted to whisper to the chair ".

He was, he continued, grateful both to the House and to those Members who had spoken so kindly of him. He was over-whelmed by the gift, which he would always treasure. . . .

He said that he had noticed one very important change in the role of the Jersey civil servant. In the past he had been looked upon as a servant of the politician, but now he was accepted as a servant of the people and the Island.

Turning to the President, Mr. Le Brocq said that he was " more than grateful " for his co-operation during the past years: he could only think of one occasion when they had differed.

Captain Sir Kenneth Mackintosh, K.C.V.O.—Sir Kenneth Mackintosh retired at the end of 1970 from his positions as Serjeant at Arms attending the Lord Chancellor, Yeoman Usher of the Black Rod, Secretary to the Lord Great Chamberlain, and Agent of the Administration Sub-Committee of the Select Committee on the House of Lords Offices. The second and third of these positions he had held since his appointment by the Marquess of Cholmondeley, Lord Great Chamberlain, in 1953. On the retirement of Sir Paul Maltby in 1961, Sir Kenneth also took over the position of Serjeant at Arms; and when the responsibilities of the Lord Great Chamberlain for the greater part of the Palace of Westminster were handed over to the two Houses in 1965, Sir Kenneth became the officer entrusted with the carrying out of the duties which thereby devolved upon the Administration Sub-Committee of the Offices Committee. In effect, this involved no change of his duties in relation to the House of Lords, for since his first appointment Sir Kenneth had been the resident representative of the Lord Great Chamberlain for the whole of the Palace of Westminster, and had carried out the Lord Great Chamberlain's executive duties in the Lords' half of the building. In 1965, however, Sir Kenneth ceased to carry out a number of functions in that part of the building occupied by the House of Commons.

Upon Sir Kenneth's retirement, the complex of duties and offices which he held has been to some extent re-arranged. The Gentleman Usher of the Black Rod now also holds the posts of Serjeant at Arms,

Secretary to the Lord Great Chamberlain, and Agent of the Administration Sub-Committee. The Yeoman Usher of the Black Rod is now Deputy Serjeant at Arms, and is generally responsible for assisting Black Rod in the discharge of his duties. Both of them have small flats in the building.

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

II. A CASE HISTORY IN PARLIAMENTARY CONTROL OF DELEGATED LEGISLATION

By J. M. Steele

Fourth Clerk at the Table, Parliament of Northern Ireland

Parliamentary control of delegated legislation in Northern Ireland broadly follows the system developed in the United Kingdom House of Commons and the Northern Ireland Joint Committee on Statutory Rules Orders and Regulations (commonly called the S.R. & O. Committee) has almost exactly the same Order of Reference as the Westminster Commons Select Committee on Statutory Instruments. The case of the Royal Ulster Constabulary (Appointment and Service) Regulations (Northern Ireland) 1970 (S.R. & O. 1970 No. 189) is interesting in that, as well as demonstrating the various facets of Parliamentary control, it illustrates the Northern Ireland variations from the Westminster model and highlights some of the strengths and weaknesses of the system.

S.R. & O. No. 189 was made by the Ministry of Home Affairs on 1st July, 1970, under section 25 of the Police Act (Northern Ireland) 1970[1] and came into operation on that date. *Inter alia*, section 25 provides that the Ministry "may make regulations as to the government, administration and conditions of service of members of the Royal Ulster Constabulary". Section 34 (2) of the Act requires the Ministry to consult the Police Authority for Northern Ireland and the Police Association before making any Regulations under Section 25. The explanatory note on No. 189 summarised the purpose of the Regulations as being to indicate certain restrictions to which members of the Royal Ulster Constabulary are subject in private life; to govern the appointment of candidates; to provide conditions for probation and retirement; and to deal with the personal and fingerprint records of members of the Force. Section 34 (1) of the Police Act provides that Regulations made under section 25 are subject to the Negative Resolution method of Parliamentary control which is defined in section 41 (6) of the Interpretation Act (Northern Ireland) 1954[2] as follows:

> The expression "subject to negative resolution" when used in relation to any statutory instruments or statutory documents shall mean that those instruments or documents shall, as soon as may be after they are made, be laid before each House of Parliament, and if either such House, within the statutory period next after any such instrument or document has been so laid, resolves that the instrument or document shall be annulled, the instrument or document shall be void as from the date of the resolution, but without prejudice to the validity of anything done thereunder or to the making of a new instrument or document.

" Statutory Period " is defined in subsection (2)[3] of the same section as:

> a period comprising -
> (*a*) ten days on which the House of Commons has sat; or
> (*b*) five days on which the Senate has sat; or
> (*c*) thirty days;
> whichever period is the longest. . . .

In short, after the Regulations have been laid before Parliament it would be open to the Members of either House to table a Motion praying the Governor of Northern Ireland to annul them. If the Statutory Period expired without either House agreeing to such a Prayer, No. 189 would no longer be subject to any special means of parliamentary control but would of course remain open to criticism by way of Parliamentary Question, etc. The main significance of the Negative Resolution procedure from the point of view of parliamentary control is that debate on a Prayer in the Commons is exempted from interruption at the normal moment of interruption.[4] The Senate have no laid down time for the close of a sitting.

No. 189 did not come within this system of parliamentary control until copies of it were delivered to the Vote Office (for laying and circulation to Members) and to the Clerk of the Parliaments (for the S.R. & O. Committee) on 22nd September, 1970. In the twelve weeks between this date and the date of making, No. 189 had been in full effect and any later action taken by Parliament would, as quoted above, be " without prejudice to the validity of anything done thereunder ". This interval between making and laying illustrates the essential vagueness of the injunction in the Interpretation Act that instruments shall be laid " as soon as may be after they are made ".[5] The S.R. & O. Committee have often been concerned about such delays and have approached the problem by suggesting in a Special Report[6] that rule-making authorities should ensure that operative dates for instruments subject to Negative Resolution are selected so that the instruments can be laid and considered by the Committee before, or as soon as possible after, the effective dates. In later discussions in the S.R. & O. Committee and in both Houses on No. 189 the question of delay in laying did not become an issue.

It is worth noting at this point that Section 41 (3) of the Interpretation Act provides that:

> where, under any Act of Parliament, a statutory instrument or statutory document is required to be laid before Parliament . . . the delivery of such instrument or document, as the case may be, to the Votes and Proceedings Office on any day during the existence of a Parliament shall for all purposes be deemed to be the laying of it before Parliament. . . .

This in fact is the same as Commons Standing Order No. 88 but there is no similar provision in Standing Orders of the Senate[7]. It is important in the case of No. 189 because as Parliament was in recess when

the Regulations were delivered to the Vote Office the " 30 days overall " provision in the definition of Statutory Period quoted above had almost expired before Parliament resumed. This meant that the effective Statutory Period in the Commons would be ten sitting days from the resumption after the Recess or, as the Commons sits three days each week, a total of three weeks and one day ending on 10th November. As the Senate sits less often than the Commons its Statutory Period of five sitting days also expired on 10th November. In other words, if the S.R. & O. Committee decided to draw the special attention of Parliament to any aspect of No. 189 it would be desirable that the Committee's Report should be with Members in time to enable them to table a Prayer for a day on or before 10th November.

The S.R. & O. Committee had in fact been meeting regularly each week from 23rd September in an effort to clear a backlog of instruments received while the House was in recess, but it was not until 4th November that the Committee finally reached No. 189. The reason for the delay in reaching it can be found principally in the fact that it is the Committee's usual practice to meet weekly for a period of one hour only and to take oral evidence upon every instrument which come before it. This practice began when the Committee was first set up in 1947 and the Committee are reluctant to depart from it on the grounds that the Minutes of Evidence are a useful source of information for the Members of both Houses. The Statutory Instruments Committee of course takes oral evidence only in exceptional cases. Thus in the six meetings between 23rd September and 28th October the S.R. & O. Committee completed consideration of eighty-two instruments or an average of about fourteen per meeting.

Before going on to the S.R. & O. Committee's consideration of No. 189 it might be useful to mention one or two other points about the Committee and its practice. The Committee is a joint Committee of the Senate and the Commons, five Members being drawn from each House and two from each House forming a quorum. The Committee is rather better attended by its Senate Members and for some years now the Chairman has been a Senator. The Committee does not have the assistance of the Counsel to the Speakers and it largely falls to the Clerk to draw the Committee's attention to particular points of interest and to provide the Committee with legal advice. The Committee's Order of Reference is shown in an Appendix.

When No. 189 was considered by the S.R. & O. Committee on 4th November the witness from the Ministry of Home Affairs failed to satisfy the Committee on two aspects of the Regulations. Firstly the Committee were concerned that the preamble to the Regulations contained no mention of the prior consultations with the Police Authority which are required by Section 34 (2) of the Police Act. It appeared that the Police Authority did not in fact come into being until 29th June and that there had therefore been insufficient time to consult them before the Regulations were made on 1st July. The second

matter which concerned the Committee was that certain parts of the Regulations appeared to be somewhat vague. For example, the witness was unable to explain the meaning of the phrase " in particular a member of the force shall not take any active part in politics " which appears in paragraph 1 of the Schedule to the Regulations. The Committee therefore decided that, in accordance with the instruction contained in the Order of Reference, the Ministry should be requested to submit an Additional Memorandum in explanation of these points for consideration at the next meeting.

When the Committee met again on 11th December the first item of business was the Memorandum from the Ministry. The Committee considered this without taking any further oral evidence and decided that the special attention of the Houses should be drawn to the Regulations on the sixth ground mentioned in the Order of Reference, i.e. " that for any special reason its form or purport calls for elucidation ". The Committee also agreed to the following Special Report in further explanation of their reasons for calling attention to the Regulations:

When the Royal Ulster Constabulary (Appointment and Service) Regulations were considered by your Committee on 4th November 1970 the Committee were concerned to note that the preamble to the Regulations contained no reference to the consultations with the Police Authority which are required by Section 34 (2) of the Police Act (Northern Ireland) 1970. Your Committe also considered that certain parts of the Regulations were so vague as to constitute an element of sub-delegation to the Chief Constable of powers granted to the Ministry under the Act. Accordingly the Ministry of Home Affairs was requested to submit an Additional Memorandum in further explanation of the Regulations.

The Additional Memorandum has now been considered and your Committee in drawing the special attention of the Houses to the Regulations wish to underline the two points which gave the Committee particular concern.

Firstly with regard to consultations, it now appears that the Ministry were unable to fulfill their statutory obligation to consult the Police Authority before the Regulations were made, but that the Authority have since been consulted and have raised no objection.

Secondly on the question of vagueness in the drafting of the Regulations, your Committee were particularly concerned about the phrase " a member of the force shall not take any active part in politics " which appears in paragraph 1 of the Schedule to the Regulations. The Ministry now propose to open discussions with the Police Authority with a view to the issue of directions supplementary to the Regulations. Your Committee remain of the view that it would have been better to have the detail set out in the Regulations.

The Statutory Period in respect of No. 189 had now expired in both Houses so that Members who wished pursue the Committee's Report could not do so by way of a Prayer. In the Senate the matter could still be raised in several ways, e.g. by Question, by Motion for Papers, by substantive Motion calling on the Government to withdraw the Regulations or on the daily Adjournment Debate. As the Senate has no fixed moment of interruption the Adjournment Debate is open ended and is a popular and convenient method of raising subjects of current

interest. In the Commons also several options were open, e.g., by Question, by Motion or on an Adjournment Debate. It should be noted that a Private Member's Motion has much more chance of being debated in the Northern Ireland Commons than in the United Kingdom House but it would normally be some time before such a Motion is taken. It was therefore by way of Adjournment Debates that the S.R. & O. Committee's Report was discussed in the Senate and the Commons on 17th and 18th November respectively.[8] In the Senate the Chairman of the S.R. & O. Committee (Senator Barnhill) outlined the Committee's objections to the Regulations and was supported by two other Members of the Committee. The Leader of the House (Senator the Rt. Hon. L. J. O. Andrews) replied on behalf of the Ministry of Home Affairs and gave the following explanations:

Over the past year the Royal Ulster Constabulary has been undergoing a great degree of reorganisation. The former county district areas gave way to divisional commands; a new rank structure was introduced on the lines of the police service in Great Britain and the numerical strength of the force was being built up.

To the latter task there was brought to bear a vigorous recruiting campaign which proved very successful indeed. Numerous candidates came forward and the Ministry regarded it as essential that this impetus be sustained. Accordingly when Section 8 of the Police Act was brought into effect on 1st June—this section empowered the Chief Constable to recruit new members of the force, subject to regulations made by the Ministry—it was essential to get the regulations made as soon as possible, otherwise valuable recruits would in all probability be lost to the force and the whole timetable of recruitment would have been thrown into confusion.

The Authority was not due to convene until 29th June and its next meeting was not due after that until 11th August. The regulations were therefore made on 1st July and this enabled the flow of recruits to continue. The regulations were presented to the Police Authority for comment on 11th August, which was their first meeting held after their first formal meeting, and they had no comments to offer.

With regard to restrictions on political activities by members of the R.U.C., the phrase used in the schedule to the regulations

> " in particular a member of the force shall not take an active part in politics "

is one which has been taken from corresponding regulations for the police in Great Britain. Legislation has been passed both here and cross-Channel to enable mutual aid in police manpower to be given, and the Government are anxious to attain as far as possible that the terms and conditions of police service in the two parts of the United Kingdom shall be same. This is why the same phrase was used.

The argument applies to the regulations generally; they are based on the Great Britain wording. Further, the Police Act vests the direction and control of the force in the Chief Constable and I think we must trust his judgment in carrying out his many administrative functions. Nevertheless, the Government agree that in the sensitive sphere of police participation in political activities it would be as well to offer guide lines on this matter, and negotiations with the Police Authority and the Chief Constable will be opened to this end.

If the Police Authority had taken exception to the regulations or any part of them they could have been amended. The R.U.C. code prescribes in some detail the rules to be observed by members of the force in avoiding political

involvement and those rules will in due course become part of the force orders. This is the kind of subject on which the Police Authority would be entitled, and indeed would be expected, to call for reports from the Chief Constable, as required. The preamble to the regulations does not say that the Police Authority was consulted.

In the Commons the leader of the Opposition Nationalist Party (Mr. O'Connor) received very much the same reply from the Minister of State in the Ministry of Home Affairs (The Rt. Hon. J. D. Taylor), again with no definite promise of action. Mr. O'Connor, however, was not content to let the matter rest there and at Question time on 24th November[9] the following exchange took place:

Mr. O'Connor asked the Minister of Home Affairs whether in view of the fact that Section 34 (2) of the Police Act (Northern Ireland) 1970 is manadatory and that consultation with the Police Authority which is a condition precedent was not complied with, he will withdraw the Royal Ulster Constabulary (Appointment and Service) Regulations (Northern Ireland) 1970 (S.R. & O. 1970 No. 189) and substitute others.

Mr. Taylor: I regret that, although the Police Authority was consulted at the earliest possible date following its constitution about these regulations, it was not sufficiently early to comply with the statutory requirement. In the circumstances, I propose to replace these regulations by others, about the proposed form of which I shall consult with my right hon. and learned Friend the Attorney-General.

Mr. O'Connor: I should like to thank the Minister of State for his very proper reply, if I might use that expression. I am also grateful to realise that the status of Parliament has not been entirely thrown overboard, as has been threatened.

Thus, in spite of the failure of the Negative Resolution procedure as such, the system of Parliamentary Control had proved effective. The S.R. & O. Committee had performed the function for which it was set up and pressure from Members had completed the task of ensuring that the Executive is circumspect in its use of the powers delegated by Parliament.

APPENDIX

STATUTORY RULES, ORDERS AND REGULATIONS JOINT COMMITTEE

ORDER OF REFERENCE

Senate, 4th March 1970; Commons, 26th February 1970

That a Select Committee be appointed to . . . scrutinise every Statutory Order, Regulation or Rule laid or laid in draft before the House in respect of which proceedings may be or might have been taken in the House or in the Senate in pursuance of any Act of Parliament, with a view to determining whether the special attention of the House should be drawn to it on any of the following grounds:

(1) that it imposes a charge on the public revenue or contains provisions requiring payments to be made to the Exchequer or any Government Department or to any local public authority in consideration of any licence

or consent, or of any services to be rendered, or prescribes the amount of any such charge or payments;

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

(3) that it appears to make some unusual or unexpected use of the powers conferred by the Statute under which it is made;

(4) that it purports to have retrospective effect where there is no statutory authority so to provide;

(5) that there appears to have been an unjustifiable delay in the publication or in the laying of it before Parliament;

(6) that for any special reason its form or purport calls for elucidation.

That two be the quorum of the Committee.

That the Committee have power to require any Government Department concerned to submit a memorandum explaining any Order, Rule, Regulations or Draft which may be under their consideration or to depute a representative to appear before them as a witness for the purpose of explaining any such instrument, or any delay in the publication or laying thereof.

That the Committee be instructed that before reporting that the Special attention of the House should be drawn to any Order, Rule, Regulation or Draft the Committee do afford to any Government Department concerned therewith an opportunity of furnishing orally or in writing such explanation as the Department think fit.

That the Committee have power to report to the House from time to time any memoranda submitted or other evidence given to the Committee by any Government Department in explanation of any Rule, Order or Draft or relating to the printing or publication thereof.

That the Committee have leave to report from time to time.

[1] 1970 Ch. 9.
[2] 1954 Ch. 33.
[3] As amended by section 3 of the Legislative Procedure Act (Northern Ireland) 1968 (Ch. 24).
[4] Standing Orders 1969 (H.C. 2013) S.O. No. 2.
[5] An interesting discussion of the phrase " as soon as may be " is contained in Sir Carleton Kemp Allen's " Law and Orders " 3rd ed. (Stevens 1965).
[6] Second Special Report Session 1970–1 (H.C. 2028).
[7] Senate Standing Orders 1970 (S. 19).
[8] *Senate Hansard*, Vol. 54, col. 1561. *Commons Hansard*, Vol. 77, col. 1231.
[9] *Commons Hansard*, Vol. 77, col. 1542.

III. THE AUSTRALIAN SENATE AND ITS DISPUTED PROCEDURE FOR THE SUSPENSION OF STANDING ORDERS

By R. E. Bullock, O.B.E.

Deputy Clerk of the Senate, Commonwealth of Australia

The Australian Senate has always been master of its own procedures. The Constitution empowered it, by section 50, to make rules and orders with respect to the mode in which its powers, privileges and immunities could be exercised and upheld, and the order and conduct of its business and proceedings either separately or jointly with the other House.

In 1903 the Senate adopted its present body of Standing Orders (some 450 in number) and from time to time since that date they have been amended or added to.

As the first President of the Senate, Senator Sir Richard Baker, stated: " What are Standing Orders? They are only a matter of the balance of convenience. All our Standing Orders are for the convenience of the Senate—to enable questions to be discussed and legislation passed within limits. If we do not wish to provide for such limits, we do not require any Standing Orders." Or, as another President, Senator Givens, stated in 1916: " If it is found that a Standing Order is irksome or unduly conflicts with the liberty of Senators to discuss a question, the simple remedy is for the Senate to suspend it."

The Standing Orders themselves contain provision for their suspension. When notice has been given, a simple majority is sufficient. When notice has not been given, an absolute majority is necessary. Standing Order 448 relating to motions without notice reads as follows:

> In cases of urgent necessity, any Standing or Sessional Order or Orders of the Senate may be suspended on Motion, duly made and seconded, without Notice: Provided that such Motion is carried by an absolute majority of the whole number of Senators.

This Standing Order stood unchallenged in the Senate (notwithstanding legal opinion as to its constitutional validity, to which reference will be made later) until 22 August, 1968. On that day, the combined non-Government Senators, seeking to change the order of Government business on the Notice Paper and (*a*) refused leave to move a Motion to bring a particular item on, and (*b*) unable to carry the vote for the suspension of the standing orders by an absolute majority, dissented against a ruling of the President that an absolute majority was required, asserting that the requirement was unconstitutional;

dissented from the President's further ruling that the dissent Motion was, in the circumstances, not in order; and finally, after six divisions and three and a half hours procedural debate, succeeded in having the order of Government business changed.

Since that day the Senate has been divided as to whether or not the absolute majority provision is constitutional, and as to whether or not the President, in view of the Senate votes on the matter, should continue to insist that Standing Order 448 be complied with.

Members of the Society who may have attended the 56th Inter-Parliamentary Union Conference at Lima in 1968 will remember that the Clerk of the Senate, Mr. J. R. Odgers, initiated a special symposium of members to discuss the Senate incident in the light of the relevant practice and procedures of other Parliaments, and to obtain information on the safeguards provided in other legislatures for protecting the rights of minorities and limiting surprise procedures in connection with matters where it was in the best interests of the House that notice be given. They will remember that as a result of the discussion, the Association of Secretaries-General of Parliament came to the following conclusion:

> That any provision allowing a suspension of the Rules without some qualifying requirement that due notice of the suspending motion should be given and/or a substantial, qualified majority is necessary to carry such a motion, would be a dangerous weapon in the hands of a majority in any Chamber.

In the ensuing pages an attempt will be made to describe the proceedings which took place on 22 August, 1968, and to indicate developments that have since followed. At the outset, it should be stated that Standing Order 448 itself is still unchanged.

Effect of closely divided Chamber

To appreciate the Senate proceedings of 22 August, 1968, one must understand the delicate party balance under which the Senate functions.

Since proportional representation was introduced into Senate elections in 1948, the Senate has been a closely divided Chamber. During most of the past decade the Government has been without a Senate majority; and in recent years the numerically small but politically very important Australian Democratic Labor Party Senators have virtually held the balance of power between Government Senators and the official Opposition. In 1968 the Senators comprised 28 Government Senators (Liberal-Country Party coalition), 27 official Opposition (Australian Labor Party), 4 Australian Democratic Labor Party Senators, and 1 Independent. (As from 1 July, 1971, the numbers will be: Government 26, A.L.P. 26, A.D.L.P. 5, Independents 3.)

Procedures which formerly enabled a numerically strong Government or Opposition to " call the tune " when it felt it necessary, are

now no longer appropriate or are applied with great caution. The closure is seldom used as the Australian Democratic Labor Party is generally opposed to its application. The guillotine or apportionment of time for the passage of an " urgent " Bill has been used but once (1965) in the last ten years. Whereas formerly the obtaining of leave, or failing that, the suspension of standing orders would permit procedures to be adapted to almost any circumstance, these days it is not nearly so simple. With the inevitable absences due to sickness or travel overseas, it is virtually impossible in any strongly contested issue for either the Government or Opposition to secure an absolute majority, i.e. 31 votes. One does not therefore lightly call for a suspension of the Standing Orders without notice; nor does one lightly deny leave to a Senator of another Party (leave must be unanimous) as this is a very sensitive area in the delicate balance. Tension mounts if either side feels leave has been lightly or unjustly denied, and retaliatory action is almost sure to follow.

Lack of numbers has therefore bred and fostered an attitude of tolerance and accommodation. Compromise, prior agreement on procedures, and the giving of adequate notice or leave are now essential elements of the *normal* Senate day to day proceedings. When the Parties choose to differ, however, accepted Senate practice can be queried, procedures debated, and the precise wording and interpretation of the Standing Orders becomes vital to the outcome of the proceedings.

Proceedings of 22 August, 1968

During the early part of the week the Senate had been debating the question of the site of the new and permanent Parliament House, but the Notice Paper for the Thursday showed that the Government had relegated the debate to No. 2, Government Business, after an Order of the Day for the debate on the Budget Papers.

It was known that the non-Government Senators wanted a continuation of the Parliament House site debate. They had the advantage over the Government in their combined numbers, but the question was how far would they go in taking the control of business from the hands of the Government, and how far could they go within the restrictions of the Standing Orders.

The Leader of the Opposition in the Senate (Senator Murphy) sought leave to move a Motion relating to the Order of Business. If leave had been granted, the issue would have been decided on a simple majority vote, but leave was not granted. Under Standing Order 448, Senator Murphy then proceeded to move, without notice, that so much of the Standing Orders be suspended as would prevent him moving the Motion. After debate, the Senate divided 24–22 in favour of the suspension, but, in accordance with the proviso to Standing Order 448, the President ruled the Motion negatived. Senator Murphy immediately moved a Motion of dissent from the Presi-

dent's ruling. The President stated that before calling on Senator Murphy to speak to his Motion of dissent, he must make the comment that the decision he, the President, had given was in complete compliance with the Standing Orders. As President, entrusted with the task of ensuring compliance with the Standing Orders, he could not do otherwise. He could not conceive therefore why or how his decision should be dissented from, and his inclination, purely as President and divorced completely from any personal consideration,was not to allow the Motion of dissent. However, before taking such a step he felt he must hear Senator Murphy's reason for dissent.

Senator Murphy, after first vigorously repudiating the right of the President to refuse to entertain any Motion of dissent, stated that he had moved dissent because the President's ruling was contrary to section 23 of the Constitution which provides that " Questions arising in the Senate shall be determined by a majority of votes ". He elaborated on that point, referring to early Senate's views on this matter and legal opinion which had been obtained from the Solicitor-General.

At the conclusion of Senator Murphy's speech, the President stated that as there was no suggestion that his ruling had not been given in accordance with the existing Standing Orders, and as it was not for him as President to make legal decisions, he did not consider that the circumstances and the reasons given for the motion of dissent justified him in permitting it. He therefore declared it not in order and proposed to proceed with the business of the Senate.

This was the first occasion on which a Presiding Officer of the Commonwealth Parliament had ruled a Motion of dissent against his ruling to be not in order.

The debate which followed was full of interest for any student of political science or parliamentary procedure. Senator Murphy immediately moved dissent against the President's second ruling that his original Motion of dissent was not in order. From there on, however, simple majorities, as distinct from the absolute majority required under Standing Order 448, were all that were necessary for the passage of Senator Murphy's Motions. After five more divisions and the total of three and a half hours procedural tactics and debate, the Senate proceeded to the discussion on the Parliament House site.

President's statement, 27 August, 1968

On Tuesday, 27 August, 1968, the next sitting day, the President made the following statement immediately after the Senate met:

Honourable senators, I wish to make a brief statement in connection with the dissent Motion carried by the Senate against my ruling on Thursday last that an absolute majority was required for the suspension of the Standing Orders without notice. I wish, first, to make it clear that I regard it as my duty, as President, to comply with the wishes of the Senate. I have always endeavoured to do so, and will continue to do so as far as I am able. The vote of the Senate on Thursday, however, has left me in an anomalous position. I have, in

effect, been overruled by the Senate in insisting on the observance of the Standing Orders, which the Senate elected me to uphold, while, at the same time, the Standing Orders have not been altered. I am obliged to respect Thursday's dissent as an indication that, notwithstanding the explicit wording of Standing Order 448, the Senate did not then regard an absolute majority as necessary for the suspension of Standing Orders; but I am still bound, as President, to ensure compliance with the Standing Orders until such time as they are amended.

There is a further consideration that has also to be taken into account. The debate on the dissent Motion centred largely on the question of the constitutional validity of Standing Order 448 because of the special majority requirement. But Standing Order 448 is not the only Standing Order which stipulates a special majority. Standing Order 134, relating to rescission Motions, 281 relating to closure Motions, 332 relating to instructions to committees and 407B relating to urgent Bills, also contain provisions requiring a minimum number of majority votes for the passage of the Motions; and it was only three years ago that the Senate, by its unanimous vote, amended several of these Standing Orders to increase the minimum number of affirmative votes required.

Am I therefore to interpret the Senate's dissent on Thursday as a direction to waive the voting stipulations in those several Standing Orders? No reference was made to them in the debate. In all the circumstances, I suggest to the Senate that there is really only one course open to me. Until such time as the Senate itself specifically alters the Standing Orders, I must, as President, continue to rule that they be complied with. In so stating the position as I see it, I ask the Senate to be appreciative of the situation in which I am placed.

The Leader of the Opposition (Senator Murphy), speaking by leave, disagreed with the President in the course he proposed to follow. The President's duty, he stated, was quite clear, namely, to apply the Standing Orders so far as they are consistent with the Constitution; in so far as they are inconsistent with the Constitution they are invalid and should not be regarded as Standing Orders. " The effect of the vote of the Senate on Thursday was that the Senate decided that the proviso to Standing Order 448 requiring an absolute majority of Senators did not exist in law. In carrying out the Standing Orders, the duty of the President, as I conceive it, is to ignore the requirements of that proviso."

The Leader of the Government (Senator Anderson, now Sir Kenneth Anderson) stated, also by leave, that he did not accept, and was sure that Government Senators did not accept in any way, the proposition that Senator Murphy had advanced. He moved that the Senate take note of the President's statement, and the debate was then adjourned.

The Leader of the Australian Democratic Labor Party (Senator Gair) later issued a press statement. He indicated, in effect, that his Party did not propose to push, or permit the Government to be pushed in this matter, too far. In the delicately balanced state of the Senate, the attitude of his Party would be to insist that " the operation of any power in the Senate in relation to the procedures newly discovered " would be "exercised with the greatest prudence and restraint ". As a former Premier of Queensland, he realised the responsibility of a Government to govern. He pointed out, however,

that if the political distribution in the Senate was anywhere near even, the Standing Order could never be operated, whether at the instance of the Government or an Opposition, and suggested that for that reason alone the Standing Order should receive the scrutiny of the Standing Orders Committee, a course which it seemed the Government proposed to initiate.

The Constitutional Issue: Legal Opinion

The Standing Order was referred for the consideration of the Standing Orders Committee, but the Leader of the Government also indicated that he was seeking the advice of the Commonwealth law authorities on the constitutional issue that had been raised.

The Opposition had claimed during the debate that the proviso to S.O. 448 was *ultra vires* section 23 of the Constitution which reads:

> Questions arising in the Senate shall be determined by a majority of votes, and each Senator shall have one vote. The President in all cases shall be entitled to a vote; and when the votes are equal the question shall pass in the negative.

Further, that the Solicitor-General in 1935 had given the opinion that it was invalid.

The Clerk of the Senate, Mr. J. R. Odgers, had referred to the Solicitor-General's opinion in his work " Australian Senate Practice " and had quoted the opinion in full, indicating that it had been supplied to the Clerk of the House of Representatives in response to a request for advice on the validity of the Standing Orders of that House which provided for qualified majorities. The Solicitor-General had stated that in his opinion " every matter before the House which is proposed in the form of a Motion, and upon which a question is subsequently put, is a 'Question arising' in that House, and must be determined by a majority of votes " as provided by the Constitution, and that the Standing Orders referred to appeared, therefore, to be invalid.

The Clerk had gone on to indicate, however, that the Senate had discussed the question of the constitutional validity of voting stipulations in 1903 when the Standing Orders were under consideration and had decided that " questions " in section 23 of the Constitution referred to questions involving some principle which were to be dealt with by the Senate, and did not include matters merely of procedure, as to how the Senate should conduct its business. He had further pointed out that, notwithstanding the 1935 opinion, the House of Representatives, when revising its rules in 1950, had retained the provision for an absolute majority for the suspension of the Standing Orders without notice.

These references in " Australian Senate Practice " had been emphasised in the debate by Government Senator, Senator Greenwood:

> I believe that the wisdom of the Senate to which Mr. Odgers has referred is well founded. I would think it a dangerous precedent in pursuit of a temporary

advantage to give away that which the Senate has recognised as being of value for the last sixty-five years and that which the House of Representatives for its own benefit and in its own judgment regarded as wise to adopt.

I suspect that if this Standing Order is abolished no longer will we have what has been recognised in the Senate for many years, namely, Government control of the business that is placed before the Senate: we shall have a day-to-day determination and what some people feel should be placed before the Senate.

On 10 September, 1968, the Attorney-General, Mr. Nigel Bowen, and the Solicitor-General, Mr. A. F. Mason, issued an eight-page joint opinion which was made available to all Senators by the Leader of the Government. The following are extracts:

It is unquestionable that the Senate under section 50 may prescribe any notice, any consent or any other condition to be fulfilled before a question may be brought before the House. By way of illustration, it may prescribe seven days notice for certain Motions, and then prescribe conditions on which such notice may be dispensed with as for example, by the consent of thirty-one Senators or the unanimous consent of the House. All such provisions would be valid. They would in no way conflict with section 23, since that section would have no application, unless the question was properly before the House for determination in accordance with the rules and orders.

The essential character of Standing Order 448 is that it enables a procedural requirement to be dispensed with and, if complied with, it converts a motion without notice into a regular Motion.

In our opinion it is valid.

Referring to the 1935 Opinion of the then Solicitor-General, they pointed out, with all respect to his Opinion, that he did not advert to considerations which led them to their conclusion.

And there, to all intents and purposes, the matter rested until Tuesday, 20 May, 1969. No agreement apparently was reached in the Standing Orders Committee, as no report emanated from that body on the issue. The Standing Orders Committee consisted of the President of the Senate, the Chairman of Committees and seven Senators—four Government and three Opposition. The Leader of the Government, another Minister who had been associated with the Committee since he was a private Senator, and the Government Whip were members, but simply as nominees of their Party. The Leader of the Opposition and the Leader of the Australian Democratic Labor Party were not members.

Proceedings of 20 May, 1969

On 20 May, 1969, the Senate for the second time dissented from a decision of the President that an absolute majority was necessary for the suspension of Standing and Sessional Orders without notice, and by its vote negated the proviso to Standing Order 448.

This time the issue arose from the desire of the non-Government Senators to continue an urgency Motion debate after it had been interrupted by the operation of a sessional order. The voting on the sus-

pension motion resulted 29–24, one Government Senator wishing the debate to continue. The voting on the Motion of dissent resulted 28–25, the same Senator not being prepared to vote against the President's decision.

The Leader of the Opposition spoke briefly, asking the Senate to support his Motion, consistent with its 1968 vote. The Leader of the Government, however, referred to and incorporated in *Hansard* the full text of the Joint Opinion given by the Attorney-General and the Solicitor-General: " I would have thought ", he said, " that when there is a law, it should be obeyed. If the law of the jungle is to be followed, the Standing Orders will be thrown into the waste-paper basket and it will be a case of rule by guess or by God."

The Australian Democratic Labor Party again supported the dissent Motion. " What has the Standing Orders Committee done about the matter?" its Leader, Senator Gair, asked. " Nothing. Who is to blame if it occurs a second time? Is Senator Murphy to blame if he repeats the dose when nothing has been done to prevent such an event?" Senator Wright, Minister for Works and a member of the Standing Orders Committee, replied: " The fact is that the matter has been considered very purposefully but the Committee is not yet in a position to report to the Senate "; and went on to indicate how the subject had been discussed " by no less a body " than the Association of Secretaries-General, and read to the Senate the conclusion to which reference has been made earlier in this paper.

President's Statement, 21 May, 1969

The next day the President again made a statement. This time he indicated a different stand for the future:

> Yesterday, the Senate dissented for the second time against a ruling that the suspension of the Standing Orders, without notice, requires an absolute majority of the whole number of Senators, as provided by standing order 448.
>
> I am again faced with the position which confronted me in August last year, following which I made a statement to the Senate pointing out the anomalous position in which I was placed. I then stated that, notwithstanding the dissenting vote of the Senate, I would continue to insist that the Standing Orders be complied with, until such time as the Standing Orders themselves were specifically altered. A Motion to take note of my statement, moved that day, 27th August, 1968, is on the Senate notice paper.
>
> In view of yesterday's dissent, I have again given consideration to my position as President. No substantive Motion has been moved to clarify my position in the intervening period since August last. The Standing Orders have not been altered. The Senate has not debated my statement. I could persist in my attitude that the Standing Orders themselves must be complied with, but it is now obvious that, if I continue to do so, I may continue to be overruled by the Senate itself. It is not only anomalous, but belittling to the dignity of the office of President, that this situation should exist.
>
> So far as consideration by the Standing Orders Committee is concerned, I hope that a report from that Committee will be made as soon as possible to assist the Senate in resolving what I am sure we all agree is a most important matter. In the meantime, I feel bound to take note of the Senate's twice-

expressed dissent. I therefore announce that, pending the report of the Standing Orders Committee and the Senate's determination of the matter, I propose (unless otherwise directed) to regard as in abeyance any provisions in the Standing Orders requiring questions to be determined by other than a majority of votes, except in so far as any standing order may express a constitutional requirement.

The Leader of the Government (Senator Anderson) expressed the opinion that the President should continue to rule in accordance with S.O. 448; he assured the President that he had had no alternative but to rule as he did, and he did not believe that the Standing Order should now be disregarded. Senator Murphy considered the statement had set out the position " with great propriety and dignity", and moved " That the Senate approve of the Statement by the President ". The debate was then adjourned. It has not since been resumed.

Present situation

And there, again to all intents and purposes, the matter rests. There still has been no report from the Standing Orders Committee—indicating that that Committee is still divided, as it has been the policy of the Committee over the years to endeavour to present only Reports that are unanimous.

An interesting development in connection with the Committee itself, however, followed soon after the last dissent incident. The *Journals* for 21 May, 1969, show that shortly after the President's Statement that day, the Leader of the Government moved, by leave, that the Leader of the Opposition be appointed to the Standing Orders Committee. The question was put and passed without debate.

Out of the disagreement much has been gained, even if the parties are still divided on Standing Order 448 itself. The debates served to highlight the disadvantages under which the Opposition were laboring in connection with the order of business. During 1967–8 the Opposition had been frustrated again and again in their endeavours to debate and bring to a vote Motions they had listed on the Notice Paper, especially Notices relating to proposed Committees. As Opposition proposals they were listed under General Business, and under the Sessional Orders of the Senate (agreed upon by Motion at the beginning of each new Session) General Business took precedence of Government Business only on Tuesdays, after 8 p.m. And each Notice of Motion or Order of the Day took its turn in the queue of General Business! An absolute majority of Senators could easily bring on any Motion and have it debated and voted upon; but a minority, even if it gave notice of a suspension Motion, had no guarantee as to when it would be debated. The Government could arrange the order of its business on the Notice Paper, but not so the Opposition or private Senators. The best that could be achieved was the concurrence of those ahead on the list to waive or postpone their right to priority. Consequently, the beginning of each new Session and each

new Notice Paper sometimes saw something akin to a scramble between members of the different parties to peg their claims as it were. Cynical practical politics made it wise for some Government Senators to ensure early listing even if only to constitute procedural blocks. Standing Order 113 provided that " A Senator may not give two Notices of Motion consecutively if another Senator has any Notice to give ".

This situation was not good. It denigrated the Senate as an institution, frustrated a vigorous Opposition, and was completely out of keeping with the new order of things under proportional representation, and the need to streamline Parliamentary procedures.

In two important ways the situation has been changed.

(1) *Contingent Notices of Motion.* Even before the first of the dissent incidents in 1968, Senator Murphy, the Leader of the Opposition, had unobtrusively advanced and listed on the Notice Paper, a new procedure of considerable potential. He gave a Contingent Notice of Motion, which appeared on the Notice Paper of 2 April 1968, under "General Business", as follows:

> *Senator Murphy:* To move (contingent on the President proceeding to the Placing of Business on any Tuesday)—That so much of the Standing Orders be suspended as would prevent Senator Murphy moving a motion relating to the order of General Business, after 8 p.m.

" Placing of Business " as referred to in the contingent notice is a regular part of the Senate's daily routine, provided for under Standing Order 66, and takes place immediately after Questions and Formal Motions.

Contingent notices were not new to the Senate, but in the past they had been a procedural device, used almost exclusively by the Ministry, to enable Ministers to move at any time for the suspension of Standing Orders to enable Bills to be passed without delay. Four such notices are given by the Leader of the Government at the beginning of each new session and remain listed on the Notice Paper until the end of the session. Obviously, the purpose of Senator Murphy's contingent notice was to gain him the opportunity to move Motions—at a specific period of the day—in relation to the order of General Business, if he so wished.

Senator Murphy utilised the new procedure for the first time on Tuesday, 20 August, to gain precedence at 8 p.m. (when General Business took precedence of Government Business under sessional orders) for an Order of the Day listed well down on the Notice Paper under General Business. On 10, 17 and 24 September he again used the contingent notice for similar purposes, and frequently thereafter for the rest of 1968. At no time was his Motion—for the rearrangement of General Business—opposed or queried either by the Government or by private Senators. One Senator did make a point of stating that in his opinion the Leader of the Opposition had an obligation to the

Senate generally to advise early (before the Tuesday) of the item under General Business which he would seek to have debated on the Tuesday evening. The Leader of the Opposition stated he would endeavour to give adequate " notice ".

Thus before the end of 1968 a new procedure permitting the Leader of the Opposition to move for the rearrangement of General Business had become accepted practice.

On Tuesday, 15 October 1968, Senator Murphy had given notice of a second contingent notice of motion. This one, listed on the Notice Paper immediately under the contingent notice given earlier, read as follows:

Senator Murphy: To move (contingent on the President proceeding to the Placing of Business on any day)—That so much of the Standing Orders be suspended as would prevent Senator Murphy moving a Motion relating to the order of Business on the Notice Paper.

This contingent Motion, as can be seen, went far beyond the first, embracing any Business on the Notice Paper and not merely General Business. No query or point of order was raised at the time of its appearance on the Notice Paper. No comment was made. Its potential importance, in view of the dissent debate, was self-evident.

On Thursday, 7 November, 1968, the number of contingent notices under General Business on the Notice Paper increased to four. The Leader of the Australian Democratic Labor Party, Senator Gair, had two such notices listed under his name, similar to those of Senator Murphy. These four contingent notices remained on the Notice Paper until the end of the session at the end of 1969.

In 1970, the Leader of the Opposition, presumably deciding that both types of contingent notices were not necessary in view of the embracing nature of the second notice, listed the second notice only on the Notice Paper. Subsequently, the Leader of the Australian Democratic Labor Party also listed only the second type of notice.

While the two Leaders, and particularly Senator Murphy, have made frequent use of the contingent notice to effect a change in the order of General Business, at no time, yet, has either Leader moved for a change in the order of Government business.

(2) *Reference of subjects to Standing Committees.* The second important procedural change related to new Committees. On 11 June, 1970, the Senate agreed to two major proposals extending its Committee system, viz., to a Motion by the Leader of the Opposition to the appointment of seven new Standing Committees to deal with any matters referred to them by the Senate, and to a Motion by the Leader of the Government for five Estimates Committees to examine the annual Particulars of Proposed Expenditure.

A Motion moved by the Leader of the Government, Senator Sir Kenneth Anderson, on 19 August, 1970, contained a provision relating to the manner in which matters might be referred to the new Standing

Committees. It represented a major liberal move by the Government to facilitate early discussion of any proposals that might emanate from the Opposition or individual Senators, and a recognition of the difficulties and obstacles they had been forced to contend with in the past.

The relevant paragraph read:

> Unless it be otherwise specially provided by the Standing Orders, the reference of a matter to a Standing Committee shall be on Motion after Notice. Such notice of Motion may be given—
>
> (*a*) in the usual manner when Notices are given at the beginning of the Business of the Day; or
>
> (*b*) at any other time by a Senator—
>
> (i) stating its terms to the Senate, when other Business is not before the Chair; or
>
> (ii) delivering a copy to the Clerk, who shall report it to the Senate at the first opportunity.
>
> Any such Notice of Motion shall be placed on the Notice Paper for the next sitting day as " Business of the Senate " and, as such, shall take precedence of Government and General Business set down for that day.

This paragraph ensures early consideration of proposed references but it cannot easily be utilised to stymie or unduly delay normal business. The Government has not, in other words, handed the Opposition a procedural block on a platter. Standing Order 127 (Interruption of Business) ensures that the Government still retains normal control of business: if Motions are not disposed of two hours after the meeting of the Senate, the debate is interrupted (unless the Senate otherwise orders) and Orders of the Day are proceeded with. The Motion interrupted becomes an Order of the Day under General Business (unless a Government motion) where it no longer is entitled to precedence.

By these new procedures related to contingent notices and the reference of matters to Standing Committees, Opposition notices are no longer in danger of being lost in the limbo of General Business. And while the present situation in regard to Standing Order 448 is (*a*) that the Government and Opposition are irreconcilably divided on the constitutional issue, (*b*) that in any case the provision for an absolute majority is largely impracticable in a closely divided Chamber where pairs do not count, and (*c*) that the Standing Orders Committee, not surprisingly, is having difficulty in reaching agreement, the search for a solution embodying adequate safeguards is still going on.

It can truly be said that the two bitterly fought occasions when the Senate divided on the operation of Standing Order 448 made both sides of the Chamber aware of the difficulties faced by the other. Practice and procedures are being changed by necessity to meet such difficulties and cope with new situations. This must be so. Only by such adaptation can the Senate hope to meet effectively the challenges of modern times.

IV. THE CURRENT STATE OF PROCEDURE IN THE CANADIAN HOUSE OF COMMONS

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In December 1968 the procedure of the Canadian House of Commons was radically reformed in a number of major areas. For some years previously the procedure of the House had been operating largely within a provisional framework while a succession of Procedure Committees attempted simultaneously to produce a permanent scheme of reform acceptable to all parties. One of these Committees visited Westminster in February 1968 to study the procedure of the British House of Commons, and its findings greatly influenced the subsequent Committee whose proposals were adopted in the first session of the succeeding Parliament.

The new Standing Orders were the first in many years to be adopted on a substantive basis and they wrought major changes in the organisation of business and working pattern of the House.

Financial Procedure

The financial procedure of the House, which had been based on the traditional British practice, was radically overhauled and modernised. Following the example set by Australia, New Zealand and Great Britain itself, the archaic practice whereby a Money Bill was required to be founded on a resolution adopted in a Committee of the Whole House was abolished. The Committee of Supply, the Committee of Ways and Means and all other financial Committees of the Whole House were thereby consigned to history, and the procedure governing both expenditure and taxation was extensively changed in consequence.

The reforms relating to Supply procedure were based upon the following principles, as listed in the Third Report of the Special Committee on Procedure of the House introduced on 6th December, 1968:

(*a*) A pattern of regular parliamentary sessions is assumed whereby a session would normally commence in September or October and the House would rise for the summer recess on or about July 1.
(*b*) For the purposes of supply, the parliamentary session would be divided into three periods ending on December 10, March 26 and June 30, respectively.
(*c*) The main estimates would be presented to the House as early as possible in February and certainly before March 1.
(*d*) The Committee of Supply would be abolished.
(*e*) All estimates would be referred to Standing Committees for detailed scrutiny before March 1.
(*f*) The Standing Orders would provide that the supply resolutions and the

Bills based thereon would be disposed of by the House by the dates specified above. Interim supply to cover the months of April, May and June would be disposed of by March 26; the main estimates would be disposed of by June 30, the Standing Committees having reported by May 31; and the supplementary and additional estimates would be disposed of by December 10, March 26 or June 30, depending on the periods in which they are presented.

(*g*) A total of 25 allotted days spaced throughout the session would be placed at the disposal of the Opposition. Five would fall before December 10, seven before March 26, and 13 before June 30. On these allotted days the Opposition would be free to select for debate any matter coming within the jurisdiction of Parliament, including the business of supply currently before the House, on motions of which notice would be required. Six of the Motions moved by the Opposition during a session could be motions of non-confidence in the Government, two falling within each of the specified periods. Motions other than these six would not normally be brought to a vote but would provide opportunities for debating matters which, in the opinion of the Opposition, call for public consideration. It is envisaged that during the latter weeks of a session these days would frequently be used for debating the reports on the departmental estimates presented by the various Standing Committees.

(*h*) In addition to the 25 allotted days specified above, an additional 3 days would be provided for the consideration of any final supplementary estimates, presented in the period ending on June 30, and provision would also be made for the reference of these estimates to the Standing Committees.

(*i*) The final decisions in relation to the main estimates of each department of government would be held over until the end of the third supply period so that the opportunity to debate any department would remain open throughout the session. A Member wishing to vote against an estimate would be required to give notice, and motions for the adoption of unopposed estimates could be consolidated into a single question.

(*j*) Any days unused from the eight devoted to the Throne Speech debate and the six devoted to the Budget debate would be added to the total number of allotted days and would also be at the disposal of the Opposition.

(*k*) In order to extend the opportunities of Members to participate in debates on allotted days, the length of speeches would be limited to twenty minutes, except that the principal spokesmen for the Government and the Opposition would be allowed thirty minutes.

It can be seen from the above statement of principles that the new Supply procedure was influenced by that of the British House of Commons in several respects. The introduction of a specified number of allotted days on which the Opposition has the right to select the subjects for debate; the introduction of Supply guillotines which have the effect of ensuring the passage of the various Supply bills by specified dates; and the removal of the detailed consideration of estimates from the floor of the House to Committees were all suggested by the British practice.

Under the new Ways and Means procedure the budget is introduced by the Minister of Finance in the House on the Motion " That this House approves in general the budgetary policy of the Government ". The very general terms of this Motion permit the traditional

wide-ranging debate on the budget statement to take place as in the past. The specific Ways and Means resolutions are not separately debated but they may be considered simultaneously with the general resolution during the six-day budget debate. The questions on the Ways and Means resolutions are put after the question on the general resolution has been disposed of and are decided without amendment or debate. The opportunity for consideration of the taxation proposals themselves arises at the various stages of the Bills which are introduced to implement them.

The Legislative Process

The legislative process in relation to public Bills was revised in accordance with the following principles, as set out in the report referred to above:

(*a*) The preliminary resolution stage in Committee of the Whole House which is required in respect of a bill involving the expenditure of money should be eliminated. This proposal is consistent with the recommendations to abolish the Committee of Supply and the Committee of Ways and Means, and taken in conjunction they would achieve the elimination of the ancient practice requiring that a charge on the people must originate by way of a resolution agreed to in a Committee of the Whole House.

(*b*) The three readings of a Bill would be retained, but the Motion relating to each reading would be rephrased in such a way as to illuminate the philosophy behind each stage of the legislative process.

(*c*) The Motion for the First Reading of a Bill would read:

"That this Bill be read a first time and printed."

This Motion, if passed, would imply that the House had agreed to the introduction of the Bill without any commitment beyond the fact that it should be made generally available for the information of Parliament and the public.

(*d*) The Motion for the Second Reading would read:

"That this Bill be now read a second time and referred to a committee."

This Motion, if passed, would imply that the House had given preliminary consideration to the Bill and that, without any commitment as to the final passage of the Bill, had authorised its reference to a committee for detailed scrutiny. Your Committee believes that the significance of the Second Reading stage has been exaggerated in the past, and that the decisive stage should occur later in a Bill's passage after it has emerged from a committee. The purpose of the Second Reading stage is to define the scope of a Bill, and to extend its significance any further is, in our opinion, to distort the meaning of the legislative process.

(*e*) The Motion for Third Reading would read:

"That this Bill be now read a third time and passed."

This wording would indicate clearly and unambiguously that the final and most crucial decision relating to the passage of a Bill would be taken at the Third Reading. At present the Third Reading is seldom debated and has become almost a formal stage. Your Committee does not envisage that a debate should necessarily take place at the Third Reading, but it attaches great importance to the preservation of the opportunity for debate at this stage. We wish to emphasise that the Third Reading should always be the decisive stage and that in the case of a highly controversial Bill it could be a most crucial debating stage.

(*f*) All Bills, other than those based on supply and ways and means resolutions, would be automatically referred to Standing Committees for consideration in detail unless the House decided otherwise. A Bill which had been considered in a Standing Committee would not be reconsidered in a Committee of the Whole House but would be directly reported to the House. Bills based on supply and ways and means resolutions would not be considered in Standing Committees but in a Committee of the Whole House.

(*g*) The report stage would be revived as a debating stage of the legislative process. It is contemplated that opportunities for proposing amendments to Bills would occur both in the Standing Committees and in the House when the Bills are reported. Debate at the report stage would take place only when notices of amendments are given for consideration at the report stage and would be strictly relevant to the amendments proposed. When a Bill emerges from a Standing Committee, whether amended or not, a minimum period of 48 hours would be provided before the calling of the report stage to enable Members to give notice of amendments. If no notices of amendments are received within the prescribed time the Motion for concurrence in the Bill as reported from the Standing Committee would be decided without amendment or debate. Bills which had been considered in a Committee of the Whole House would not be debatable at the report stage.

(*h*) The length of speeches made in debates at the report stage would be limited to twenty minutes, except that the principal spokesmen speaking to an amendment for the Government and the Opposition would be allowed forty minutes.

(*i*) In order to ensure a cohesive debate at the report stage the Speaker would have the authority to select and combine the amendments of which notice had been given.

The most significant changes in the legislative process are the automatic reference of the great majority of Bills to Standing Committees for detailed consideration and the revival of the report stage as a debating stage at which further amendments may be moved. The report stage had not previously figured in the Canadian legislative process because the Committee stages of all Bills were normally taken on the floor of the House. The revival of the report stage was designed to meet the objection that a member not being a member of the Committee considering a particular Bill would be deprived of his right to speak and move amendments to the individual clauses of that Bill.

It may be noted that the Committee's philosophy in relation to the second reading of a Bill as stated in (*d*) above has not been reflected in the actual debating practice of the House. It may also be noted that the Speaker's power to select and combine amendments as stated in (*i*) above has not been interpreted by the Chair as an unrestricted discretion to select amendments in the manner of the Speaker of the British House of Commons.

The Committee structure of the House

Under the revised rules of procedure the work and significance of the Standing Committees of the House have been greatly increased. Eighteen Standing Committees are provided for by Standing Order,

most of which specialize in a particular subject area. With certain exceptions each of these Committees combines the three functions of legislation, finance and *ad hoc* inquiry; Bills, estimates and specific investigations are all referred to the same Committees in accordance with the subject areas they cover.

The intention of the new procedure is to remove as much detailed work as possible from the floor of the House; to enable Members to develop a subject expertise through service on Committees; and to give to Committees an important new role in the parliamentary process. The present Committee structure possibly has the potential to achieve these ideals although it is being hampered by a number of difficulties, some of which are set out in the following paragraph.

The distinction between the legislative, financial and investigatory functions of the Standing Committees has perhaps not been sufficiently emphasised. All the Standing Committees have standard terms of reference specified by Standing Order, although whether a Committee automatically requires the same terms of reference (*e.g.* such as the power to call witnesses) when fulfilling each of its three distinct functions is open to question. A uniform code of Committee practice has yet to be devised and there appear to be differences of opinion among Committee Chairmen as to how Committee proceedings should be conducted. Nothing comparable to the British Chairman's Panel exists which could discuss the problems of Committee procedure and attempt to draw up a code of practice. Committees are greatly overworked, together with their staffs, and difficulties are encountered every week in the scheduling of meetings. The use which is made of the rule permitting unlimited substitution in Committee membership is endangering the original purpose of the new Committee structure, that of encouraging the development of subject expertise through service on Committees.

Standing Order 65, reproduced below, incorporates the principal rules relating to Committees and enumerates the Standing Committees:

65. (1) At the commencement of the first session of each Parliament, a Striking Committee, consisting of seven members, shall be appointed, whose duty it shall be to prepare and report, within the first ten sitting days after its appointment, lists of members to compose the following standing committees of the House:

(*a*) Agriculture, to consist of not more than 30 members;
(*b*) Broadcasting, Films and Assistance to the Arts, to consist of not more than 20 members;
(*c*) External Affairs and National Defence, to consist of not more than 30 members;
(*d*) Finance, Trade and Economic Affairs, to consist of not more than 20 members;
(*e*) Fisheries and Forestry, to consist of not more than 20 members;
(*f*) Health, Welfare and Social Affairs, to consist of not more than 20 members;

(*g*) Indian Affairs and Northern Development, to consist of not more than 20 members;
(*h*) National Resources and Public Works, to consist of not more than 20 members;
(*i*) Justice and Legal Affairs, to consist of not more than 20 members;
(*j*) Labour, Manpower and Immigration, to consist of not more than 20 members;
(*k*) Regional Development, to consist of not more than 20 members;
(*l*) Transport and Communications, to consist of not more than 20 members;
(*m*) Veterans' Affairs, to consist of not more than 20 members;
(*n*) Miscellaneous Estimates, to consist of not more than 20 members;
(*o*) Miscellaneous Private Bills and Standing Orders, to consist of not more than 20 members;
(*p*) Privileges and Elections, to consist of not more than 20 members;
(*q*) Public Accounts, to consist of not more than 20 members; and
(*r*) Procedure and Organization, to consist of not more than 12 members.

(2) Each of the said committees shall elect a chairman and a vice-chairman at the commencement of every session and, if necessary, during the course of a session.

(3) The Striking Committee shall also prepare and report lists of members to compose the following standing joint committees:

(*a*) On Printing, to act as members on the part of this House on the Joint Committee of both Houses on the subject of the printing of Parliament, to consist of 23 members;
(*b*) On the Library of Parliament, so far as the interests of this House are concerned, and to act as members of the Joint Committee of both Houses, to consist of 21 members;

Provided that a sufficient number of members of the said joint committees shall be appointed so as to keep the same proportion in such committees as between the memberships of both Houses.

(4) (*a*) The membership of standing and joint committees shall be as set out in the report of the Striking Committee, when concurred in by the House, and shall continue from session to session within a Parliament, but shall be subject to such changes as may be effected from time to time.

(*b*) Changes in the membership of any standing, joint or special committee may be effected by a notification thereof, signed by the member acting as the Chief Government Whip, being filed with the Clerk of the House who shall cause the same to be printed in the Votes and Proceedings of the House of that sitting, or of the next sitting thereafter, as the case may be.

(5) A special committee shall consist of not more than 15 members.

(6) A majority of the members of a standing or a special committee shall constitute a quorum. In the case of a joint committee, the number of members constituting a quorum shall be such as the House of Commons acting in consultation with the Senate may determine.

(7) The presence of a quorum shall be required whenever a vote, resolution or other decision is taken by a standing or a special committee, provided that any such committee, by resolution thereof, may authorise the chairman to hold meetings to receive and authorise the printing of evidence when a quorum is not present.

(8) Standing committees shall be severally empowered to examine and enquire into all such matters as may be referred to them by the House, and, to report from time to time, and, except when the House otherwise orders, to send for persons, papers and records, to sit while the House is sitting, to sit during periods when the House stands adjourned, to print from day to day such papers and evidence as may be ordered by them, and to delegate to subcommittees all or any of their powers except the power to report direct to the House.

(9) Any Member of the House who is not a member of a standing or special committee, may, unless the House or the committee concerned otherwise orders, take part in the public proceedings of the committee, but he may not vote or move any motion, nor shall he be part of any quorum.

(10) In a standing or special committee, the standing orders of the House shall be observed so far as may be applicable, except the standing orders as to the seconding of Motions, limiting the number of times of speaking and the length of speeches.

(11) The chairman of a standing or special committee shall maintain order in the committees, deciding all questions of order subject to an appeal to the committee; but disorder in a committee can only be censured by the House, on receiving a report thereof.

(12) Reports from standing and special committees may be made by Members standing in their places, and without proceeding to the bar of the House.

Emergency Procedures

The new Standing Order relating to emergency adjournment motions is comparable in most of its essential provisions to its British counterpart. The rule as revised at Westminster commended itself to the visiting Canadian Procedure Committee, who saw in it the means of overcoming a particularly crucial problem encountered in their own House. Because of the practice whereby Members were permitted to " advise " the Chair when it was called upon to rule on the admissibility of an emergency adjournment Motion, the semblance of a debate on the issue concerned frequently took place before the Chair had rendered its decision. The rule as now drafted has eliminated this opportunity.

The new Canadian Standing Order reads as follows:

26. (1) Leave to make a Motion for the adjournment of the House for the purpose of discussing a specific and important matter requiring urgent consideration must be asked for after " Questions on Order Paper " on Mondays and Wednesdays, and on other days after the ordinary daily routine of business as set out in Standing Order 15 (2) is concluded.

(2) A Member wishing to move, " That this House do now adjourn ", under the provisions of this standing order shall give to Mr. Speaker, at least two hours prior to the opening of a sitting, a written statement of the matter proposed to be discussed. If the urgent matter is not then known, the Member shall give his written statement to Mr. Speaker as soon as practicable but before the opening of the sitting.

(3) When requesting leave to propose such a Motion, the Member shall rise in his place and present without argument the statement referred to in section (2) of this order.

(4) Mr. Speaker shall decide, without any debate, whether or not the matter is proper to be discussed.

(5) In determining whether a matter should have urgent consideration, Mr. Speaker shall have regard to the extent to which it concerns the administrative responsibilities of the government or could come within the scope of ministerial action and he also shall have regard to the probability of the matter being brought before the House within reasonable time by other means.

(6) If Mr. Speaker so desires, he may defer his decision upon whether the matter is proper to be discussed until later in the sitting, when he may interrupt the proceedings of the House for the purpose of announcing his decision.

(7) In stating whether or not he is satisfied that the matter is proper to be discussed, Mr. Speaker is not bound to give reasons for his decision.

(8) If Mr. Speaker is satisfied that the matter is proper to be discussed, the Member shall either obtain the leave of the House, or, if such leave be refused, the assent of not less than twenty members who shall thereupon rise in their places to support the request; but, if fewer than twenty Members and not less than five shall thereupon rise in their places, the House shall, on division, upon question put forthwith, determine whether such Motion shall be made.

(9) If it is determined that the Member may proceed, the Motion shall stand over until 8.00 o'clock p.m. on that day, provided that Mr. Speaker, at his discretion, may direct that the Motion shall be set down for consideration on the following sitting day at an hour specified by him.

(10) When a request to make such a Motion has been made on any Wednesday, and Mr. Speaker directs that it be considered the same day, the House shall rise at 6.00 o'clock p.m. and resume at 8.00 o'clock p.m.

(11) When a request to make such a Motion has been made on any Friday, and Mr. Speaker directs that it be considered the same day, it shall stand over until 3.00 o'clock p.m.

(12) Debate on any such Motion shall not be interrupted by "Private Members' Business".

(13) Proceedings on any such Motion may continue beyond the ordinary hour of daily adjournment but, when debate thereon is concluded prior to that hour in any sitting, the motion shall be deemed to have been withdrawn. In any other case, Mr. Speaker, when he is satisfied that debate has been concluded, shall declare the Motion carried and forthwith adjourn the House until the next sitting day.

(14) No Member shall speak longer than twenty minutes during debate on any such Motion.

(15) The provisions of this standing order shall not be suspended by the operation of any other standing order relating to the hours of sitting or in respect of the consideration of any other business provided that, in cases of conflict, Mr. Speaker shall determine when such other business shall be considered or disposed of and he shall make any consequential interpretation of any standing order that may be necessary in relation thereto.

(16) The right to move the adjournment of the House for the above purposes is subject to the following conditions:

(*a*) The matter proposed for discussion must relate to a genuine emergency, calling for immediate and urgent consideration;

(*b*) not more than one such Motion can be made at the same sitting;

(*c*) not more than one matter can be discussed on the same Motion;

(*d*) the Motion must not revive discussion on a matter which has been discussed in the same session pursuant to the provisions of this standing order;

(*e*) the Motion must not raise a question of privilege;

(*f*) the discussion under the Motion must not raise any question which, according to the standing orders of the House, can only be debated on a distinct Motion under notice.

As in Britain, the term " a definite matter of urgent public importance " has been replaced by a wording free of any precedent-binding definitions. There is one important detail in respect of which the Canadian rule does not follow the British rule. Under the latter the Speaker is expressly prohibited from giving his reasons for accepting or rejecting an emergency adjournment Motion, whereas the Canadian rule allows him the option. One great improvement wrought in the Canadian practice is that the acceptance of an emergency adjournment

Motion no longer involves the immediate setting aside of all other business. Under the previous rule such a Motion when accepted had the effect of immediately superseding the orders of the day.

Also adopted was a new procedure designed to enable the House to deal with urgent business more expeditiously on the first day of a session or a resumed session and on any other occasion when the overwhelming majority of Members are in favour of waiving the notice requirement in respect of certain motions. Two kinds of eventuality are provided for. The first permits the House to deal without delay with any item of Government business calling for immediate consideration on the first day of a session or a resumption of a session following an adjournment. The second permits the normal requirement of notice to be waived in respect of a Motion seeking to introduce new business or to extend the hours or days of sitting provided no objection is registered by ten or more Members. Previously a single dissenting voice was sufficient to prevent the introduction of such a Motion without notice.

Rulings of the Chair

The rule which had permitted spontaneous appeals from the rulings of the Speaker from the floor of the House was abolished on a permanent basis in 1968. (It had been provisionally abolished in 1965.) A Speaker's ruling can now be challenged only on a substantive Motion of which notice is required. This was a most salutary reform as the previous rule had seldom been used in the interests of good procedure but only as a means of registering a protest or delaying business.

It is still open to a Member to appeal spontaneously against the ruling of the Chairman in Committee of the Whole House, in which case the appeal is decided by the Speaker. The desirability of obliging the Speaker to adjudicate the decisions of his colleague is open to question, but since the Committee of the Whole House no longer plays a major role in Canadian procedure the practical effect of this rule is of no great significance.

Allocation of Time

The question of allocation of time to Bills was one which every Procedure Committee of recent years has attempted to resolve without success. Although an impressive measure of inter-party agreement was achieved in relation to the other reforms described above, the Opposition parties have never been willing to accept voluntarily an allocation of time procedure which places an ultimate sanction in the hands of the Government majority.

The Procedure Committee which reported in December 1968 proposed a scheme (supported only by the Government members of the Committee) for the programming of business which would have established a Proceedings Committee comprising the House leaders of all the parties represented in the House. This Committee's function was

to have been the allocation of time to Bills by agreement wherever possible, but in cases where the Committee was uable to agree the Government House leader would have had the right to refer the question to the decision of the House following a two-hour debate: in other words, the Government could have imposed its own program through the use of its majority. For the sake of reaching agreement on the Procedure Committee's other recommendations, the Government agreed to drop this particular proposal in exchange for the acceptance by all parties of the rest of the package.

The matter of allocation of time was, however, revived during the following year when it was referred to the newly-established Standing Committee on Procedure and Organisation. Like its predecessors, it failed to reach agreement on the matter, and a report supported only by the Government members of the Committee was submitted to the House proposing a procedure essentially similar to that which had been dropped. It was incorporated in three new Standing Orders, reproduced below, which were to some extent suggested by a Standing Order of the British House of Commons adopted in December 1967.

These Standing Orders were adopted by the House in July 1969 following a long and acrimonious debate which was terminated by closure. One Member of the Opposition remarked that it was probably the only occasion on which a Government had invoked closure to impose closure.

The new procedure provides for a three-stage exercise designed to encourage the achievement of voluntary agreement on time-tabling wherever possible, but reserving to the Government the right of ultimate sanction which had made the previous proposal inacceptable. Standing Order 75A permits a unanimous decision of the House leaders to become an order of the House almost automatically. Standing Order 75B permits the decision of a majority of the House leaders to be put to a vote after a two-hour debate. Standing Order 75C, the real bone of contention, permits the Government, in effect, to impose its own allocation of time program following a two-hour debate in cases where the Government House leader has tried and failed to secure all party agreement or majority agreement under Standing Orders 75A and 75B.

The texts of the three Standing Orders are as follows:

75A. When a Minister of the Crown, from his place in the House, states that there is agreement among the representatives of all parties to allot a specified number of days or hours to the proceedings at one or more stages of any public bill, he may propose a Motion, without notice, setting forth the terms of such agreed allocation, and every such motion shall be decided forthwith, without debate or amendment.

75B. When a Minister of the Crown, from his place in the House, states that a majority of the representatives of the several parties have come to an agreement in respect of a proposed allotment of days or hours for the proceedings at any stage of the passing of a public Bill, he may propose a Motion, without notice, setting forth the terms of the said proposed allocation; provided that for the purposes of this standing order an allocation may be proposed in one

Motion to cover the proceedings at both the report and the third reading stages of a Bill if that Motion is consistent with the provisions of Standing Order 75(13). During the consideration of any such Motion no Member may speak more than once or longer than ten minutes. Not more than two hours after the commencement of proceedings thereon, Mr. Speaker shall put every question necessary to dispose of the said Motion.

75C. A Minister of the Crown who from his place in the House at a previous sitting has stated that an agreement could not be reached under the provisions of Standing Order 75A or 75B in respect of proceedings at the stage at which a public Bill was then under consideration either in the House or in any committee and has given notice of his intention so to do may propose a motion for the purpose of allotting a specified number of days or hours for the consideration and disposal of proceedings at that stage; provided that the time allotted for any stage is not to be less than one sitting day and provided that for the purposes of this standing order an allocation may be proposed in one motion to cover the proceedings at both the report and the third reading stages on a Bill if that Motion is consistent with the provisions of Standing Order 75 (13). During the consideration of any such Motion no Member may speak more than once or longer than ten minutes. Not more than two hours after the commencement of proceedings thereon, Mr. Speaker shall put every question necessary to dispose of the said Motion.

Standing Order 75C has not in fact been invoked since its introduction and there is some doubt that it ever will be, as the form in which it is drafted is open to conflicting interpretations.

Conclusion

The foregoing paragraphs summarise the most important changes which have been made to the procedure of the Canadian House of Commons. Other minor changes were introduced at the same time affecting the hours of sitting; the arrangement of private Members' business; the duration of the daily question period; the tabling of papers by ministers; and the confirmation of certain provisional rules which had previously been operating. In sum these reforms represent the most far-reaching revision of procedure which has ever taken place in the Canadian House of Commons.

While room for improvement still remains, the reforms adopted have gone far towards eliminating the serious difficulties by which the House was handicapped prior to their introduction. A number of archaic and outdated practices have been swept away; a great deal of detailed work has been removed from the floor of the House and referred to Committees; supply procedure has been streamlined and the dates by which the financial business of the session will be disposed of are known in advance; the dates of commencement and termination of a parliamentary session can now be predicted, if not with total accuracy, at least with greater confidence than before; procedures which had previously been open to abuse have been improved or eliminated; and Committees have in general become far more effective than they were before.

V. THE INTRODUCTION OF THE PRINCE OF WALES

By R. P. Cave, M.V.O., K.S.G.

Fourth Clerk-at-the-Table (Judicial), House of Lords

On 11th February, 1970, His Royal Highness Charles Philip Arthur George, Prince of the United Kingdom of Great Britain and Northern Ireland, Duke of Cornwall and Rothesay, Earl of Carrick, Baron of Renfrew, Lord of the Isles and Great Steward of Scotland, having been created Prince of Wales and Earl of Chester, was, in his Robes and wearing the Collar of the Order of the Garter, introduced in the House of Lords.

Prayers having been read at a Judicial Sitting of the House earlier in the day, the Chamber was crowded when the Lord Chancellor took his seat on the Woolsack at 2.30 p.m.; 333 noble Lords were present, filling almost all the benches, while other Peers were standing on any available floor space, and some were sitting in the gangways.

The public galleries were also full, notably the Lower West Gallery where among others were H.R.H. Princess Anne, H.R.H. Princess Margaret and H.R.H. Princess Alexandra. Earl Mountbatten of Burma and the Earl of Snowdon were amongst those on the cross benches.

The then Lord President of the Council, Mr. Fred Peart, M.P., Mr. Edward Heath, M.P. (then Leader of Her Majesty's Opposition), and the Leader of the Liberal Party, Mr. Jeremy Thorpe, M.P., were amongst those from the House of Commons who witnessed the ceremony from the Members' Gallery.

The Introduction of a Prince of Wales is of its nature a rare occurrence. The last occasion on which the Introduction of a Prince of Wales took place was on 15th February, 1918, when the present Duke of Windsor was introduced. Prior to that one goes back to 5th February, 1863, which date saw the Introduction of the Prince of Wales who later reigned as Edward VII. There were only four such Introductions during the eighteenth century, in 1715, 1729, 1759 and 1783. The first Introduction was that of Edward " of Carnarvon ", later Edward II, who was created Prince of Wales on 7th February, 1301. Curiously, King George V was never introduced as Prince of Wales. He had previously been introduced as Duke of York.[1]

The traditional ceremonial was observed. The Lord Chancellor having taken his seat on the Woolsack (not wearing his tricorne hat), the brass gates below the Bar were opened, and a procession passed through the Peers' lobby into the Chamber of the House in the following order:

The Gentleman Usher of the Black Rod
AIR CHIEF MARSHAL SIR GEORGE MILLS
Garter Principal King of Arms
SIR ANTHONY WAGNER
bearing His Royal Highness's Patent of Creation
THE LORD BYERS
THE EARL JELLICOE
The Lord Steward of the Household[2]
THE VISCOUNT COBHAM
The Lord Chamberlain of the Household[2]
THE LORD COBBOLD
The Earl Marshal
THE DUKE OF NORFOLK
The Lord Great Chamberlain
THE MARQUESS OF CHOLMONDELEY
The Lord Privy Seal
THE LORD SHACKLETON
THE CORONET OF THE PRINCE
on a crimson velvet cushion, borne by
SQUADRON LEADER DAVID CHECKETTS,
Equerry to The Prince of Wales
THE DUKE OF BEAUFORT
HIS ROYAL HIGHNESS THE PRINCE OF WALES
carrying his Writ of Summons
H.R.H. THE DUKE OF KENT

The Prince of Wales was wearing parliamentary robes over a lounge suit with the Collar of the Garter. The other Peers in the procession also wore parliamentary robes, those who are Knights of the several Orders also wearing their respective Collars. The Lord Steward, the Lord Chamberlain and the Lord Great Chamberlain were carrying white staves, this being one of the rare occasions when the Lords with White Staves are seen together. The Prince of Wales's supporters were H.R.H. The Duke of Kent and the Duke of Beaufort, the latter happily recovered from a serious fall in the hunting field.

The procession advanced from the Bar, proceeding on the temporal side of the House with the customary reverences to the Cloth of Estate. The Lord Chancellor, seated on the Woolsack, received from His Royal Highness, who remained standing, the Writ of Summons, and from Garter King of Arms the Patent of Creation, both of which he handed to the Clerk of the Parliaments, who was standing behind the Woolsack.

The Prince of Wales, preceded by the Duke of Kent and followed by the Clerk of the Parliaments bearing the Writ of Summons and the Patent of Creation, and by the Duke of Beaufort, then proceeded down the temporal side of the House and took his place by the Table. Garter King of Arms and the Equerry bearing the Coronet remained standing

behind the Woolsack, while all others in the procession remained standing near the Throne on the temporal side of the House.

The Patent of Creation and the Writ of Summons were then read at the Table in ringing tones by the Clerk of the Parliaments, Sir David Stephens, this being the one occasion on which this duty is performed by the Clerk of the Parliaments in person and not by the Reading Clerk. The Patent was in the following terms:

ELIZABETH THE SECOND by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen Head of the Commonwealth Defender of the Faith To all Lords Spiritual and Temporal and all other Our Subjects whatsoever to whom these Presents shall come Greeting Know Ye that We have made and created and by these Our Letters Do make and create Our most dear Son Charles Philip Arthur George Prince of the United Kingdom of Great Britain and Northern Ireland Duke of Cornwall and Rothesay Earl of Carrick Baron of Renfrew Lord of the Isles and Great Steward of Scotland PRINCE OF WALES and EARL OF CHESTER And to the same Our most dear Son Charles Philip Arthur George Have given and granted and by this Our present Charter Do give grant and confirm the name style title dignity and honour of the same Principality and Earldom And him Our most dear Son Charles Philip Arthur George as has been accustomed We do ennoble and invest with the said Principality and Earldom by girting him with a Sword by putting a Coronet on his head and a Gold Ring on his finger and also by delivering a Gold Rod into his hand that he may preside there and may direct and defend those parts—To hold to him and his heirs Kings of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Heads of the Commonwealth for ever Wherefore We Will and strictly command for Us Our heirs and successors that Our most dear Son Charles Philip Arthur George may have the name style title state dignity and honour of the Principality of Wales and Earldom of Chester aforesaid unto him and his heirs Kings of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Heads of the Commonwealth as is above mentioned.
In witness whereof We have caused these Our letters to be made Patent Witness Ourself at Westminster the twenty-sixth day of July in the seventh year of Our Reign By Warrant under the Queen's sign manual.

His Royal Highness, Bible in hand, then took the Oath in a clear, confident voice and subscribed the Roll, the Oath being in the following terms:

I, Charles, Prince of Wales, do swear by Almighty God that I will be faithfu and bear true allegiance to Her Majesty Queen Elizabeth, Her Heirs and Successors, according to Law. So help me God.

It was curious to hear Prince Charles swear allegiance to The Queen's Heirs and Successors. The explanation is that the form of the Oath is statutory, being governed by the Parliamentary Oaths Act 1866 and the Promissory Oaths Act 1868.

After the Oath had been taken and the Roll subscribed, the Prince of Wales, preceded by the Duke of Beaufort and followed by the Duke of Kent, turned towards the Throne. When they reached the Wool-

sack Garter King of Arms and the Equerry bearing the Coronet conducted the two supporters towards the Throne and the Prince to his Chair on the right of the Throne (the position which up to 1644 had been reserved for the King of Scots), the others standing near him below the steps. On this occasion Privy Councillors and eldest sons of Peers were not permitted to exercise their right to sit on the steps of the Throne.

The Prince took his seat on The Prince of Wales' Chair,[3] where he remained covered for a few moments. Then, rising, he descended the steps and shook hands with the Lord Chancellor, both standing.

The procession re-formed in its original order and his Royal Highness was conducted from the Chamber to a short, fervent, cheer.

Later, Prince Charles took his place on the cross benches, occupying the same seat from which his great-great-grandfather, King Edward VII, when Prince of Wales made reforming speeches (to the grave consternation of the Bishops) in favour of the Deceased Wife's Sister Bill, and from which he had even presented a Petition to their Lordships on behalf of the cab drivers of London. Also on the cross benches were Lord Butler of Saffron Walden, Master of Trinity College, Cambridge (at which college H.R.H. was then an undergraduate), and a sprinkling of Lords of Appeal, who had adjourned their judicial sitting upstairs. Having heard some parliamentary questions about aircraft problems, which no doubt appealed to him as one who had just achieved his pilot's " A " licence, the Prince heard Lord Aberdare open a debate on youth and community service, in the course of which he took elegant refuge in a Cocteau quotation; " True youth is a quality which is acquired only with age."

[1] Informed sources consider it likely that King George V " saw no need to be introduced a second time just because he had changed his name ".

[2] The Lord Steward and the Lord Chamberlain were not included in the Procession when the present Duke of Windsor was introduced as Prince of Wales in 1918.

[3] The Chair was made to the order of Queen Victoria in the latter part of her reign for the then Prince of Wales, and is thought to have been designed by Pugin. On the death of King George VI it became the property of the Lord Great Chamberlain, there being then no Prince of Wales.

VI. PANDEMONIUM IN THE UTTAR PRADESH LEGISLATIVE ASSEMBLY

By Shri D. N. Mithal

Secretary of the Legislative Assembly

Ugly incidents in the Uttar Pradesh Legislative Assembly which led to grave disorder, shouting of slogans, angry protests against the authority of the Chair, the damaging of a ballot-box, and an attempt at physical violence to the Deputy Speaker in the Chair on 4th and 5th March, 1970, arose in the following way.

On 4th March, after the debate on the Motion of thanks for the Governor's Address and the amendments moved thereto in the Assembly, the Speaker announced that he would take the vote of the House, first on the main amendment of Sri Anant Ram Jaiswal, Member from Barabanki, who was leader of Samyukta Socialist Party, and then on the Motion. The amendment of Sri Jaiswal sought the addition of a paragraph at the end of the principal Motion expressing regret that the Governor had not mentioned immediate legislation to replace the ordinance abolishing Land revenue on uneconomic holdngs of up to six and a quarter acres. The question was put and a divi-ion having been claimed, the bells were rung. After the bells stopped, the question was put again, and division having been claimed, the Speaker mentioned that he had called the leaders of the various parties to his room at 2 p.m. that day to discuss procedure on divisions, so that it could be carried out in a peaceful atmosphere. He made it clear that the division could be held in the lobbies only if the leaders undertook to maintain order. Since the Opposition leaders could not do so, he was ordering the division in the House itself. He said that two ballot-boxes, one for " Ayes " and the other for " Noes " would be kept in the House, just opposite his dais.

After this announcement there was disorder in the House. Sri Krishnanand Rai, Member from Ghazipur belonging to Congress (Organisation), one of the Opposition parties, protested that voting should be held in the lobbies. If the Speaker wanted to hold the division in the House itself, there should be one ballot-box and not two. He also raised a point of order that, under the rules, a division should be held in the lobbies. He added that it would be a departure from established parliamentary practice if voting were held in the House, and that it would be an inappropriate and arbitrary action on the part of the Speaker.

The Speaker repeated that the voting would take place in the House. Sri Lakshmi Raman Acharya, Member from Mathura, who also

belonged to Congress (Organisation), declared that they would not recognise such voting. He also said that if the ballot-box were to be placed in the House, there should be only one box. Others Members of the Opposition parties joined in the demand for divisions being taken in the lobbies, followed by noise and thumping of tables. One of the Members from the Opposition benches lifted the " Ayes " ballot-box, carried it to the rear of the Opposition benches and broke it.

Amidst disorder the Assistant Secretary of the Legislative Assembly announced the arrangements made for taking division in the House as follows:

There will be four assistants on four booths, where ballot papers will be issued to Members in alphabetical order of their names:

Booth No. 1	" (A) " to " (Chha) "
Booth No. 2	" (Ja) " to " (Bha) "
Booth No. 3	" (Ma) " to " (Ra) "
Booth No. 4	" (La) " to " (Ha) "

Names will be called in alphabetical order before issuing ballot papers and Members will sign in full, clearly and legibly, their names on the ballot papers issued to them and will drop them according to their choice into the ballot-box either for " Ayes " or " Noes ". Thereafter Members will resume their seats. A ballot paper without signature will be treated as cancelled. Nothing else except the signature should be endorsed on the ballot paper. Then the names of Members will be called, one by one, and Members will come into the centre before the dais, sign the ballot papers and cast them into the " Ayes " or " Noes " Box.

Amidst grave disorder and unprecedented noise the process of voting started. A large number of Opposition Members then went up to the Speaker's dais and surrounded him. They forced open the door behind the Speaker in the Chamber and went out. Some Members hurled papers towards the Chair. The process of voting continued. On objection being made by some Members of the Opposition, the Speaker came down from the dais to see how the voting was being carried out and, after inspection, resumed his Chair. To enable those Members who wanted to vote in favour of the amendment another ballot-box was arranged. Several Members were still standing on the Speaker's dais. After all the names of the Members had been called, the Speaker announced amidst noise that the amendment moved by Sri Anant Ram Jaiswal had fallen and voting on the principal Motion would not be held that day.[1]

The House adjourned at 17 minutes past 6 o'clock to meet again at 11 a.m. the next day.

On 5th March, 1970, as soon as the House met again, Sri Madhav Prasad Tripathi, Member from Basti, leader of Jan Sangh, raised a point of order that the Government was not duly constituted since the Motion of thanks for the Governor's Address could not be passed within the time fixed by the Speaker. He pointed out that the previous day the Speaker had ordered that the House would sit till the Motion of thanks was passed. The Motion was not passed and the Speaker

left the Chair, and so it could not be passed thereafter. The second point raised by Sri Tripathi related to the procedure on the division in the case of the amendment moved by Sri Anant Ram Jaiswal. He said that contrary to the decision taken at the meeting of leaders of the various parties to hold the division in the lobbies, the Speaker had held it in the House and left the Chamber when the voting was continuing. He drew attention to Rule 14 (2)[2] of the Rules of Procedure and Conduct of Business of the House, that a sitting of the House could be duly constituted only when it is presided over by the Speaker or any other Member competent to preside over a sitting of the House. He enquired how the voting could continue when the Speaker had left the Chamber. Whatever took place in the House at that time was against the Rules, the Constitution and the Law. Sri Tripathi quoted the following extract from page 296 of the *Practice and Procedure of Parliament*, by Kaul and Shakdher, in support of his contention when the voting took place:

> A sitting of the House is duly constituted when it is presided over by the Speaker, or any other member competent to preside over a sitting of the House under the Constitution or the Rules. It is, therefore, necessary that the Speaker, the Deputy Speaker or a member of the Panel of Chairmen presides over the House at the hour fixed for the commencement of a sitting and also so long as the sitting lasts.

Sri Tripathi also pointed out that the doors were not closed when voting was going on. He objected that under Rule 285 (1)[3] of the Rules of Procedure and Conduct of Business of the Assembly it was incumbent on the Chair to read the principal Motion first, before putting an amendment to the vote of the House, but this had not been done.

Sri Lakshmi Raman Acharya referred to Rule 19[4] which provides that time for discussion on matters in the Governor's Address shall be allotted by the Speaker in consultation with the Leader of the House; he also referred to a decision of the House on the recommendation of the Business Advisory Committee which had fixed 27th February, 2nd, 3rd and 4th March, 1970, for discussion of matters referred to in the Governor's Address. As voting was scheduled to take place on 4th March, 1970, and could not be held at the appointed time, it could not be done thereafter. The House was supreme and the Speaker could not impose his decisions on the House in contravention of its own decision. Sri Acharya also attacked the procedure followed in the division the previous day on the ground that it could only be held in the lobbies. He endorsed the argument that the House was not duly constituted.

Sri Krishna Nand Rai also pointed out that, in the absence of the Speaker, the Chair had been occupied by Sri Shivraj Singh, Minister for Agriculture and Community Development who was a member of the Panel of Chairmen, which was against parliamentary conventions.

Sri Shivraj Singh, Member from Budaun, belonging to Bhartiya Kranti Dal, denied the allegation that he had ever occupied the Chair. He had only gone to the dais to find out if he were needed. He did not know the Speaker had left after adjourning the House. Several other Members spoke and from the Government side the arguments that it was irregular to hold the division in the Chamber instead of the lobbies and that the Chair was at any time vacant when voting was going on were refuted. The Speaker had left the Chair only when the decision on the amendment of Sri Anant Ram Jaiswal had been announced and the House had been adjourned.

As regards the point that there was a decision of the House that the discussion on the Governor's Address was to conclude on 4th March, the Speaker ruled that if disorder was created it was the right of the Speaker to adjourn the House.[5] The voting which continued after the doors were open was irregular. All the Opposition Members except Sri Manager Singh, and the members of Praja Socialist Party, had expressed that they would not vote on either side. He was hoping for an agreed solution but Members came to him and insisted that the doors be opened as they did not want to vote. The Speaker then made it clear that the two voice votes which he had collected earlier would be decisive in respect of the amendment of Sri Jaiswal and consequently he was within his rights to declare the said amendment as having been lost. There might be differences of opinion but the Speaker's decision was what it was. The reason given by the Speaker for arriving at his decision on the basis of voice votes collected earlier, was not that the doors were opened forcibly before the voting concluded but because the Opposition had made it clear that they did not want to exercise their vote and insisted on going out. As regards the place for a division, the Speaker agreed that he preferred the lobbies but this was not possible due to the prevailing tension. He declared that in future divisions would be held in the lobbies and the plates " Noes " and " Ayes " would be taken down and they would be placed on the entrance to the lobbies in such a way that members would not have to cross the floor when voting in a division, i.e. the same lobby would serve either as " Ayes " or " Noes " lobby according to the need. The Speaker, quoting from May's *Parliamentary Practice*, held that voting on the motion of thanks for the Governor's Address could be postponed to that day.

Sri Anant Ram Jaiswal, leader of the Samyukta Socialist Party, together with members of his party, stood up in their seats and observed two minutes' silence in protest at the Speaker's ruling. It was reported in a local paper that S.S.P. members headed by their leader Sri Anant Ram Jaiswal stood up in their seats in a noisy House to observe two minutes silence as a mark of mourning over what they described as the " slaughter of democracy here ".[6]

Before votes were taken on the motion of thanks for the Governor's Address, Sri Lakshmi Raman Acharya, Sri Madhav Prasas Tripathi

and Sri Anant Ram Jaiswal announced in the House that they would not take part in the voting as they did not agree with the ruling given by the Speaker. In the afternoon Sri Moti Lal Dehalvi, Member from Kanpur, belonging to S.S.P., wanted information about his notice of question for breach of privilege against Sri Asha Ram Indu, a B.K.D. member, who had allegedly threatened him. The Deputy Speaker who was in the Chair told the Member that it was under consideration by the Speaker and the Member could talk to him in his room. Sri Moti Lal Dehalvi, pointing to the Treasury Benches, said, " if perchance you (meaning the Deputy Speaker) sat on those benches there would not be any hearing ". At this the Deputy Speaker observed that Members should speak with responsibility. Such talk was below the dignity of the House. Thereafter Sri Anant Ram Jaiswal stood up to raise a point of order and persisted on raising it, shouting " you shall have to allow it ". There was grave disorder in the House at this stage. Sri Anant Ram Jaiswal persistently continued raising the point of order. Finally the Deputy Speaker observed that Members should speak only when they were called upon to speak, because he wished to maintain the prestige and dignity of the House. Members could without doubt bring a Motion for his removal. But what Sri Moti Lal Dehalvi had spoken in the House was highly improper.

The Deputy Speaker called upon the Finance Minister to present the budget for 1970–1. The Finance Minister presented the budget and read his budget speach amidst grave disorder. At this stage several Members stood up on points of order. Again, in the din and noise, the Finance Minister presented a vote on account for three months to meet the State's expenses till the end of June. At this time Sri Shivdas Tewari rushed to the Chair and catching hold of the Deputy Speaker tried to drag him out of the Chair. The attempt was foiled by the Marshal and the Guards of the House and Sri Mahi Lal, a B.K.D. member from Moradabad, freed the Deputy Speaker from Sri Tewari's grip. Sri Anant Ram Jaiswal continued to raise points of order. After the Assistant Secretary had placed a Bill, received from the Legislative Council of the State, on the Table of the House, the House was adjourned to meet again on 9th March, at 11 a.m.[7]

On 9th March, Sri Mahi Lal and Sri Raj Mangal Pandey gave notice of a question of contempt of the House against Sri Shivdas Tewari for catching hold of the Deputy Speaker and for trying to drag him out of the Chair on 5th March, 1970. Before the House was informed of the notice, Sri Anant Ram Jaiswal expressed regret for the incident brought about by a member of his party. The Speaker said that the question would be taken up at 4 p.m. in the evening since a copy of the notice could not be delivered to Sri Tewari and nor was he present in the House. In the evening Sri Raj Mangal Pandey moved a Motion for expelling Sri Tewari from the membership of the House for committing a contempt of the House by his behaviour towards the Deputy Speaker while he was in the Chair. However the matter was postponed

to the next day in order to give time for a copy of the notice to be served on the Member. The Speaker made it clear that if the Member would not present himself in the House on the next day, it would be deemed that he did not want to say anything and the House would proceed against him *ex parte*.[8]

On 10th March, 1970, the Speaker read the amended motion given by Sri Raj Mangal Pandey and informed the House that a copy thereof could not be given to the Member. The Speaker advised caution in the matter as it was very serious, and so the consideration of the motion on Sri Raj Mangal Pandey was further postponed. Sri Shivdas Tewari was still not available on the next day and it was felt that he might have left for his home. Therefore the District Magistrate of Mirzapur was asked in a radiogram to inform Sri Shivdas Tewari that he should meet the Speaker in his room at 10 a.m. on 13th March.

The motion was however taken up on 21st March. Meanwhile Sri Shivdas Tewari had met the Speaker and expressed regret. It was therefore not necessary to discuss whether he was guilty of contempt of the House or not. The only question for consideration was whether he should be expelled from the membership of the House. Sri Anant Ram Jaiswal informed the House that Sri Tewari had also expressed regret to the Deputy Speaker. Sri Mahi Lal, a B.K.D. member from Moradabad, moved an amendment that Sri Shivdap Tewari be suspended from the service of the House for six months and Sri Lakshmi Raman Acharya moved another amendment that Sri Tewari be admonished at the bar of the House. After several Members had spoken on the motion, it was agreed to, with an amendment of the Chief Minister as follows:

> This House resolves that Sri Shivdas Tewari, M.L.A., is directly guilty of contempt of this House, therefore he is suspended from the service of the House till 30th June, 1970.[9]

On 1st June, 1970, Sri Lakshmi Raman Acharya moved the following Motion:

> This House resolved that the unexpired period of the punishment of suspension inflicted on Sri Shivdas Tewari on 21st March, 1970, be revoked and Rules 105 (5)[10] and 111 of the Rules of Procedure and Conduct of Business of the U.P. Legislative Assembly which bar bringing of such a motion be suspended till the disposal of this motion.

After Sri Kamlapati Tripathi, Member from Varanapi and leader of Congress (Ruling) Party and Sri Ram Chandra Vikal, Member from Bulandshahr, lone member of Kisan Mazdoor Praja Party, had spoken in support of the Motion and the Chief Minister had given his consent to the passing of the said Motion, it was adopted unanimously.[11]

[1] *U.P.L.A. Proc.*, Vol. 280, pp. 598–600.
[8] Provision of Rule 14 (2) reads:
"A sitting of the House shall be duly constituted only when it is presided over by

the Speaker or any other member competent to preside over a sitting of the House under the Constitution or these Rules."

[3] The relevant provision of the Rule reads as follows:

"285—*Amendment how put to Vote*—(1) When one or more amendments are moved to a motion, the Speaker shall before putting the question thereon, state or read to the House the original motion."

[4] The relevant provision of Rule 19 reads as follows:

"19. *Address by the Governor to the two Houses of Legislature and its discussion in the Assembly*—

(3) The Speaker shall in consultation with the Leader of the House allot time, which shall ordinarily be four days, for discussion of the matters referred to in the Governor's Address:

Provided that notwithstanding the fact that a day has been allotted for the discussion on the Governor's Address other business of a formal nature may be transacted on such a day before the House commences or continues the discussion on the Address. Explanation—A motion for the introduction of a Bill is a business of a formal nature."

[5] The relevant Rule which empowers the Speaker to suspend a sitting in case of grave disorder is Rule 299 (6) and is reproduced below:

"299. *Peace and Order in the House:*

(6) The Speaker may, in the case of grave disorder arising in the House, suspend a sitting for a time to be determined by him."

[6] *U.P.L.A. Proc.*, Vol. 280, pp. 671–702.

[7] *U.P.L.A. Proc.*, Vol. 280, pp. 721–4.

[8] *U.P.L.A. Proc.*, Vol. 280, pp. 795, 848–69.

[9] *U.P.L.A. Proc.*, Vol. 281, pp. 492–501.

[10] Relevant provisions of Rules 105 (5) and 111 read as follows:

"105—*Conditions of Admissibility of a Motion.*

(5) it shall not revive discussion of a matter which has been discussed in the same session or within the preceding six months, whichever is earlier."

"111—*Repetition of Motion*—Save as otherwise provided, where any motion is pending or has been disposed of, no motion or amendment raising substantially the same issue or question as was involved in the earlier motion shall be moved during the pendency or as the case may be within six months from the date of disposal of such a motion."

[11] *U.P.L.A. Proc.*, Vol. 283, pp. 564–68.

VII. THE EDUCATION BILL, 1970

By K. A. Bradshaw

Deputy Principal Clerk, House of Commons

When Prime Minister Wilson decided upon June 1970 as the date for a general election, he had to accept that several bills of major importance for the Government's legislative programme would not have time to be passed into law before Parliament was dissolved. One of these measures was the Education Bill. Yet that Bill might have completed the course in good time, had not its progress been suddenly and dramatically arrested in a Standing Committee of the House of Commons. On 14th April, 1970, the Government was defeated on Clause 1—the key clause—of the Bill. The delay imposed by this reverse proved fatal to the Bill's prospects. The story is worth recounting because it illustrates how even under the British system a Standing Committee can crucially affect the chances of a bill's passing into law.

The Education Bill had only four clauses. Clause 1 laid down the principles that were to govern the provision of secondary education. Selection of pupils by reference to aptitude or ability was to end, and local education authorities were:

> have regard to the need for securing that secondary education is provided only in schools where the arrangements for the admission of pupils are not based ... on such selection.

Clause 2 empowered the Secretary of State to require local education authorities to submit to him plans showing the successive measures by which effect was to be given to principles laid down in Clause 1. Clause 3 provided for the submission of further plans, varying or replacing the plans to be submitted under Clause 2. Finally Clause 4 made the usual provision for the short title of the Act, its date of coming into operation and the extent of its application. It will be clear from this summary that Clauses 2 and 3 were dependent upon and ancillary to Clause 1: without it, they could have no meaning.

On 12th February, 1970, the Bill was given a second reading in the House of Commons by 298 votes to 224. It was then committed to a Standing Committee of 20 members—11 Labour led by the Secretary of State for Education and Science (Mr. Short) and 9 Conservative—led by the " shadow " Secretary of State (Mrs. Thatcher).

The Committee began work on 10th March, 1970. Not surprisingly it debated Clause 1, as the core of the Bill, at length: 8 sittings, each of two and a half hours, were spent on amendments proposed to the Clause. Several divisions were taken on the Opposition's amend-

ments, and in the first 7 sittings all of them were defeated. At the eighth sitting, however, the Conservatives succeeded in carrying an amendment to Clause 1 to allow " banding "—a method of ensuring, by consideration of reports in primary schools, a balanced intake in terms of ability into as many schools as possible. At the same sitting, when the whole Clause, as amended, was put to the Committee, the Conservatives had their second success: the Clause was rejected by 9 votes to 8. The reason for this defeat became known later: of the 11 Labour members on the Committee, one was away sick, another erroneously thought he was paired and a third was doing business in another office in the building.* The unexpected and comprehensive nature of this defeat led the Secretary of State to move the immediate adjournment of the Committee in order to consider what action should be taken.

When the dust had settled, there appeared to be two possible courses open to the Secretary of State as the Member in charge of the Bill. The first was to invite the Committee at its next meeting to consider Clause 2 and the other clauses, and eventually report to the House what in effect would be a mutilated bill. There was no shortage of precedents for a committee reporting back to the House a bill which it had mutilated. But in this instance the key clause of the Bill had been struck out, and it would have been difficult to discuss intelligibly the ancillary clauses in the absence of the key clause. Continuing the committee stage would also have posed serious problems for the Chair. Several Opposition amendments to Clause 2 were already on the paper, but it was hard to see how the Chairman could have selected any of them, because the disappearance of Clause 1 had robbed them—as indeed it had robbed Clause 2 itself—of all meaning. He might have had immediately to propose the question " That Clause 2 stand part of the Bill "; and without Clause 1, such a debate—as the Secretary of State was later to allow—would have been " meaningless."†

The other course was for the Secretary of State to move in the Standing Committee " that the Committee do not proceed further with the Bill "; and if the Committee agreed to that Motion, to lay before the Committee a special report to the House explaining that since Clause 1 had been struck out of the Bill, there could be no advantage in proceeding further with the Bill. Once the special report was made to the House, it would be for the House to decide what action to take.

Of these two possible courses the Government opted for a special report. Rather than try to go forward with the futile exercise of trying to debate Clauses 2 to 4 after losing Clause 1, the Government thought it right to bring the Bill back to the House. This course, which was readily accepted by the whole of the Committee, was in line with precedent. There had been numerous examples in which the key clause of a bill had been negatived by a committee, and in all

* *H.C. Deb.* (1969–70), 800, col. 498.
† *H.C. Deb.* (1969–70), Vol. 800, col. 496.

of them the bill had been reported back to the House. The only difference was that they had all been private members' bills, subject to the hazards to which a bill unsupported by an effective whipping system is inevitably exposed. The Education Bill 1970, by contrast, was a Government measure; and so far as could be ascertained, there had been no previous instance of a Government's losing the key clause of a bill.

Once the Bill had been brought back to the Floor of the House by means of the special report, the Government had to decide how to proceed. There were three possibilities. The first was to withdraw the Bill and start the whole legislative process afresh by reintroducing the Bill in its original form. This would have meant another day spent debating its second reading on the Floor and subsequently repeating the entire proceedings in Standing Committee—a prospect from which even the most enthusiastic committee men recoiled. The second was to allow the Bill to " lie upon the Table ", that is, not take any further steps to make progress with it. This had been the course followed by the Members in charge of the numerous private members' bills of which the key clause had been defeated in Standing Committee. But the Education Bill 1970 was an important part of the Government's legislative programme in what was expected—and was proved in the event —to be the last session before the general election. Not unreasonably the Government refused to accept as final the decision of the Standing Committee.

The third course was to send the Bill back to the Committee with an instruction to reconsider the clause which had been rejected by the Standing Committee. This was the course chosen by the Government and recommended to the House. It was accepted by the House but only after heated argument and a vote on each of the two motions put before the House by the Government on 22nd April.

The first motion was in the following terms:

> That the Education Bill, so far as amended, be recommitted to the former Committee.

Debate on this Motion is confined under Standing Order No. 53 to one brief explanatory statement of the reasons for recommittal and a similar statement from one Member opposing the Motion. Moving the Motion, the Leader of the House commended it as appropriate to the peculiar circumstances of the case and in the best interests of the House. For the Opposition Mrs. Thatcher contended that in the absence of precedent for recommitting a bill to a Standing Committee following the defeat of the key clause, the proper course was to recommit it to a committee of the whole House, for which there were some colourable precedents. The Motion was then carried by 295 votes to 222.

The second Motion read as follows:

> That it be an Instruction to Standing Committee A that, notwithstanding

that they have disagreed to Clause 1 of the Education Bill, they have power to insert in the Bill provisions with a like effect.

According to Erskine May, an Instruction given by the House to a Standing Committee—as to the Committee of the whole House—can only be permissive in form: it can give the Committee power to consider the matter dealt with in the Instruction, but not require it to take a particular action.* The Instruction moved by the Leader of the House was therefore couched in permissive terms. In debate, however, attention was focused not on the form of the motion but on the phrase " they have disagreed to Clause 1 of the Education Bill ". In a series of points of order raised with the Chair, Opposition Members had earlier contended that the Committee had in fact disagreed not to Clause 1 but to Clause 1 *as amended*; that the Instruction was inaccurate in terms; and that the concluding words of the Instruction " with a like effect "—were therefore vague and obscure. On these grounds, it was argued, the Instruction ought to be ruled out of order This line of argument was not accepted by the Chair. The object of the Instruction, said the Speaker, was to give the Committee full powers to reconsider Clause 1 of the original Bill: under its terms the Committee could consider what amendments they wished, or amend the Clause as they had done before, or indeed reject it. It would be for the Committee to interpret the Instruction which he considered clear and specific. Accordingly he declined to rule it out of order.

When the House reached the debate on the Instruction, many of the same points were made again, this time addressed to the merits of the Instruction. After two hours' debate, the Instruction was agreed to by 295 votes to 219.

The Bill now returned to the Standing Committee for the remainder of its Committee stage. The Government tabled the original Clause 1 as a new Clause, and the Opposition countered by tabling as a new clause the form of Clause 1 as they had succeeded in amending it, that is, including the " banding " amendment. In addition they put down many other amendments. The Chairman of the Committee gave it as his view that the House had enabled the Committee to reconsider the Clause in its entirety and that in selecting amendments, he would apply the ordinary rules of the House, allowing the Committee full opportunity to discuss, amend, and if necessary reject the Clause which the instruction gave them. In practice the two new Clauses were discussed first, and this time the Government was successful in carrying its version of Clause 1. Debate on these Clauses and on amendments to Clause 2 took another six sittings. On 14th May the Committee adjourned for the Whitsuntide recess. During the recess Parliament was dissolved, and the Bill was lost.

The story of the Education Bill illustrates strikingly the relationship

* Erskine May, 18th edition (1971), p. 496.

between the House of Commons and its Standing Committees. According to Erskine May:

> A Committee is bound by the decision of the House, given on second reading, in favour of the principle of the bill, and should not, therefore, amend the bill in a manner destructive of this principle.*

May goes on to make clear that a Committee can negative the main clause of a bill, indeed every clause in succession, so nullifying the bill. Thus the Standing Committee, in rejecting Clause 1 of the Education Bill, was perfectly within its rights.

Yet there is evidently a contradiction between these two rules. There is a basic procedural objection to allowing a committee to take a decision to destroy a clause which is vital to a bill. According to May:

> an amendment which is the equivalent to a negative of a bill, or which would reverse the principle of a bill as agreed to on the second reading, is not admissible.†

It must, then, be an anomaly that a committee should be able to reject a Clause which contains the principle of the Bill. In the session 1970–71 this point was drawn to the attention of the Select Committee on Procedure, when the proposal was made that the Question " That the Clause stand part of the Bill " should not be proposed automatically but only if an amendment to leave out the Clause had been selected by the Chair.‡ If this proposal were adopted, such an amendment would presumably not be selected where the Clause embodied the vital principle of the Bill.

* Erskine May, 18th edition (1971), p. 494.
† Erskine May, 18th edition (1971), p. 509.
‡ H.C. 297–i of 1971, p. iii.

VIII. THE ADMINISTRATION OF GOVERNMENT IN MALTA SINCE 1849

By Noel V. Bonello

Second Clerk Assistant, House of Representatives, Malta

On 24th April, 1971, the Maltese Parliament was dissolved by proclamation over the signature of the Governor-General at the expiration of its five-year term of office. After a few weeks of electioneering the people of Malta will be asked to elect a new Government. These elections are due in mid-June and they will be the second general elections since the island became an independent country within the Commonwealth in September 1964.

The first elections to be held in Malta after the island became British of its own free will at the turn of the nineteenth century were those of 1849. These elections were the successful outcome of the pressure brought to bear on the British Government by the Maltese who had become tired of the autocratic powers vested in the Governor by the two Constitutions of 1813 and 1835 and longed for the restoration of their ancient rights and privileges.

The 1849 Constitution provided for a Council of Government consisting of 10 members nominated by the Governor and 8 members elected by the people. Franchise was limited to male persons over 21 years of age who were also qualified to serve as common jurors. This provision kept the number of registered voters to just under 2,500 out of a population near the quarter million mark. By 1881, however, the franchise was extended to all males over 21 years and the registered voters numbered over 10,000. The number of elected members was also raised to 10—one for each electoral division into which Malta was divided.

But conflicts between the official members of the Council and those elected by the people were frequent and at times acrimonious. Matters were brought to a head in 1903 when a new constitution, called the Chamberlain Constitution, was set up. The elected members referred to it as " a mockery of free government " and protested against it by systematic abstentionism. Indeed, no less than five general elections were held in the first year of the Chamberlain Constitution, the members being returned unopposed only to resign their seats each time they were elected, by way of protest. This constitution, however, survived for several years in spite of its unpopularity with the representatives of the people.

After the 1914–18 war the political aspirations of the people grew stronger and in 1919 the newly-constituted National Assembly unani-

mously resolved to request the British Government for a constitution with full political and administrative autonomy. This request was met in April 1921 by Letters Patent which provided for the establishment of responsible government " subject to certain limitations ".

Under this constitution control of the island was shared between the Maltese Government which legislated on purely local affairs and the so-called Maltese Imperial Government which dealt with the " reserved matters ".

The Maltese Government was responsible to a bicameral legislature consisting of a 17-member Senate elected on a limited franchise and a Legislative Assembly whose 32 members were elected every three years by the people. The Assembly was to have no more than 7 ministers and a Speaker and Deputy Speaker. For the purpose of elections Malta was divided into 8 divisions, each division returning 4 members.

The constitution empowered the Maltese Government to make laws for the peace, order and good government of Malta, but such powers were not extended to matters referred to as " reserved matters ". These matters included the armed forces and the lands, buildings, docks and harbours connected with the defence of the island, currency, passports, citizenship and treaties with foreign states.

The 1921 Constitution worked rather well until 1928 when a dispute flared up over the powers of the Senate, followed by a momentous dispute between State and Church. In June 1930 the constitution was suspended and Malta had to suffer a grave constitutional retrogression. The following two years were, in effect, similar to the 1813–35 period when the power and authority to make laws was vested only in the Governor.

The constitution was soon restored in 1932, but this time was a period of great political confusion within Malta as well as on the international level, particularly in the Mediterranean area, and in November of the following year the constitution was once more suspended. In 1936 the 1921 Constitution was finally revoked and until the start of the Second World War in 1939 Malta was ruled first by an Executive Council of 5 ex-officio members and 3 others nominated by the Governor and then by a Council of Government consisting of 20 members, 5 of whom were ex-officio, 5 were appointed by the Governor and 10 were elected by the people. For the latter purpose the island was divided into 2 electoral divisions, each division returning 5 members.

During the Second World War Malta played a major part on the side of the Allies for which it was awarded the George Cross by King George VI in April 1942. Fifteen months later, after requests from Malta for a new constitution, it was announced in the House of Commons that self-government, similar to that of the 1921–33 period, was being restored to the island.

The most notable difference between the MacMichael Constitution, as the 1947 Constitution became known, and the 1921 Constitution

was the elimination of the bicameral system. From that date onwards there was to be only a Legislative Assembly with a membership of 40–5 for each of the 8 divisions—and the life span of the Assembly was extended from 3 to 4 years.

With regard to reserved matters, the general limitations on the legislative powers of the Assembly remained more or less similar to those under the 1921 Constitution; the system of two separate governments, the Maltese Government and the Maltese Imperial Government, was once again introduced. The MacMichael Constitution also introduced universal franchise into the island by giving voting powers to women over 21 years of age.

By 1953 the Maltese were again asking for further constitutional changes. The Nationalist Party wanted a Dominion status for Malta while the Malta Labour Party, which was at that time in office, was working for complete integration of Malta with Britain. The proposals for an integration constitution had been worked out between the Maltese and British Governments and integration was very close to reality when a dispute arose between the two Governments over a proposed change in British defence policy which, in the view of the Government of Malta, was extremely harmful to the economy of Malta. In December 1957 the Legislative Assembly passed a " break with Britain " resolution and early the following year the Government resigned. As no alternative Government could be formed the constitution was suspended and a state of emergency was declared. From 1959 to 1961 Malta was once more ruled directly by a Governor and an Executive Council consisting of three ex-officio members and such other members as the Governor could appoint from time to time.

But neither the British Government nor the Maltese were at all happy with the situation and as early as July 1960 the Secretary of State for the Colonies had announced in the House of Commons that the time had come to work out a new constitution under which elections might be held as soon as it had been introduced. The Malta (Constitution) Order in Council 1961 was dated 24th October of that year.

This 1961 Constitution (called the Blood Constitution, after Sir Hilary Blood who chaired the Commission which formulated proposals for this constitution) finally removed the diarchical system, and only one government—the Government of Malta, with full legislative and executive powers—was contemplated. The Legislative Assembly was increased from 40 members to 50 and 10 electoral divisions were established. The Governor's position was assimilated to that of a constitutional Head of State and the U.K. Government was represented by a High Commissioner.

The general elections which followed returned a Nationalist Government to power and very soon the Prime Minister of Malta formally demanded an independent status within the Commonwealth for the island. After protracted negotiations the Malta Independence Order

1964 was signed at Court at Buckingham Palace on 2nd September, 1964.

This elaborate document laid down the norms for the administration and conduct of public life in Malta, enbodying a declaration of principles, the fundamental rights and freedoms of the individual and also chapters on parliament, citizenship, the judiciary, the Public Service, etc. Many of the chapters of this Act were an affirmation of the powers, rights and traditions which have long been in practice in the island.

The first general elections after the grant of Independence were held in March 1966 and contested by five political parties. The number of valid votes cast was 144,873, representing 90 per cent. of the electorate. But only two parties were returned—the Nationalist Party which gained 28 seats and remained in power and the Malta Labour Party which, with 22 seats formed the Opposition. The three other parties disappeared.

One of the most controversial bills presented in Parliament was the Constitution of Malta (Amendment) Bill which came before the House of Representatives practically on the eve of the five-year term. The object of the Bill was the increase in the number of Members in the House from 50 to 55 and the Government explained that the *raison d'être* of the Bill was the elimination of the possibility that the two parties might gain an equal number of seats in the next elections, with all the consequences that such a stalemate would create. But the Bill was denounced by the Opposition as an attempt to gerrymander the constitution and it had a very rough passage throughout its stages The Bill eventually became law in August of last year.

Besides this increase of five seats in the House, the 1971 general elections might also be influenced by the new voters who had come of age (21 years) since the last general elections. Recently the Electoral Office has announced that the number of new voters would be over 20,000. This number is very substantial, considering Malta's small electorate (181,726) and many believe that these voters could sway fortunes one way or another.*

* The article above was written a few weeks before the 1971 general elections, the results of which have since become known.

The number of valid votes which were cast was 168,808, equivalent to 94.7 per cent of the electorate. Both the number of votes cast and the percentage are considered record-breaking. The struggle for power was between the two major parties on the island—the Malta Labour Party and the Nationalist Party—although the Progressive Constitutional Party and some independent candidates also contested the elections. As a result Malta has now a new government. The Malta Labour Party, in opposition since 1962, succeeded in gaining 28 seats while the remaining 27 seats all went to the Nationalist Party, giving the Labour Administration a one-seat majority in the House.

IX. SOME SECURITY PROBLEMS IN PARLIAMENT

By Rear-Admiral A. H. C. Gordon Lennox, C.B., D.S.O.

Serjeant at Arms, House of Commons

On 23rd July, 1970, an Irishman threw two C.S. gas bombs from the Strangers' Gallery on to the Floor of the Chamber of the House of Commons. Both bombs landed close to the Table of the House and produced a very high concentration of gas. The Chamber became quite uninhabitable and the sitting had to be suspended for several hours until the ventilation system enabled the atmosphere to be cleared.

The perpetrator of the act was, of course, immediately arrested, as he expected to be, and was duly sentenced to a term of imprisonment by the civil courts.

Although security is constantly under review from all its many angles, this particular bomb episode highlighted the whole question of the security of the Chamber and the Members of Parliament debating in it. Murmurings were heard such as " it might have been an explosive " or " it might have killed people ". Of course it might have been either, or something else, and it might well have been lethal. As it was, it proved to be no more than an extremely unpleasant inconvenience. But it did raise the whole question of just how far one was prepared to go to further the course of parliamentary democracy at the expense of security—accepting the possibility of a serious accident, maybe resulting in loss of life.

In any consideration of this subject it must be appreciated that parliamentary democracy and security inevitably work against each other and that some form of compromise must be reached.

It is not proposed in this short article to discuss the security provided for individual V.I.P.s. This is a matter for the appropriate section of the security services and is only distantly related to the internal security necessary within the Palace of Westminster for all those working there, not only in the Chamber but elsewhere in the building.

At this point it is appropriate to try and visualise the extent of the problem.

The Palace of Westminster is a unique and historic complex of buildings covering some eight acres, with extraordinary ramifications of function. Although primarily the seat of both Houses of Parliament, it includes the supreme Court of Appeal, the Lord Chancellor's Department combining a government department with responsibility for much of the administration of the judicial system, and a diverse range of activities including weddings, christenings, luncheons and dinners, which may be attended by several hundreds of people at any one time.

Statistics show that over the last few years the average number of visitors through the Palace amounts to well over half a million. Thirty thousand more come annually to dinners and receptions held by M.P.s.

A very large staff and work force is required to enable the Palace to function in its many roles. To deal with security the authorities of both Houses have at their disposal a force of 64 custodians and an inspector of police, 3 sergeants and 58 police constables. These latter are seconded by the Commissioner of the Metropolitan Police for duties in the Houses of Parliament. The custodian force is a permanent force recruited by the Department of the Environment: although they cover the whole building when the Commons is not sitting, once the House of Commons assembles their duties are largely confined to the House of Lords, and the police take over in the Commons area. The reason for this is that so many more of the general public are involved in the Commons area, lobbying and going to meetings and interviews with their M.P.s, and constables of the Metropolitan Police have special training and experience in dealing with London crowds.

There is no physical demarcation between the House of Commons and House of Lords and the activities of one House may well overlap into the area occupied predominantly by the other.

This means that, although for general security purposes the Palace of Westminster must be considered as a single entity, no easy solution can be reached as the circumstances pertaining in one House are or may may be totally different from those in the other.

Above all, and here lies the nub of the problem, tradition and usage demand an extraordinary degree of public access.

In contrast with Government or other public buildings and large corporations, the principal inmates—Members of Parliament—are elected representatives and are not subject to the same control and discipline as are civil servants or company employees. They are conditioned to carrying out their work under circumstances consonant with Lord Denman's dictum, " All the privileges that can be required for the energetic discharge of the duties inherent in that high trust are conceded without a murmur or a doubt ". They therefore expect to be able to conduct their business with press, lobbyists, visitors, guests and other strangers without a murmur of interference from such " nuisances " as security regulations; they do not expect to be held to account for any minor infringements of regulations.

The security of the Chamber itself and the Members debating in it could be made virtually fool-proof by major structural additions involving the boxing-in of all the galleries with missile-proof glass. It is known that this has in fact been carried out in one foreign country and has proved a great success. At Westminster no recommendations to this effect have yet been made. Other possible measures such as electronic detection doors, the searching of persons going into the Strangers' Galleries, etc., do not commend themselves.

Although the ultimate responsibility for security lies with Black Rod in the House of Lords, and the Serjeant at Arms in the House of Commons, an officer has been appointed to co-ordinate security. This officer is an ex-chief superintendent in the Metropolitan Police and it is for him to advise in detail on every aspect.

Perimeter security is under detailed review. This may sound a fairly simple and obvious precaution, but only a short time ago three intruders jumped down from the main road and landed safely on the green at the base of Big Ben. Efficient perimeter security should have rendered it impossible for them to reach their goal (a particular Minister's room). The necessary gates to prevent this were, in fact, in course of construction but not yet fitted. Luckily they ran straight into a custodian and with the aid of a police constable were arrested.

A great deal of discussion has taken place on the introduction of photographic passes, considered by many to be a most retrograde step in a democratic society, but the scheme has been approved and is in the course of introduction. The question of who should be made to carry passes is a typical example of how much the Palace differs from a Ministry. In the latter it is easy to be strict on passes and a " sign-in " " sign-out " procedure for visitors. When, however, one is dealing with hundreds of thousands of visitors per year, it is an entirely different matter. It may sound easy to decide on giving passes to the permanent staff, but when the time comes to define this in detail it presents a very difficult problem because so many of those who work here are nearly, but not quite, permanent. The Press Gallery, for instance, has permanent reporters and lobby journalists, it also has regular visitors—some more regular than others—it also has occasional visitors from all sections of both the United Kingdom and overseas press. The Department of the Environment is another good example. It has its permanent staff at all levels, its visiting staff, its consultant staff, and its contractors, who in turn have their sub-contractors.

One major step forward now being introduced is the establishment of a Security Control Centre. This centre will be manned on a 24-hour per day basis, will be in radio touch with all patrol points and will be given detailed information about all those in possession of passes—either permanent or temporary—and should therefore be in a position to provide a check on all or any individuals about the Palace, except, of course, for the hundreds of the general public milling about the building, any of whom may be a potential bomb thrower or intent on some other nefarious scheme.

And so it goes on. It is a constant battle against odds, but so far—touch wood!—there have been no major disasters. We have a very close liaison with the police and security services which is invaluable. but even so it is in the end a matter of constant alertness and vigilance by the security personnel employed.

X. WESTMINSTER—WESTERN AUSTRALIA: ANOTHER EXCHANGE

By J. B. Roberts, M.B.E.

Clerk of the Legislative Council and Clerk of the Parliaments, Western Australia

"... there can be no conclusion to an experience of this nature. There is a continuing reaction far beyond the immediate events themselves."

C. B. Koester. The Table, Vol. XXXVII.

When I was fortunate enough to join the select band of Clerks who have taken part in the exchange system which is operating so successfully between Westminster and other Commonwealth Parliaments, I firmly determined that I would not aim to join the even more distinguished group who have contributed to The Table concerning their experiences.

It was only after re-reading those articles by Michael Ryle, Gordon Combe, John Taylor, Kenneth Bradshaw and Bev Koester, that I felt perhaps an attempt of this nature should be made, as having been privileged to enjoy this once-in-a-lifetime experience I felt it incumbent on me to record permanently my appreciation for all that had been done for me in the period of preparation, during my attachment, and since leaving Westminster.

Following an exchange of correspondence between the President of the Legislative Council of Western Australia, the Hon. L. C. Diver, and Sir Barnett Cocks, it was agreed that I would have a three months' attachment at the House of Commons from early April to the end of June 1970. I had nearly two years' notice of this and was, therefore, able to make leisurely arrangements for the journey. I chose to travel the forward leg by ship and during a most pleasant four weeks' voyage via the Cape, was able to see the Houses of Parliament at Capetown and the Palace of the Legislature at Lisbon, where despite great difficulty in communication, I was graciously received and courteously shown around.

On arrival, it was snowing in Southampton and London; but as this, for me, was a return after many years, having left England as a boy, no weather conditions could affect the excitement and pleasure within.

Prior to leaving Western Australia I had received from Michael Lawrence, Clerk of the Overseas Office, a programme showing week by week the various offices in which I would spend my time. To add to the interest, the programme also gave the names of other Commonwealth Clerks who would be on attachment during the summer.

Having been welcomed by Sir Barnett, he asked most apologetically whether I would mind if the programme was not strictly adhered to, as being short staffed in the Journal office he would like me to start there and spend more time in that office than originally planned. Mind, indeed—I was so happy and pleased to be in those splendid surroundings that whatever duty I was assigned would have been accepted without question.

I was, therefore, most confortably installed in the office of David Pring, who was absent for three months at the Council of Europe. Several weeks of my attachment were spent in this office and, although the Clerk of the Journals, Stephen Hawtrey, and his able assistants, David Millar, Douglas Millar and Alda Milner-Barry, were in every way helpful and co-operative, I fear their patience must have been taxed to the utmost.

Coming from a small Parliament where the manuscript of the Journal is completely written up during the course of the proceedings in the House, it was interesting for me to find that the Journal office was responsible for compilation of the Votes and Proceedings from manuscript sent up frequently from the Table. I was continually surprised, too, with the other responsibilities of the Journal office—research for other departments of the House, publication of the Standing Orders and editing of the Manual of Procedure, advice to all departments regarding the tabling of papers, the preparation of the List of Members, Notices of Motions, Petitions, the Sessional Diary, the Vote index, and many other and varied duties.

The Clerks in the Journal office each have one or more Select Committees to administer as the Secretary.

The manuscript for the " Vote " is placed on a large clip board from where it is regularly collected by a messenger from the printer—people are warned not to allow their sandwiches or cigarettes to rest on the board or they, too, would finish up at the printer.

Michael Lawrence was able so to arrange my programme that I continued to use the Journal office as a headquarters while spending some time in other offices and departments and visiting the House of Lords.

A week at the Parliament of Northern Ireland was included in the programme and, here again, Sholto Cooke and his officers did their utmost to ensure that my time was fully occupied both officially and socially. At the time of my visit the gardens at Stormont were a mass of blossom and I spent some time taking colour photographs.

In 1934, as the result of a referendum, the State of Western Australia presented a Petition to the Westminster Parliament praying to secede from the Commonwealth of Australia. In recent times there had arisen some misunderstanding regarding the whereabouts of the Petition and I had been asked by the Director of the Museum to assist in locating it. This proved to be a very simple task. I merely mentioned this request to Mr. Cobb of the House of Lords Records Office and, without

reference to any list or index, he took me to the seventh floor in the Victoria Tower and handed me a wooden casket containing the Petition. It was quite a moving experience to unroll the twenty-seven feet of this and read the signatures of my predecessor in office and others whom I knew well at the time.

In 1969 I had been appointed Honorary Secretary of the Western Australian Branch of the Commonwealth Parliamentary Association and, although I'm sure the doors of the Association would have been open to me as an attached Clerk, there was added interest in being able to call frequently at the General Council and United Kingdom Branch offices, and I was invited to sit in at some periods during the Nineteenth Parliamentary Seminar and the Summer Course, and was also included in some of the social activity associated with these, as well as being entertained by the Secretary-General and his officers.

The day in April on which I reported to Michael Lawrence he said something to the effect that he thought there would be an early election; but he added that nobody else thought so. I was interested, therefore, to listen to the talk of the possibility of the election being advanced and the public opinion polls were busy in this area. When it was announced that the election would take place on 18th June, I think most people were surprised, and Sir Barnett again apologised as he considered my attachment had been spoiled by the dissolution of Parliament.

Far from it. During this period the Commonwealth Relations Office, which had been advised of my presence by their representative in Perth, got in touch with me and through the Central Office of Information arranged a most interesting tour to establishments and areas in the West Country.

The election itself, too, was full of interest. I was able to observe the campaign, without becoming involved in the egg-throwing incidents and, on election day, I visited polling booths to see how it was done. Then during the count I observed the remarkable performance on TV, where the computers predicted the result after four seats had been decided, and the declaration of polls all over the country by various Mayors wearing robes of office.

Having been brought up to believe that compulsory voting and a preferential system is the proper thing, and where it takes days to get a decision and perhaps a couple of weeks for an outgoing Government to move, it almost seemed indecent to observe the personal effects of the outgoing Prime Minister being moved from No. 10 at 3.30 p.m. on the day after the election.

Following all this, there was the Swearing-in and then that never-to-be-forgotten ceremony, the State Opening of Parliament. This has been covered so well by film and vivid descriptions as to make any comment from me quite superfluous; but to be present, attached to the Clerks Department, during such a time was almost unbelievable.

After taking some accumulated leave, the return journey to Australia was by way of the United States, Canada, Japan, Hong Kong and

Singapore. During four days in Ottawa, Alistair Fraser and his Clerks took great pains to ensure that the time was fully occupied. Likewise in Winnipeg, Jack Reeves was extremely kind and attentive. He explained the paper fight which takes place in that Legislative Assembly between the press representatives and members at the conclusion of the Session, and was surprised that we had no such vigorous termination of proceedings. Jack indicated a broken microphone stand to prove that it was no mere lightweight exchange which took place at this time.

In Hong Kong, Rod Frampton, having been briefed by Robert Primrose, had his organisation working even prior to arrival, and I was most grateful to him for some extremely valuable aid. It was here that I again met our Secretary and Editor, Michael Davies (complete with coolie hat) who was *en route* to Canberra for the Eighth General Meeting of the Society being held at the time of the Sixteenth Annual Conference of the C.P.A.

The final call was upon Mr. Lopez in Singapore, where we had a most interesting discussion on recording and multilingual translation.

The second part of this exchange is still to be arranged, but we are hoping that we shall soon be in a position to welcome a Clerk from the Commons, thereby reinforcing Bev Koester's view that there is no conclusion to this great experience.

XI. SCRUTINY OF PUBLIC EXPENDITURE AND ADMINISTRATION:

First Report of the Procedure Committee, 1968–9

By D. McW. Millar

An Acting Deputy Principal Clerk in the House of Commons

Following recommendations made by the Select Committee on Estimates in their Sixth Report of session 1957–8 on Treasury Control of Expenditure,[1] the Government set up the Plowden Committee on Control of Public Expenditure. The Committee reported in 1961 and recommended that the Government should make forward surveys of public expenditure in relation to resources.[2] This and other recommendations were accepted by the Government of the day and the development of " forward looks " at public expenditure by the Government was begun.

The Procedure Committee of 1968–9 were assisted in embarking on their enquiry into Scrutiny of Expenditure by various procedural reforms from 1965 onwards, most of them proposed by the Committee's predecessors. But despite these reforms, the House had no procedure for scrutinising public expenditure in other than annual terms and no information on which to base any examination of expenditure surveys.

The Procedure Committee recommended in its Report of July 1969[3] that the House should formally establish a system of expenditure scrutiny containing three elements:

(*a*) discussion of the Government's expenditure strategy and policies as set out in the expenditure projections;

(*b*) examination of the means (including new methods of management) being adopted to implement strategy and to execute policies, as reflected in the annual estimates;

(*c*) retrospective scrutiny of the results achieved and the value for money obtained on the basis of annual accounts and related information from departments on the progress of their activities.

The Committee believed that these three tasks were closely interrelated and that the arrangements for scrutiny by the House must recognise this fact.

In April 1969, the Government announced their intention to publish annually a White Paper on projected public expenditure over five years.[4] The figures for years one to three would be those on which the Government had taken decisions; those for years four and five would represent projections of the cost of present policies, not decisions. The figures were to be provided under various categories and classi-

fications and an assessment of the prospects of economic growth would be given.

While welcoming these proposals, the Committee pressed for further information on expenditure and emphasised in particular the need for publication annually of a medium-term economic assessment by the Government, to enable the House the better to judge the forward spending policies of the Government. The Committee also urged that the assumptions and methods used in determining the expenditure projections should be set out, and asked that the latter should be capable of being judged by their cost in real resources.

The Committee recognised that the work of the Estimates Committee, the Nationalised Industries Committee and the newer specialist committees would provide a valuable foundation in assisting the House to carry out the second part of the new system of scrutiny, that of examination of the execution of the Government's longer-term policies. But they drew attention to the new " management style " proposed by the Fulton Committee and adopted by the Government in principle. The Committee were anxious that, as departments developed new methods of management, the cost and budget figures most necessary for parliamentary scrutiny should be published. In particular they believed that the House should encourage the use of " output budgeting " or a " Planning-Programming-Budgeting " system (P.P.B.) as used in the U.S. Departments of State and, in part, in the British Ministry of Defence. They foresaw that output budgeting would enable the House to weigh the objectives of departments against other alternatives, by study of published budgeting figures, and that the system would assist the House in assessing the efficiency of departments in setting objectives and realising them.

In pursuing the retrospective scrutiny of departments' expenditure, the Committee attached primary importance to the continuance and development of the work of the Public Accounts Committee. They foresaw the possibility, however, of problems of accountability to the House arising from the introduction of the new management methods advocated by the Fulton Committee and warned the House of the need to meet them when they arose.

Having set out the problems and the proposed new system of scrutiny by the House of expenditure, the Committee then proceeded to make various recommendations to the House. The first was that the annual Expenditure White Paper should be debated by the House for two days. From the publication of the White Paper in November, select committees on expenditure should conduct enquiries and publish reports in time to allow their consideration by the Government and the House before the next autumn expenditure debate. The Committee then drew attention to the problems which had arisen in the way in which specialist committees had developed, and to difficulties in manning select committees. They expressed their belief that the existing system of select committees engaged on scrutinising policy and its exe-

cution was inadequate to fulfil the threefold function of scrutinising expenditure which they had proposed to the House.

They recommended that the Estimates Committee should be changed to a Select Committee on Expenditure, which should be appointed from Members willing to serve on a series of " functional " Sub-Committees and on a General Sub-Committee. The following possible pattern of 8 Sub-Committees, each of 9 members, was recommended:

Industry, Technology, Manpower, Employment.
Power, Transport and Communications.
Trade and Agriculture.
Education, Science and the Arts.
Housing, Health and Welfare.
Law, Order and Public Safety.
Defence.
External Affairs.

The tasks of each Sub-Committee would be, first, to study the expenditure projections for the departments within its functional field, to compare them with those of previous years, and to report on changes of policy and on the progress made by departments towards clarifying their priorities. Second, each Sub-Committee would examine the implications in terms of public expenditure of the policy objectives chosen by Ministers and assess the success of departments in attaining them. Third, the Committee would enquire, on the lines of Estimates Sub-Committee enquiries, into departmental administration and management.

The Procedure Committee recommended that the General Sub-Committee should consist of 16 members, some of whom could also be members of Sub-Committees. The functions of the General Sub-Committee would be to give an account to the House of the work of the Sub-Committees and to act on the whole Committee's behalf in seeking debates on Committee Reports. Further, the General Sub-Committee should guide the work of the Committee as a whole and co-ordinate the Expenditure Committee's work with that of other select committees. It would also normally exercise the functions of the main Committee in presenting reports to the House.

The Procedure Committee then went on to recommend that the P.A.C. and Nationalised Industries Committee should be retained and that the House should decide on the future of the specialist committees in the light of their Report. The Committee recorded that they had taken evidence from the Treasury on Parliamentary scrutiny of the structure of taxation, but believed that further enquiry by the Procedure Committee was necessary before recommendations could be made on this subject.

The Green Paper on Select Committees of the House of Commons

The Green Paper presented by the Lord President of the Council set out the results of the Government's review of the Specialist Select

Committee experiment and of the recommendations by the Procedure Committee on the establishment of an Expenditure Committee.[5] The Green Paper emphasised three aspects of the Specialist Committees' practice. One was that the Committees and their Sub-Committees normally took evidence in public, both at Westminster and locally. The second was that they took evidence from Ministers, who in 1968–9 had given evidence on 14 occasions, for example. Thirdly, on a number of occasions, the Committees had employed specialist technical and professional advisers.

In assessing the achievements of the Specialist Committees, the Lord President stated that they had been in existence for too short a time for judgment to be passed on their success or otherwise. He noted that when Committees' Reports had been debated, the degree of interest shown by Members had been disappointingly small. Nevertheless, the Committees had acquired a growing body of expertise and brought together in their Reports a useful body of fact and opinion on some important issues; further, they had opened up new channels of communication between Parliament and interested persons and bodies throughout the country. Although it was too soon to assess the influence of Specialist Committees on Government policy, they had done much to stimulate discussion of current problems. These achievements had been accomplished in the face of difficulties such as the Committees' uncertain expectation of life and, in some cases, shortage of supporting staff.

The Government opted for a compromise between carrying out the full recommendations of the Procedure Committee and retaining the existing system of Specialist Committees. They believed that there was a danger of the burden of committee work affecting proceedings in the Chamber, and felt that this burden should be reduced. The Government also stated that the functional structure of Sub-Committees proposed by the Procedure Committee could not readily encompass such subjects as Scottish Affairs, Race Relations and the Nationalised Industries. On the other hand, education and overseas aid, which had been studied by Specialist Committees, involved substantial public expenditure and could in future be studied by the Expenditure Committee.

The Government then accepted the recommendations made by the Procedure Committee for the transformation of the Estimates Committee into the Expenditure Committee. A membership of 45 was suggested, instead of the 80 proposed by the Procedure Committee, and the new Committee was to have the same permanent status under Standing Orders as the Estimates Committee enjoyed. The Government declared that, in order to promote the effective working of Specialist Select Committees, the Select Committees on Science and Technology, Race Relations and Immigration and Scottish Affairs would continue for the rest of the Parliament. The Green Paper concluded with the following important declaration:

Any system of Select Committees must make additional work for Ministers, their Departments and, of course, for Select Committee members themselves. It increases the pressure on the parliamentary timetable and the risk of controversy over the proper limits to the confidentiality of the decision-making process. But this is the inevitable price to be paid for the significant strengthening of the parliamentary system to which the proposals in this paper are addressed.

The Green Paper was debated by the House of Commons on 12th November, 1970, when broad agreement was expressed for the compromise proposals which it contained; and on 21st January, 1971, the House agreed to a Motion repealing the Standing Order relating to the Estimates Committee and replacing it with one which provided for the setting up of an Expenditure Committee

to consider any papers on public expenditure presented to this House and such of the estimates as may seem fit to the committee and in particular to consider how, if at all, the policies implied in the figures of expenditure and in the estimates may be carried out more economically, and to examine the form of the papers and of the estimates presented to this House. . . .

There is much similarity between these terms of reference and those of the Estimates Committee. In the coming sessions it will be interesting to see how in practice the new Committee interprets these terms of reference, and how far it is successful in fulfilling the wide-ranging purposes envisaged for it by the Select Committee on Procedure.

[1] H.C. 254–1, 1957–8. [2] Cmnd. 1432. [3] H.C. 410, 1968–9.
[4] Public Expenditure: A New Presentation (Cmnd. 4017), April 1969.
[5] Cmnd. 4507, October 1970.

XII. PRESENTATION OF A SPEAKER'S CHAIR TO THE HOUSE OF ASSEMBLY OF SWAZILAND

By Cyril James

A Deputy Principal Clerk in the House of Commons

On 14th May, 1970, the House of Commons agreed to an address to Her Majesty praying for the presentation of a Speaker's Chair to the Swaziland House of Assembly, to mark the attainment of independence by that country in September 1968. Her Majesty gave a favourable reply and leave was given to four Members, Mr. Reginald Eyre (Leader), Mr. Ernest Armstrong (Deputy Leader), Mr. Bernard Conlan and Mr. John Osborn, to make the presentation on 3rd September. I accompanied the delegation as Clerk.

Before we left London we were entertained by the Swaziland High Commissioner, Mr. N. D. Ntiwane, to an agreeable lunch which proved a happy augury for the visit to Swaziland. We then went to see Mr. Speaker, who gave the Leader a letter to present to the Speaker of the Swaziland House of Assembly.

The air journey to Johannesburg was uneventful. We arrived there at 11.30 on Tuesday 1st September, to be met by Mr. Ian Aers, the Speaker of the House of Assembly, and Mr. Manzini, Chief of Protocol of the Swaziland Government. With them we drove, at about 80 m.p.h., some 220 miles across the South African veld, they, be it noted, having already done the reverse journey that same morning. After the flat, hot veld, the blue-green hills of Swaziland, which come very suddenly, were a great relief.

Swaziland is a rather small, land-locked country, bounded by the Republic of South Africa and Mozambique. During the three days we were there, the climate varied from pleasantly warm to decidedly nippy, with the weather one morning resembling, as a Member put it, that of a wet Sunday afternoon in Gateshead.

The visit could be divided into two aspects: the parliamentary and the socio-instructive. Parliament meets in a splendid new building, the Members of the House of Assembly, colourful in a variety of dress, sitting in a horsehoe, with the Speaker facing them on, until the presentation, an ordinary office chair. The presentation of the Chair took place, at 3 p.m., after business had been transacted in the House. Some credit for its success must go to a Member, by profession an engineer, who gave advice on the installation of the shroud covering the Chair, with particular attention to the quantities of sand in the bags holding the shroud in position. In the event, when the Leader cut the cord the shroud fell smoothly and gracefully away and the whole

Assembly gasped. We had seen the Chair at Westminster, but we too were impressed with its suitability for its setting and its imposing dignity.

Visits on the socio-instructive side were made to a cannery, an iron ore mine and a technical college, all providing evidence of the move in Swaziland towards a stronger economy. Each evening the delegation was entertained, in turn, by the Speaker and Mrs. Aers, by the Acting High Commissioner, Mr. Alan Elgar, and his wife, and by the Government. Swazi citizens rise and go to bed early and evening functions finish promptly at ten. Swazi society is small (the total population is under 400,000) and we had more than one opportunity to meet a number of prominent people, including Sir John Houlton, President of the Senate, and Lady Houlton.

But the event which will live longest in the memory of the delegation, apart from the presentation itself, was our audience with King Sobhuza II, and our subsequent attendance, at His Majesty's invitation, at the reed dance. At this traditional ceremony Swazi girls present tall reeds which they have collected from up to twenty miles away to make a stockade for the Queen Mother's huts. It was a curious thing to be seated with the King, the Deputy Prime Minister, Mr. John Sukati, and other Government ministers, watching some thousand Swazi girls, wearing only the miniest of mini skirts, dancing and chanting three yards away.

The whole delegation found the visit to Swaziland enjoyable, valuable and stimulating. The personal contacts we made and the wide range of experience we had in a short time helped us to appreciate the hospitality and friendliness of the people, the efforts made since independence to foster economic growth and, perhaps most important to a parliamentarian, the sturdy beginning of parliamentary democracy.

XIII. THE SPEAKER'S VOTE TOPPLES GOVERNMENTS

By G. D. Combe

Clerk of the House of Assembly, South Australia

Politics as a numbers game has been most manifest in South Australia in recent years. In two Parliaments in the last decade, the Government (L.C.L.) and Opposition (A.L.P.) numbers in the popular House, the House of Assembly, have been equal and in addition there has been one Independent Member, the Hon. T. C. Stott, C.B.E. In both Parliaments, Mr. Stott was elected Speaker and patently, in matters on which the House divided on party lines, the fate of the Government lay in the hands of the Speaker. Of paramount importance, of course, would be the exercise of his casting vote on a motion of no-confidence in the Government.

In the nineteenth century there were three occasions in the House of Assembly of South Australia when a Speaker was called upon to give his casting vote on a censure motion against the Government—Speaker Hawker voted for the Government once after consideration of the merits of the allegations contained in the Motion, and Speaker Kingston voted twice against the Government and in each case his action led to the Government's resignation. Speaker Kingston, in giving his casting vote in favour of the want of confidence motion against the Blyth Government in 1871, expressed the opinion that when, on a vote of confidence, there is an equality in voting and a Ministry therefore does not command a majority, it is the duty of the Speaker to give his casting vote as he did—with the " Ayes " and against the Government.

It should be pointed out that, one hundred years ago, when Speaker Kingston enunciated the principle on which he exercised his casting vote on no-confidence motions, political allegiance in Parliament was nothing like as rigid as it is today (in the 43 years of responsible government in South Australia in the nineteenth century, 42 separate Ministries were formed). Then, as in the House of Commons today, the Speaker retained his position despite a change in Government. In South Australia now, indeed in Australia generally, a change of Government almost invariably means a change in the Speakership. So the effect of a present-day Speaker applying Speaker Kingston's principle would be by his own action, to dismiss himself from office.

Before the last Parliament met in 1968, Mr. Stott (Independent) made the following significant statement:

> I have decided in favour of an L.C.L. Government. Therefore, I will support an L.C.L. Government on vital issues and will not use my vote to destroy an L.C.L. Government.

I will remain an Independent, and on all other issues, including electoral reform, I will use my vote according to my views and the way the people in Ridley would desire me to vote.

This means I will not capriciously vote against any legislation that is designed to develop the State and will promote stability and the social welfare of all the people of South Australia.

Mr. Stott was elected Speaker, the numbers of the two parties in the House were equal and on the first day of the new Parliament, the Speaker, by use of his casting vote, forced the Dunstan (A.L.P.) Government to resign. Subsequently, in 1968 and in 1969, Speaker Stott gave his casting vote against a Motion of no confidence in the Hall (L.C.L.) Government, without assigning a reason in either case. However, as will be explained, Mr. Stott was to bring about the demise of the Hall Government, not by exercise of his casting vote but by virtue of his deliberative vote in Committee of the whole House.

The Speaker's right to speak and vote in Committee of the whole House was questioned in 1962 when Speaker Stott spoke in Committee. The Chairman of Committees, in giving his ruling that the Speaker was entitled to speak and vote in Committee of the whole House, referred to the practice in the House of Commons and also quoted E. G. Blackmore on South Australian practice as follows: " When the House is in Committee there is nothing to prevent Mr. Speaker joining in the discussion and voting. But it is customary then to regard the Speaker merely in his capacity as a Member and in the Journals he is accordingly so entered, if moving in Committee." Six Speakers prior to Mr. Stott had availed themselves of this right. Incidentally in a rather Gilbertian situation an appeal against this ruling, in accordance with Standing Orders, had to be referred to the Speaker and he understandably upheld by his casting vote the ruling given in his favour by the Chairman of Committees.

It is common ground between the political parties in South Australia that water supply in this, reputedly, the driest State in the driest continent, is of paramount importance and that maximum use should be made of the waters of the River Murray; the two parties differ, however, in the way in which these objectives should be achieved, particularly as to whether a dam at Dartmouth in Victoria should be built before, or after, or concurrently with, a dam at Chowilla in South Australia.

In 1970 the Hall Government introduced a Bill to ratify an agreement for the construction of a dam at Dartmouth in Victoria. This proposal did not suit either the Opposition Party or Mr. Speaker. The Premier had previously announced both in and out of the House that if any amendment unacceptable to the Government were made in the Bill, it would result in a general election.

The River Murray Waters Agreement Bill was introduced and passed its second reading without division. However, in Committee of the whole House on the Bill, the Opposition Members and Mr. Stott (the Speaker) combined to insert an amendment which was completely

unacceptable to the Government. Having been defeated on what the Government considered and publicised to be a vital issue, Premier Hall immediately gave effect to his previously declared intention—the House adjourned and on the following day the Governor dissolved the House of Assembly. A general election was held, the Hall (L.C.L.) Government was defeated and Premier Dunstan headed a new (A.L.P.) Government. Mr. Speaker Stott did not seek re-election as a Member.

Very few Speakers have been in a position to play the role of King-maker. Speaker Stott (Independent) had the extraordinary distinction of keeping two (L.C.L.) Governments in office and unseating one (A.L.P.) Government by the use of his casting vote and administering, at the close of his own Parliamentary career, the *coup de grâce* to the Hall (L.C.L.) Government by the use of his deliberative vote in the Committee of the whole House.

XIV. AMENDMENTS: ANSWERS TO QUESTIONNAIRE

The Questionnaire for Volume XXXIX asked the following questions:

1. In principle, what rights have members to table and move amendments to (*a*) bills, (*b*) subordinate legislation, (*c*) motions?
2. Are there any restrictions on such rights?
3. If so, how and by whom are any restrictions applied and enforced? For instance, can the Speaker, Chairmen or Clerks (*a*) refuse to print notice of amendments, (*b*) rule amendments out of order (*c*) select or group amendments for purposes of discussion, (*d*) restrict in any other way rights referred to in Question 1?

It would appear that in all Parliaments from which returns have been received Members can table and move amendments to bills and motions. Subordinate legislation is not usually subject to amendment although in some legislatures the right to amend does exist.

The general rules governing the admissibility of amendments are similar in all parts of the Commonwealth, but there are differences in the ways in which the rules are applied and in the practice regarding giving notice of amendments and circulating them; and many legisla tures have not yet found it necessary to give the Chair the power to select the amendments that are to be moved or to group amendments for the purposes of discussion.

Westminster: House of Lords

Members have a right to table amendments to bills and motions but not to amend subordinate legislation, which must normally be accepted or rejected in its entirety.

The right to table amendments to bills and motions is absolute—that is, there is no authority competent to refuse the tabling of an amendment—but certain restrictions on amendments are accepted by Members and, if need be, enforced by the House.

1. Amendments to a bill or motion must be relevant to its subject matter.
2. Amendments must not be inconsistent with a decision given on the same stage of a bill.
3. Notice is required before amendments may be moved on the third reading of bills.

Westminster: House of Commons

There is no restriction on the number of amendments which a Member may table to a public bill once it has been given a second reading.

Before they are printed, amendments are checked by the Clerks to ensure that they are in the normal form and fit coherently into the existing text of the bill; but only amendments which are gravely disorderly will be withheld from the amendment paper. A Member's right to table amendments to a bill is thus virtually unlimited, but his right to move these amendments is subject to a greater degree of restriction. Under Standing Order No. 33, first passed in 1919, the Speaker, or in Committee the Chairman of Ways and Means and his deputies, have the power to select the amendments to be proposed. This power is also exercised by the Chairmen of Standing Committees. In deciding which amendments to select for debate, the Chair is guided principally (though not exclusively) by the traditional rules governing the admissibility of amendments, which are set out in full in pages 507–13 of the current (18th) edition of Erskine May. It is not necessary to reproduce these rules in detail here, but two illustrations may be given. An amendment is not admissible if it is equivalent to a negative of the bill or would reverse the principle of the bill as agreed to on second reading, and amendments which are " vague, trifling or tendered in a spirit of mockery " are also excluded. It should be noted that these rules are applied by the Chair (with the advice of the Clerks) *after* the amendments have been tabled and printed, and are not applied by the Clerks before the amendments are printed.

The Chair's power to select amendments under S.O. No. 33 is regarded as entailing also the right to propose the grouping of amendments to be discussed together in order to save time.

On the report stage of bills the same rules apply, but the Speaker customarily uses his powers of selection more strictly so as to exclude amendments which have been fully discussed during the committee stage.

The remarks made about amendments to bills are broadly applicable to amendments to motions. The power of the Speaker to select amendments under S.O. No. 33 covers amendments to motions as well as amendments to bills, but the considerations which govern his selection are inevitably rather different. Although there are rules governing the admissibility of amendments to motions (see Erskine May, 18th edition, pages 381–3), these cannot by themselves give sufficient guidance to him in deciding which of a series of alternative amendments to a motion should be selected. It is fair to say, too, that when the House is discussing a motion, the debate is often of greater concern and the exact terms of the text under consideration of less concern, than when it is discussing a bill in Committee. Often, therefore, only one amendment (usually that of the official Opposition) is selected to be moved, but the Speaker makes it clear that the viewpoints expressed in other amendments can be fully ventilated in debate.

Subordinate legislation is almost invariably excluded, by the terms of the parent statute under which it is made, from amendment by the House of Commons.

Northern Ireland

The rights of Members to table amendments are as described in Erskine May but there is no right of amendment of subordinate legislation.

The rules with regard to amendments broadly follow United Kingdom practice, *e.g.* amendments must be relevant but in addition, of course, amendments may be refused if they are *ultra vires* the powers of the Parliament of Northern Ireland. The Speaker of the Commons is given power by Standing Order No. 28 to select amendments to motions and to bills under consideration in Committee or on Report. The Speaker of the Senate has no power of selection but there are certain additional restrictions in the Senate with regard to " money " bills.

Isle of Man

Members have the right to move amendments to bills or resolutions of Tynwald. Subordinate legislation before Tynwald is not susceptible to amendment from the Floor of the House and is either accepted or rejected *in toto* or referred back to the originating department for reconsideration.

The restrictions are that adequate notice of intention to move amendments must in certain circumstances be given and that the amendments must be relevant to the motion. A contrary motion (*i.e.* a motion which introduces the negative into the text of the motion in question) is not admissible.

The Lieutenant-Governor as President of Tynwald, or in the case of the House of Keys the Speaker, can rule out of order any amendment which does not in his opinion conform with Standing Orders and to that end can stop the circulation of copies of the amendment. In practice there is no selection or grouping of amendments for purposes of discussion in either Tynwald or its Branches nor is there any further restriction on the rights of Members as set out above.

Canada: Senate

A Senator cannot propose an amendment which would increase a tax or an appropriation. Otherwise, there is no restriction as to subject matter or the number of amendments.

However, Rule 48 reads as follows:

> A notice containing unbecoming expressions or offending against any rule or order of the Senate shall not be allowed by the Speaker to appear on the notice paper.

There is a practice that the Clerk may amend a notice if it is irregular. The Speaker's decisions are subject to an appeal to the Senate.

Canada: House of Commons

In principle, there is no limitation on the right of Members to table and propose amendments to any question before the House or any committee thereof, except an amendment which would impose a financial charge and when the Standing Orders provide that a motion must be decided without amendment or debate. It follows, of course, that all proposed amendments are subject to the principle of relevancy and the observance of traditional forms. A Member may not propose an amendment to his own motion.

Notices of all motions or amendments, when notice is required, are scanned and if need be referred to the Speaker, who may refuse to print any defective notice of motion or amendment. A decision in regard to such a notice may be raised on the Floor of the House. Every amendment when proposed, with or without notice, is subject to a decision by the Chair.

Motions to amend a bill at the Report stage may be grouped for discussion.

British Columbia

There are generally no restrictions on Members' rights to table amendments but the Speaker will rule out of order any amendment, when called, if it clearly offends against the prerogative of the Crown or the financial initiative of the Crown.

Saskatchewan

Members of the Legislature can move amendments to bills on second reading referring the subject matter of the bill to a Committee or moving the " six-month hoist ". Members can move amendments to the clauses of bills in Committee or to resolutions or motions for returns as long as they observe the following main guidelines:

(*a*) Every amendment must be relevant to the question upon which it is proposed.

(*b*) Every amendment must be intelligible.

(*c*) While the purpose of an amendment is to render a proposition more acceptable to the Assembly, an amendment cannot be used to accomplish the same thing as would be accomplished by the simple defeat of the main motion.

(*d*) An amendment is out of order if it proposes to alter any part of a proposition upon which the Assembly has already expressed an opinion, or if the substance of the amendment itself has already been submitted to the judgment of the Assembly.

(*e*) An amendment, even if in order in all other respects, is out of order if its substance lies beyond the competence of the Assembly.

Although notice for amendments to bills or resolutions is encouraged, the Rules and Procedures of the Legislative Assembly of Saskatchewan do not require that specific notice be given. Amendments are ruled out of order by the Speaker or the Chairman if a proposed amendment

does not comply with the rules governing amendments. Amendments in the Legislative Assembly of Saskatchewan are usually not selected or grouped for purposes of discussion but the Speaker may divide a complicated question if requested by a Member.

Saskatchewan also has precedents (1952 and 1970) whereby the Speaker, by leave of the Assembly, has altered the wording of a motion (amendment) in order to make it conform to the accepted form of Private Members' motions involving the expenditure of money.

Australia: Senate

In general, Senators in the Australian Senate have an unrestricted right to move relevant amendments to bills or motions before the Chair. This statement must be qualified by the following:

1. Proposed amendments must comply with rules established by the Standing Orders or Rulings of the President; an amendment must, for example, be relevant, intelligible and consistent with the measure and itself; and
2. In relation to certain money bills which, pursuant to the Commonwealth Constitution, the Senate may not amend, a Senator may) in place of an amendment, move a request (to the House of Representatives) for amendment.

No opportunity exists for any Senator to move an amendment to subordinate legislation. Such subordinate legislation is required to be tabled in both Houses of the Parliament, and is subject to disallowance by either House in whole or in part. (The relevant statute is the Acts Interpretation Act 1901–1966.)

Such restrictions as are imposed are enforced by the President in the Senate, or the Chairman of Committees in Committee. Any decision as to admissibility of an amendment is subject to a motion for dissent if any Senator should move such a motion.

No officer of the Senate, whether President, Chairman of Committees or Clerk of the Senate, would refuse to print any notice of amendment when requested to do so by any Senator, whether the amendment were in order or not in order.

Amendments are normally moved, debated and voted upon separately. However, the practice is frequently adopted, by leave, of moving, debating and voting upon two or more amendments together. Where an amendment is moved to a proposed amendment, the second proposed amendment is dealt with before a decision is taken on the original proposed amendment.

Australia: House of Representatives

It can generally be said that Members have an unrestricted right to move amendments to bills and motions provided that an amendment is relevant to the question it is proposed to amend and is otherwise in accordance with the standing orders. However, irrelevant amendments may be moved to the second reading of Appropriation and Supply Bills

and to the Grievance Day question (" That grievances be noted "). Notice is not required in respect of any amendment.

The following amendments are out of order:

(*a*) an amendment which is inconsistent with a previous decision on the question;

(*b*) an amendment moved to any part of a question after a later part has been amended;

(*c*) an amendment moved to any words which the House has resolved shall stand part of the question, or which have been inserted in, or added to a question, except it be the addition of other words thereto;

(*d*) an amendment which, if carried, would make the motion to which it is moved unintelligible;

(*e*) an amendment which is a direct negative;

(*f*) an amendment which refers to the conduct of a person whose conduct cannot be discussed except upon a substantive motion (*e.g.* the Sovereign, the Queen's representative, the Speaker, Chairman and Members of both Houses of the Parliament, and members of the Judiciary, etc.);

(*g*) an amendment which, in anticipation, deals with the subject matter of a bill or other matter appointed for consideration;

(*h*) in relation to bills, an amendment which infringes the financial initiative or is not within the Title or is not relevant to the subject matter of the bill.

The Speaker, Chairman or Clerks would not refuse to print notice of amendments even if they were obviously out of order.

The Speaker and Chairman may rule amendments out of order but the ruling may be subject to a motion of dissent which requires immediate determination.

The Chair has no power to select or group amendments for purposes of discussion. Ordinarily each amendment is moved and debated separately. For convenience, however, the House or Committee may give leave for two or more amendments to be moved and considered together, and this frequently happens in the consideration of bills in Committee.

There is no provision for the moving of amendments, as such, to subordinate legislation. Regulations made under Acts, certain Territory ordinances and regulations made thereunder and some other forms of subordinate legislation are subject to disallowance by either House in whole or in part in accordance with the provisions of the Acts Interpretation Act or the parent statute as applicable.

New South Wales: Legislative Council

Members generally have the right to move amendments to any Question proposed, except where specifically excluded by Standing Orders Nos. 24, 47, 57, 108, 171.

It is not usual to table amendments unless required by the Chair under Standing Order No. 116 but, as a matter of courtesy, usually the Minister or the Leader of the Opposition supplies a limited number of copies of the proposed amendments when moving their adoption.

Amendments to bills are proposed in the Committee of the Whole, and may be moved by any Member. During the present session, 9 amendments to bills, moved by private Members (including the Leader of the Opposition) were accepted by the Government and, in addition, attention was directed to drafting errors in 3 cases, and objection taken to certain proposals embodied in 2 bills, which resulted in amendments being moved by the Minister in each case.

There is a Committee of Subordinate Legislation, appointed by the Legislative Council, usually each session, but its term has been extended on occasions by Parliamentary Committees Enabling Acts.

Various statutes provide for the tabling of delegated legislation and for disallowance by resolution of either House of Parliament. This provision was included in the Interpretation Act, 1897, by the Interpretation (Amendment) Act, 1969, and applies to all Acts passed after 16th April, 1969.

The following Standing Orders set out the rights of Members generally, with regard to amendments:

No. 115. A Question having been proposed may be amended by omitting certain words; by omitting certain words in order to insert or add other words; or by inserting or adding words.

No. 116. An Amendment to any Motion before the House must, if required by the Chair, be in writing.

No. 117. No Amendment shall be proposed in any former part of a Question after a later part has been amended, or has been proposed to be amended, unless the proposed Amendment has been, by leave of the House, withdrawn.

No. 118. No Amendment shall be proposed to be made to any words which the House has resolved shall stand part of the Question except it be the addition of other words thereto.

No. 121. Amendments may be proposed to a proposed Amendment as if such proposed Amendment were an original Question.

No. 175. Any Amendment may be made to a clause, provided the same be relevant to the subject matter of the clause, and a new clause or schedule may be proposed if relevant to the subject matter of the Bill, or pursuant to any instruction, and be otherwise in conformity with the Rules and Orders of the House: Provided that no Amendment or new clause shall be inserted which reverses the principle of the Bill as read a second time; but if any Amendment shall not be within the scope of the title of the Bill, the Committee shall extend the title accordingly.

No. 176. No clause, schedule, or amendment, in substance shall be offered to be added to, or made, in any Bill, except in Committee of the Whole House

No. 177. It shall be in order to negative a clause, even if amended, with the view of a new clause being proposed in its place.

Notice of amendments is not required.

The President or the Chairman have ruled amendments out of order as not conforming to the Standing Orders.

The practice of taking bills containing many clauses by parts, rather

than by clauses, has become more frequent of recent years. The Chairman usually asks if there is any objection and, if not, puts the part, stating the clauses contained. Discussion often ranges over the whole of those clauses. Instances where the practice was questioned were:

Firstly, on 1st April, 1969, in the Committee stages of the Apprentices Bill, when the Leader of the Opposition rose to ensure his right to move amendments to Clause 10 as debate was ranging over the whole of Part II (Clauses 9 to 24). The Chairman assured the Member this right would be protected. (Report of Divisions in Committee of the Whole Council, Session 1968–69, p. 545.)

Secondly, on 23rd September, 1969, when the Chairman asked if there was any objection to taking the Methodist Church (N.S.W.) Property Trust Bill (30 clauses) by Parts, one Member objected to the growing practice and stated that in future the power should be exercised rarely, and only when dealing with a very long Bill. He did not, however, object in this instance and as the Bill was non-contentious it was taken by Parts. (*Parl. Deb. Vol.* 81, p. 1090.)

Thirdly, on 29th September, 1969, when the Chairman, on the suggestion of the Minister in charge of the Wheat Quotas Bill, proposed it be taken by Parts, objection was taken by the Leader of the Opposition and the Bill was taken by Clauses. (Proceedings in Committee of the Whole, Session 1969–70–71.)

Instances have occurred where for the purpose of discussion the indulgence of the Committee has been sought to debate a series of amendments to clarify the proposals. On 29th November, 1967, as the proposed amendment to the Crimes (Amendment) Bill involved a number of consequential amendments the Chairman agreed to the Member discussing its subsequent aspects (*Parl. Deb.*, Vol. 72, p. 3843). On 18th November, 1970, the Leader of the Opposition, to save the time of the Committee, sought leave to debate Clauses 46 and 47 of the Summary Offences Bill and no objection was raised (*Parl. Deb.*, Vol. 87, p. 7987).

The Standing Orders provide for closure of debate (Standing Order No. 102) and for the Previous Question (Standing Order No. 107) but there has not been recourse to either mode of restricting Members' rights since the turn of the century.

New South Wales: Legislative Assembly

Members may not table amendments but any Member is entitled to move amendments. All amendments to bills must be made in Committee and must be in writing. Notice is not required but the practice of giving notice is encouraged. If sufficient notice is given, intended amendments are printed.

No provisions exist for *amendments* to subordinate legislation but motions for the *disallowance* (or part thereof) of regulations, rules,

ordinances, by-laws, and proclamations made under the provisions of an Act, may be moved.

Procedure for such disallowance is covered by Standing Order 113A which reads:

(*a*) Notice of a Motion to disallow or to amend, in accordance with statutory provision, any regulation, rule, ordinance, by-law, proclamation, or instrument to which objection may be taken within a time specified shall, when given, be forthwith set down to be considered upon the next sitting day.

(*b*) Such motions—

(i) shall have priority on such day in the order in which notice was given;

(ii) shall, except as provided in Standing Orders Nos. 108 and 161, take precedence over all other business on such day;

(iii) if not moved on that day shall lapse.

(*c*) Mr. Speaker shall be entitled to put the Question when debate on any such motion shall have exceeded sixty minutes, and no Member or the Mover in Reply shall, without concurrence, speak to such motion for more than ten minutes.

Any Member may move an amendment, subject, of course, to the usual rules of admissibility, *i.e.* relevancy, etc.

Queensland

Any Member may move amendments to bills and motions. In Queensland amendments are not tabled but, in the case of amendments to clauses of a bill in the Committee stages, printed or typed copies of proposed amendments are, where possible, circulated to Members in advance; in other cases a copy is usually given to the Chair, the Leader of the House, the Leader of the Opposition, the Minister in charge of the bill and the Clerk at the Table. No amendments are permitted on subordinate legislation, but Standing Order 37A affords the opportunity for the moving of a motion, upon notice, for the disallowance of any statutory instrument which has been laid upon the Table pursuant to the provisions of an Act.

All amendments are subject to the general rules as regards admissibility and any which infringe the requirements may be ruled out of order by the Speaker or the Chairman. It is not the practice in Queensland to select or group amendments for purposes of discussion.

South Australia: Legislative Council

Members are entitled to move amendments (complying with Standing Orders) to:

(*a*) ordinary bills and to move suggested amendments to money bills; and

(*b*) motions.

Members may not move amendments to Subordinate Legislation but may move the disallowance of certain regulations, rules and by-laws of municipal bodies laid on the Table and subject to disallowance.

Although not required, notice is generally given by Members placing copies of the amendments on the files of Members' copies of bills be-

fore the Council. Amendments are required to be submitted to the Chair in writing.

Restrictions are placed on the type of amendments which can be moved to the questions for the second and third readings of bills and in Committee of the Whole. The rules of relevancy apply and amendments which reverse the principle of bills as affirmed on the second reading may not be moved in Committee.

Motions for disallowance of subordinate legislation are required to be submitted within the time limits laid down in the various Acts and these are noted on the Notice Paper for each day but amendments of subordinate legislation are not permitted.

Amendment of motions is permitted but amendments must be relevant, submitted in writing, and seconded. The same amendment may not be moved in the same session. No reply is allowed to the mover of an amendment.

Restrictions are enforced by the Presiding Officer. Irregularities are usually pointed out to Members by the Clerks at the Table before the need arises for the Presiding Officer to enforce provisions of the Standing Orders. In particular:

(*a*) amendments which are out of order may be withheld from the printer;
(*b*) the Presiding Officer will rule amendments out of order when the need arises;
(*c*) the Presiding Officer does permit amendments to be grouped but does not select some and not others for discussion;
(*d*) in respect of amendments moved to money clauses or bills, the Presiding Officer will insist on correct form being used.

South Australia: House of Assembly

Bills: A Member may move an amendment at the second reading stage to leave out " now " and to add " this day six months ", or, in the form of a resolution, of which notice has been given, strictly relevant to the objects of the bill. A Member may move the six months amendment also at the third reading stage.

In Committee, an amendment may be moved if it is relevant to the subject matter of the bill as disclosed by its clauses or if moved in pursuance of an instruction from the House. No amendment for the imposition or for the direct or indirect increase of a tax, rate, duty or impost can be proposed by a Member, other than a Minister.

It would be most unusual in practice for a Member to have an amendment printed for circulation if it had been considered by the Clerk to be out of order. The final arbiter is the Speaker or Chairman of Committees in the House. The Chair has no power to select amendments for purposes of discussion.

Subordinate legislation: A Member has no right to move an amendment to subordinate legislation. He may move to disallow new subordinate legislation, within 14 sitting days (generally) of its being tabled

in the House. After this period has elapsed, his only recourse is to move a motion in the House for an address to be presented to the Governor praying him to make the required amendment to the subordinate legislation. This latter course is appropriate only where the Governor is the regulation making authority.

Motions: An amendment may be moved to a substantive motion provided that it is relevant to the motion and is duly seconded. Its admissibility is determined by the Speaker.

Tasmania: Legislative Assembly

Members may move amendments to bills in the Committee of the Whole House: notice is not required. Subordinate legislation is not passed in Parliament and is not therefore subject to amendment. However, subordinate legislation may be disallowed by motion of which notice has been given. Motions may be amended by any member.

A seconder is required for amendments to motions but not for amendments to bills. Amendments must be relevant or (in Committee) pursuant to instruction. The usual rules apply, *e.g.* amendments may not be made to words that have been agreed to or after a later part of the Question has been amended.

The Speaker or Chairman may rule amendments out of order. Where several amendments are proposed, they are put singly in the order in which they would stand in the Question.

Victoria

In Committee of the Whole House it is the right of any Member (no seconder being required) to move amendments to bills under discussion, with the sole proviso that they must be within the general compass of the bill and strictly relevant to the clause they propose to amend. In practice, the Clerk-Assistant rules on relevance and advises the Chairman of Committees during this stage of debate. It is unusual for any Member, having been advised by the Clerk-Assistant that his proposed amendment is out of order, to take the matter to the Chairman of Committees.

In the House, amendments to motions must comply with the usual tests of relevancy and a seconder is required. No amendment is accepted which is of itself a negative of the original motion. In practice, the Clerk advises on relevancy and competence to move motions and amendments thereto and it is unusual that any Member takes the matter as far as the President.

Subordinate legislation is not subject to amendment by either House of Parliament, but in cases provided for in the enabling statute or in instances where the Subordinate Legislation Committee (a joint committee comprising Members of all parties) reports adversely, a motion for disallowance may be adopted by both Houses of Parliament.

Western Australia: Legislative Council

It is permissible for a Member to move, either with or without notice, amendments to motions and bills (Standing Orders, Chapters XVII and XXI).

Pursuant to Sections 36 and 37 of the Interpretation Act, 1918, it is permissible for a Member to move, after notice, to disallow subordinate legislation, such notice to be given at any time within 14 sitting days after the subordinate legislation has been tabled in the House. It is also possible for amendments to be made to subordinate legislation if both Houses pass a resolution, originating in either House, amending or varying such legislation.

Amendments in relation to a bill cannot be received at the Table until after the second reading has been moved (S.O. 251). Proposed amendments must be strictly relevant to the bill (S.O.s 250, 257). No amendment may be proposed which is substantially the same as one already negatived in the same Committee. It is possible for such an amendment to be proposed at a subsequent Committee—upon recommittal (S.O. 258). A bill cannot be recommitted at the third reading stage for the purpose of consideration of further amendments unless notice of such recommittal has been previously given (S.O. 270).

Certain restrictions apply regarding the acceptable forms of amendments to motions. It is permissible to propose that certain words be: (*a*) deleted; (*b*) inserted or added; or (*c*) substituted by other words (S.O. 188). A proposed amendment shall be relevant to the question to which it is proposed to be made; it is required to be in writing and signed by the proposer and it shall not be considered by the Council nor recorded in the minutes unless seconded (S.O.s. 189 to 191).

The Presiding Officer cannot accept notice of a proposed amendment to a bill until after the second reading has been moved, and therefore can refuse to print if it is presented to the Table prior to the bill reaching this stage. It is difficult to imagine a refusal being made at any other time.

Should the proposed amendment contravene the Standing Orders it is incumbent upon the Presiding Officer to rule it out of order. Upon numerous occasions the Presiding Officer has been requested in the House for a ruling as to whether a proposed amendment is in order.

It is common practice for a group of consequential amendments to be discussed *en bloc*.

Western Australia: Legislative Assembly

Members may propose amendments to all bills in the Committee of the Whole House and on the motion that the " Bill be now read a second time ", " That the Speaker do now leave the Chair " or " That the Bill be now read a third time ".

Subordinate Legislation: Power is provided in the Interpretation Act, 1918–1970, Section 36, for a Member of either House to move to dis-

allow regulations or by-laws. Notice must be given within 14 sitting days of such regulations or by-laws being tabled in both Houses and if either House passes a resolution disallowing any such regulations or by-laws such regulations or by-laws shall cease to have effect.

Section 36 further provides:

> That both Houses at any time may pass a resolution, originating in either House, to amend or vary any regulation or by-law or substitute another regulation or by-law for a regulation or by-law disallowed.

Motions: All substantive motions are open to amendment and certain procedural motions.

Bills: Amendments must be relevant to the subject matter of the bill and intelligible.

Further restrictions imposed are:

No Member, other than a Minister, shall move to impose any Tax, indent or impost and it is not competent for a Member, other than a Minister, to propose increases on the amounts proposed in the bill. Bills for the appropriation of Revenue or moneys require a Message from the Governor and can only be introduced by a Minister and must be first introduced into the Legislative Assembly. Amendments may be moved by Members to bills appropriating Revenue but must not impose a further burden upon the people, and herein lies the problem.

Messages indicating a fixed amount cause very little problem, but Messages couched in open terms do create some difficulty at times.

In the case of a move to disallow subordinate legislation, notice must be given within 14 sitting days after the Tabling of the regulation or by-law. In the event of a move to amend a regulation or by-law the resolution must pass both Houses, but no amendment to a regulation or by-law published and Tabled prior to the 1st January, 1949, can be entertained.

Amendments to Substantive Motions should not be a direct negative or contain argument or unbecoming expressions.

The following procedural motions cannot be amended:

Adjournment of the House.
Withdrawal of Strangers.
Suspension of a Member.
Presentation of a Petition.
That a Member shall be further heard.
Objection to ruling of Chairman of Committees.
Adjournment of debate.
That the House do now divide.
Original Question when Previous Question negatived.
First Reading of Bill.
Reporting Bill at completion of Committee stage.
Presentation of Report of Select Committee.
Presentation of Report of Standing Orders Committee.
Extension of time of Speech.

The Speaker deals with all questions in the House and the Chairman of Committees in the Committee of the Whole House. The Chairman's decisions may be dissented from and reported to the Speaker, who hears argument and gives his decision. The Speaker's decision is always open to a final decision by the House.

The Speaker can and does rule amendments out of order on matters before the House, and the Chairman has similar powers in Committee.

If it appears to the Clerk, the Speaker or Chairman that a proposed amendment is out of order the Member proposing the amendment may be asked either to withdraw or reframe the amendment, but generally amendments appearing on the Notice Paper are not noticed until such time as they are proposed to the Committee or the House, and the Chairman or Speaker, as the case may be, will then rule regarding its admissibility.

Northern Territory

In principle, and in practice, any Member may move an amendment to a bill or a motion.

The only restriction is that the terms of the amendment must have been circulated in writing to all Members. In the case of subordinate legislation, no amendment other than a disallowance of part or whole is permitted.

The presiding offcer may refuse to accept an amendment that is not in conformity with the Standing Orders.

Papua and New Guinea

In principle, all Members of the House have a right to table and move amendments to bills and motions. Subordinate legislation is required by statute to be tabled in the House, and then stands referred to the Subordinate Legislation Committee who are required to consider it and, if necessary, make a report to the House (Standing Order 28). The House may then, by resolution during the meeting at which the subordinate legislation is tabled or at the next succeeding meeting, disallow the subordinate legislation in whole or in part. Although the exercise of this authority by the House may result in a piece of subordinate legislation being in effect amended, either by a portion being omitted or it being redrafted and remade by the executive authority to meet the expressed wishes of the House, it is regarded as an authority to disallow rather than amend. Members have no right to table and move amendments to subordinate legislation as such.

All amendments proposed must be relevant (S.O. 199), seconded (S.O. 200), submitted in writing (S.O. 198) and moved in correct sequence (S.O. 202). There is also a general prohibition on motions (including amendments) which are the same in substance as one resolved in the affirmative or negative in the preceding twelve months.

Regarding amendments to bills, there are restrictions in the area of money bills and other bills involving the appropriation of public reve-

nue. An amendment proposing the appropriation of public moneys is not allowed unless recommended by message from the Administrator (S.O. 285 and Section 50 of the Papua and New Guinea Act 1964–1968). When a bill proposes the imposition, increase or alleviation of a tax or duty, a Member other than an Official Member may not move an amendment " to increase or extend the incidence of the charge defined in that proposal, unless the charge so increased or the incidence of the charge so extended shall not exceed that already existing by virtue of any law of the Territory (S.O. 286)."

In the case of certain procedural motions, it is laid down that the motion may not be amended. An example is the motion to adjourn the House (S.O. 63). Otherwise, amendments to motions are subject only to the general restrictions mentioned above.

Usually, an amendment which is proposed but is out of order, would be so ruled by Mr. Speaker (or the Chairman) on being moved, or on a point of order being taken by a Member.

There is no requirement for notice to be given of a proposed amendment. If a Member did give notice, then it would be open to Mr. Speaker to direct that it be not printed in the Notice Paper, if he considered it out of order.

It is customary in this House for Members to have the terms of their proposed amendments printed and circulated. In this way, Mr Speaker and the Clerks from time to time become aware of intended amendments which, if moved, would be out of order, and they then advise the Member concerned accordingly. It is not incumbent on the Member to accept such advice, and there is nothing to prevent him subsequently moving the amendment in the knowledge that he may be ruled out of order.

New Zealand

Bills: Every Member has the right to propose an amendment to any clause in a bill provided it is relevant and otherwise in conformity with the rules and orders of the House. Amendments to a clause may be moved as soon as that clause is called on. Members may, if they wish, have their proposed amendments printed on a supplementary order paper by the Clerk and these are circulated in the Chamber at the appropriate time. Each such supplementary order paper may, if desired, contain a series of amendments in the name of a Member. Amendments proposed by Ministers to their public bills are almost invariably set out on a supplementary order paper.

Subordinate legislation: All statutory regulations, orders, etc., are required to be laid before Parliament and the Standing Orders provide for these and all other Parliamentary Papers to be listed and to be available for discussion, if required. When any particular paper is called upon, any appropriate motion may be moved concerning it.

The Statutes Revision Committee, a Select Committee of the House to which all bills of a technical legal character are referred, is em-

powered to consider any regulation with a view to determining whether the special attention of the House should be drawn to the fact that it might be considered to trespass unduly on personal rights and liberty, to make unusual or unexpected use of the powers conferred by the statute under which it is made, or which for any special reason calls for elucidation. It is open to the Committee to make whatever report to the House it feels is appropriate. The text of the regulation would not be amended, but it is conceivable that in some cases the Government might be disposed to withdraw or repeal the regulation.

Delegated legislation does not pose much of a problem in New Zealand. All regulations are very strictly drawn and are carefully scrutinised by an official directly appointed by the Attorney-General to exercise a general oversight of all statutory regulations, orders, etc. Since the special provisions were introduced in 1962, no case of a regulation being called in question by the Select Committee or any Member of the House has occurred. It is open to any Member of the House to raise a question concerning the validity of a regulation or order at any time whether the House be sitting or not. There is no provision for the House itself to amend the text of a particular order or regulation.

Motions: All motions are open to amendment as soon as they are moved except that:

1. The question on a motion for the adjournment of the debate shall be put forthwith without amendment or debate.
2. The question on closure motion (That the Question be now put) shall be similarly put forthwith and decided without amendment or debate.
3. The question on a motion to suspend a Member from the service of the House is also put forthwith without amendment or debate.
4. The question on the motion for the adjournment of the House to discuss ministerial replies to questions appearing on a supplementary order paper (circulated on alternate Wednesdays) is not open to amendment.
5. The question on a motion for the Chairman to report progress and ask for leave to sit again shall be put forthwith and decided without amendment or debate.
6. The question on a motion that the Chairman do now leave the Chair shall be put forthwith without amendment or debate.

There are, of course, other motions like the motion for the adjournment of the House (which can only be moved by a Minister) and the motion to adjourn (to discuss an urgent public matter) which in theory are open to amendment, but the circumstances in which this would arise are hard to imagine.

India: Rajya Sabha

Bills: A Member is entitled to give notice of an amendment to a clause of a bill, subject to the conditions laid down in the Rules of Procedure and Conduct of Business in the Council of States (Rajya

Sabha). The conditions which govern the admissibility of amendments as per Rule 96 are as follows:

(i) An amendment shall be within the scope of the Bill and relevant to the the subject matter of the clause to which it relates.
(ii) An amendment shall not be moved which has merely the effect of a negative vote.
(iii) An amendment shall not be inconsistent with any previous decision of the Council on the same question.
(iv) An amendment shall not be such as to make the clause which it proposes to amend unintelligible or ungrammatical.
(v) If an amendment refers to, or is not intelligible without, a subsequent amendment or schedule, notice of the subsequent amendment or schedule shall be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole:

Provided that in order to save time and repetition of arguments, a single discussion may be allowed to cover a series of interdependent amendments.

The authority of enforcing the restrictions relating to amendments referred to above is exercised by the Chairman of the Council. The Chairman may refuse to propose an amendment which is, in his opinion, frivolous or meaningless.

Subordinate Legislation: Members have a statutory right to give notice of an amendment to the subordinate legislation, as and when the same is laid on the Table of the Council in pursuance of a statute under which it is made. Almost all the statutes contain a clause enabling Government to make rules, regulations, etc., and requiring the rules, regulations, etc., to be laid on the Table.

A Member can give notice for a discussion on an instrument of subordinate legislation either in the form of a motion or otherwise. This right is based on the principle that subordinate legislation is always treated as a matter of general public interest and may be allowed to be raised as such.

The restrictions on the statutory right are contained in the wording of the clause. Thus an amendment to an instrument of subordinate legislation, to be effective and binding, must be moved and agreed to by both the Houses of Parliament.

The Chairman of the Council considers notices of amendments to the subordinate legislation given by the Members and generally admits only those which conform to the provisions contained in the relevant statute.

Motions: Under the Rules of Procedure a Member has the right to table and move an amendment to a motion subject to the conditions laid down therein for the admissibility of such an amendment.

The following are the conditions governing the admissibility of an amendment:

(i) An amendment shall be relevant to, and within the scope of, the motion to which it is proposed.
(ii) An amendment shall not be moved which has merely the effect of a negative vote.

(iii) An amendment on a question shall not be inconsistent with a previous decision on the same question. (Rule 231).

Notice of an amendment to a motion has to be given at least one day before the day on which the motion is to be considered, unless the Chairman of the Council allows the amendment to be moved without such notice.

The Chairman has the right of applying and enforcing the restrictions mentioned above. He may also refuse to put an amendment which is, in his opinion, frivolous or meaningless.

India: Lok Sabha

Members can table amendments:

(i) in the case of a bill, after the bill is introduced in Lok Sabha or the report of Select/Joint Committee on the bill is presented, or the bill, as passed by Rajya Sabha, is laid on the Table of Lok Sabha;

(ii) in the case of subordinate legislation, after the relevant regulation, rule, sub-rule or by-law is laid on the Table;

(iii) in the case of a motion, after an admitted motion is notified in the Bulletin.

Members can move such amendments, if admissible, at the appropriate stage, *i.e.:*

(i) in the case of bills—

(*a*) an amendment to the motion for consideration of a bill may be moved when the Member in charge moves that the bill (or the bill, as reported by Select/Joint Committee) or the bill, as passed by Rajya Sabha, be taken into consideration;

(*b*) an amendment to a clause of a bill may be moved as soon as the relevant clause is taken up for consideration;

(*c*) formal, verbal or consequential amendment may be moved as soon as the third reading of the bill is taken up;

(ii) in the case of subordinate legislation and motions, an amendment to a regulation, rule, sub-rule, by-law, etc., or to a motion may be moved by a Member when the relevant item is taken up.

Notice of an amendment to a bill should be tabled at least one day before the day on which the bill is to be considered. It should be within the scope of the bill and relevant to the subject matter of the clause to which it relates; should not be inconsistent with any previous decision of the House on the same question; should not be such to make the clause which it proposes to amend unintelligible or ungrammatical; should not be frivolous or meaningless, or dilatory or negative in character.

An amendment requiring the recommendation or previous sanction of the President of India under the Constitution cannot be moved without the requisite recommendation or previous sanction.

Notice of an amendment to a regulation, rule, sub-rule, by-law, etc.,

should be tabled within the period prescribed in the Constitution or the Act in pursuance of which it was framed.

Notice of an amendment to a motion should be tabled at least one day before the day on which the motion is to be discussed. It should be relevant to, and within the scope of, the motion to which it is proposed; should not be inconsistent with a previous decision on the same question and should not be negative in character.

The Speaker enforces these restrictions. He may refuse to print notice of inadmissible amendments, rule amendments out of order and select or group amendments for purposes of discussion.

Andhra Pradesh

Bills: If notice of an amendment has not been given one day before the day on which the bill is to be read a second time, any Member may object to the moving of the amendment, and such objection shall prevail, unless the Speaker allows the amendment to be moved; Provided that, in the case of a Government bill, an amendment of which notice has been received from the Member-in-charge shall not lapse by reason of the fact that the Member-in-charge has ceased to be a Minister or a Member and such amendment shall be printed in the name of the new Member-in-charge of the bill.

The Secretary shall, if time permits, make available to Members from time to time lists of amendments of which notices have been received.

The following conditions govern the admissibility of amendments:

(i) An amendment shall be within the scope of the bill and relevant to the subject matter of the clause to which it relates;
(ii) An amendment shall not be inconsistent with any previous decision of the Assembly on the same question.
(iii) An amendment shall not be such as to make the clause which it proposes to amend unintelligible or ungrammatical.
(iv) If an amendment refers to, or is not intelligible without a subsequent amendment or schedule, notice of the subsequent amendment or schedule shall be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole.
(v) The Speaker shall determine the place in which an amendment shall be moved.
(vi) The Speaker may disallow an amendment which is, in his opinion, frivolous or meaningless.
(vii) An amendment may be moved to an amendment which has already been allowed by the Speaker.

Subordinate legislation: Where a regulation, rule, sub-rule, by-law, etc., framed in pursuance of the Constitution or of the legislative functions delegated by the Legislature to a subordinate authority is laid before the Assembly the Minister shall make mention of it on the Floor of the Assembly and the period specified in the Constitution or the relevant Act under which it is required to be laid shall be completed before

the Assembly is adjourned *sine die* and later prorogued, unless otherwise provided in the Constitution or the relevant Act.

Where the specified period is not so completed, the regulation, rule, sub-rule, by-law, etc., shall be re-laid in the succeeding session or sessions until the said period is completed in one session.

The Speaker shall, in consultation with the Leader of the House, fix a day or days or part of a day as he may think fit for the consideration and passing of an amendment to such regulation, rule, sub-rule, by-law, etc., of which notice may be given by a Member; provided that notice of the amendment shall be in such form as the Speaker may consider appropriate and shall comply with these rules.

Gujarat

(*a*) *Bills:* Every Member has a right to table amendments to a bill by giving two days' notice, when a bill is introduced in the House, and also to move his amendments when a bill is read in the House clause by clause subject to restrictions and conditions laid down in the rules.

(*b*) *Subordinate legislation:* Under the provisions made in the Enactments, when the notifications making or amending the rules, regulations or orders are laid on the Table of the House, for a period generally of thirty days, every Member has a right to table amendments by giving seven days' notice.

(*c*) *Motions:* When a motion has been admitted and circulated every Member has a right to table amendments to such a motion by giving two days' notice and to move his amendments when the motion is taken up for discussion in the House subject to restrictions and conditions laid down in the rules.

In case of a bill and a motion, an amendment should be clearly and precisely expressed and should raise one definite issue. It should be relevant and within the scope of the bill to which it is proposed. An amendment should not be moved which has merely the effect of a negative vote. An amendment in the alternative should not be moved. An amendment to an amendment to an amendment should not be moved. It should not contain arguments, inferences, ironical expressions or defamatory statements. It should not reflect upon the conduct of the President or any Governor. In the case of a bill an amendment should not be moved if it required the previous sanction of the President or the recommendation of the Governor and this has not been obtained. Where there is an amending bill, the amendment should be restricted to the sections of the Act which is proposed to be amended, etc. In the case of subordinate legislation, no restrictions are imposed in moving amendments except that they should be tabled within the prescribed period. However, if the amendment is not proposed within the specified period, it would be in the form of a motion or a resolution and the restrictions applicable to motions would apply to such a resolution of a motion.

The Speaker can rule out of order any amendment which does not comply with the restrictions imposed by the rules or under his inherent powers given under the rules before it is included in the notice paper; or it may be ruled out of order on the Floor of the House. The Speaker has the power to select the amendments proposed by the Members keeping in view the time allocation order and the number of amendments tabled by the Members. He has also powers under a specific rule to group the amendments, bracketing the names of the Members, for the purposes of discussion.

Maharashtra

Members have the right to table and move amendments to Bills, Subordinate Legislation and Motions, provided they are admitted by the Chairman or the Speaker under the rules of procedure.

This right is subject to the following restrictions; i.e. in order to be admissible, an amendment must satisfy the following conditions:

(1) An amendment must be relevant to and within the scope of the motion to which it is proposed;
(2) An amendment shall not be moved which has merely the effect of negative vote;
(3) An amendment to an amendment may be moved with the permission of the Chairman or the Speaker;
(4) An amendment in the alternative shall not be moved;
(5) An amendment to an amendment to an amendment shall not be moved;
(6) The notice of every amendment shall be sent to the Secretary, two clear days before the date on which the motion is made.

The member in charge cannot authorise any other member to move a statutory motion or motions relating to Bills. A member cannot also authorise any other member to move amendments to bills or a motion agreeing to the final report on amendments to the rules of procedure.

These restrictions are applied and enforced by the Chairman or the Speaker as the case may be. All Amendments, except those concerning the Chairman or the Speaker personally, or the Chairman's or the Speaker's Office are printed and those which are out of order are ruled so in the House.

The Chairman or the Speaker, as the case may be, can select or group Amendments, and can call upon the member who has given notice of an Amendment to give such explanation of the object of the Amendment as may enable him to form a judgement upon it.

Kerala

Members' rights to move amendments to bills and motions are governed by rules under the Rules of Procedure and Conduct of Business in the Assembly. Usually notices of amendments received from Members are circulated. Speaker declares those amendments which are not

admissible under the rules as " out of order " only when the bill or motion comes up before the Assembly for discussion. While circulating printed copies of amendments to Members, all notices received from Members are included. No restriction is generally imposed in this regard.

Mysore

When a motion that a bill be taken into consideration has been carried, any Member may, when called upon by the Speaker, move an amendment to the bill of which he has previously given notice: Provided that in order to save time and repetition of arguments a single discussion may be allowed to cover a series of interdependent amendments.

If notice of an amendment to a clause or schedule of the bill has not been given one clear day before the day on which the bill is to be considered, any Member may object to the moving of the amendment, and such objection shall prevail, unless the Speaker allows the amendment to be moved: Provided that in the case of a Government bill an amendment, of which notice has been received from the Member-in-charge, shall not lapse by reason of the fact that the Member-in-charge has ceased to be a Minister or a Member and such amendment shall be printed in the name of the new Member in charge of the bill.

The Secretary shall, if time permits, cause every notice of a proposed amendment to be printed and a copy thereof to be made available for the use of every Member.

If any Member desires to move an amendment which under the Constitution cannot be moved without previous sanction or recommendation, he shall annex to the notice of the proposed amendment a copy of such sanction or recommendation and the notice shall not be valid until this requirement is complied with.

The following conditions shall govern the admissibility of amendments to clauses or schedules of a bill:

(*a*) An amendment shall be within the scope of a Bill and relevant to the subject matter of the clause to which it relates.
(*b*) An amendment shall not be inconsistent with any previous decision of the Assembly on the same question.
(*c*) An amendment shall not be such as to make the clause which it proposes to amend unintelligible or ungrammatical.
(*d*) If an amendment refers to, or is not intelligible without, a subsequent amendment or schedule, notice of the subsequent amendment or schedule shall be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole.
(*e*) The Speaker shall determine the place in which an amendment shall be moved.
(*f*) The Speaker may refuse to propose an amendment which is, in his opinion, frivolous or meaningless.
(*g*) An amendment may be moved to an amendment which has already been proposed by the Speaker.

The Speaker shall have power to select the new clauses or amendments

to be proposed, and may, if he thinks fit, call upon any Member who has given notice of an amendment to give such explanation of the object of the amendment as may enable him to form a judgment upon it.

Amendments of which notice has been given, shall as far as practicable, be arranged in the list of amendments, issued from time to time, in the order in which they may be called. In arranging amendments raising the same question at the same point of a clause, precedence may be given to an amendment to be moved by the Member-in-charge of the bill. Subject as aforesaid, amendments may be arranged in the order in which notices thereof are received.

Amendments shall ordinarily be considered in the order of the clauses of the bill to which they respectively relate; and in respect of any such clause a motion shall be deemed to have been made, that this clause stand part of the Bill.

The Speaker may, if he thinks fit, put as one question similar amendments to a clause, provided that if a Member requests that any amendment be put separately, the Speaker shall put the amendment separately.

An amendment moved may, by leave of the Assembly, but not otherwise, be withdrawn, on the request of the Member moving it. If an amendment has been proposed to an amendment, the original amendment shall not be withdrawn until the amendment proposed to it has been disposed of.

Subordinate legislation: Where a regulation, rule, sub-rule, by-law, etc., framed in pursuance of the Constitution or of the legislative functions delegated by the legislature to a subordinate authority is laid before the Assembly the period specified in the Constitution or the relevant Act for which it is required to be laid shall be completed before the Assembly is adjourned *sine die* and later prorogued, unless otherwise provided in the Constitution or the relevant Act.

Where the specified period is not so completed, the regulation, rule, sub-rule, by-law, etc., shall be re-laid in the succeeding session or sessions until the said period is completed.

The Speaker shall, in consultation with the Leader of the House, fix a day or days or part of a day as he may think fit for the consideration and passing of an amendment to such regulation, rule, sub-rule, by-law, etc., of which notice may be given by a member: Provided that notice of the amendment shall be in such form as the Speaker may consider appropriate and shall comply with these rules.

After an amendment is passed by the Assembly it shall be transmitted to the Council for its concurrence and on receipt of a message from the Council agreeing to the amendment, it shall be forwarded by the Secretary to the Minister concerned.

If the Council disagrees with the amendment passed by the Assembly or agrees subject to a further amendment thereof or proposes an amendment in substitution thereof, the Assembly may either drop the amendment or agree with the Council in the proposed amendment or insist

on the original amendment passed by the Assembly. A message in either case shall be sent to the Council. In case the Assembly agrees to the amendment as further amended by the Council, the amended amendment shall be forwarded by the Secretary to the Minister concerned.

If the Council agrees to the original amendment passed by the Assembly, it shall be sent by the Secretary to the Minister concerned but if the Council disagrees or insists on an amendment to which the Assembly has not agreed, the Houses shall be deemed to have finally disagreed, and all further proceedings thereon shall be dropped.

If a regulation, rule, sub-rule, by-law, etc., is modified in accordance with the amendment passed by the Houses, the amended regulation, rule, sub-rule, by-law, etc., shall be laid on the Table.

Motions: An amendment shall be relevant, and within the scope of the motion to which it is proposed.

An amendment shall not be moved which has merely the effect of a negative vote.

An amendment on a question shall not be inconsistent with a previous decision on the same question.

Notice of an amendment to a motion shall be given one day before the day on which the motion is to be considered, unless the Speaker allows the amendment to be moved without such notice.

The Speaker shall have power to select the amendments to be proposed, in respect of any motion, and may, if he thinks fit, call upon any Member who has given notice of an amendment to give such explanation of the object of the amendment as may enable him to form a judgment upon it.

The Speaker may put amendments in such order as he may think fit: Provided that the Speaker may refuse to put an amendment which in his opinion is frivolous.

Rajasthan

Members have the right to move amendments to bills, subordinate legislation and motions under the rules. Amendments must be relevant to, and within the scope of, the motion to which they are moved. They must not merely have the effect of a negative vote nor be inconsistent with a previous decision on the same question. The restrictions on Members' rights are provided in the rules and are enforced by the Speaker.

Tamil Nadu: Legislative Council

Generally, Members have a right to table and move amendments to bills, subordinate legislation and motions. Such amendments should be relevant to, and within the scope of, the subject matter of the bill, subordinate legislation or motion, as the case may be, to which they relate, and should not enlarge its ambit. In the case of Money Bills,

the Constitution of India does not permit amendments to be made by the Legislative Council, which has only a right to make recommendations to the Legislative Assembly, which may accept or reject all or any of them.

(*a*) In the case of non-Money Bills, when any of the following motions are moved, the other alternatives can be tabled and moved as amendments:

(i) That it be taken into consideration;

(ii) That it be referred to a Select Committee of the House;

(iii) That it be circulated for the purpose of eliciting opinion thereon.

Amendments except those which are negative in nature can also be moved to the various clauses of the bill.

(*b*) After rules, framed under the various Acts, are laid on the table of the House, if the Act contains provision therefor (which it invariably does) amendments can be tabled and moved.

(*c*) Amendments relevant to the motions expressing a decision of the House can be tabled and moved.

Restrictions: Generally, any notice of amendment should be in conformity with the provisions of the Constitution of India and the rules framed thereunder by the House of Legislature concerned, and also should not be frivolous or dilatory in nature. An amendment may not be moved which has merely the effect of a negative vote as the House has an opportunity to vote down the clause.

After a decision has been given on an amendment to any part of a bill, clause or motion, no amendment, which arises at an earlier part of the bill, clause or motion shall, except with the leave of the House, be moved. An amendment on a question must not be inconsistent with any previous decision on the same question given at any stage of the same bill or motion. In the case of bills originating in the Legislative Council and not agreed to by the Legislative Assembly, further amendments relevant to the subject matter of the amendments made by the Assembly may be moved, but no further amendment may be moved to the bill, unless it is consequential upon, or an alternative to, an amendment made by the Assembly or is made necessary by the delay in the passage of the bill. In the case of the Appropriation Bill, no recommendation can be proposed to any clauses of the bill which will have the effect of varying the amount or altering the destination of any grant or of varying the amount of any expenditure charged on the Consolidated Fund of the State.

As regards subordinate legislation, amendments to the rules should be moved: (1) within the period prescribed in the Act after the rules are laid on the table of the House, (2) should not be beyond the scope of the particular Act, (3) nor have the effect of levying a tax.

As regards resolutions amendment can be moved, subject to all the normal restrictions regarding the admissibility of resolutions, namely, that it shall raise a definite issue, that it shall not contain arguments, inferences, ironical expressions or defamatory statements, that it shall

not refer to the conduct or character of persons except in their official or public capacity, that it shall not relate to any matter which is under adjudication by a Court of Law, and that it shall not refer to a question of privilege.

In the case of motions which are of a general nature such as taking into consideration the Policy Note with reference to a certain department of Government no amendment is allowed to be moved as a matter of convention.

Certain motions are voted upon without debate and no amendment thereto is allowed. For instance, when a motion for leave of absence from the sittings of the House to a Member is moved, no amendment thereto is permissible.

The Chairman may disallow amendments which are not in conformity with the rules and refuse to print notice thereof. Even if the notice of amendments is printed and circulated, he may rule the amendments out of order when they are taken up for consideration if they do not satisfy the rules. In respect of any motion or any bill under consideration, the Chairman may select one of several identical or substantially identical amendments to be proposed for discussion, or he may, if he thinks fit, call upon any Member who has given notice of an amendment to give such explanation of the object of the amendment and rule out similar or identical notices.

Tamil Nadu: Legislative Assembly

In principle, Members have rights to table and move amendments to bills, subordinate legislation and motions. By tabling an amendment, the Member can ventilate his views on a particular aspect. The purpose of an amendment is to modify the main motion in the manner desired by the proposer, or to substitute an alternative to it.

In respect of bills, amendment can be of general nature or of matters pertaining to the specific provision of a bill.

Almost all Acts contain a provision authorising the Executive to make rules for the implementation of the Acts. Rules so made have to be placed on the Table of the House and the Members can table amendments to the same. The Committee on Subordinate Legislation, which examines such rules, also suggests amendments or modifications.

Amendments can also be tabled to motions. In fact, amendments are motions subsidiary to the main motion.

Generally, no restrictions are imposed on such rights to table amendments. However, amendments so tabled should be in conformity with the following rules:

1. Amendments must be relevant and within the scope.
2. Amendments must not be inconsistent with a previous decision on the same question.
3. Amendments must not have merely the effect of a negative vote.

4. Amendments must not be frivolous.
5. Amendments must not raise any questions which, by the rules of the House, can only be raised by a substantive motion.
6. An amendment must be intelligible.
7. An amendment should not anticipate an order of the day or another motion of which notice has been given.
8. An amendment should not be *ultra vires*.

Any amendment which is not in conformity with the above rules becomes inadmissible and as such does not find a place in the list of amendments. Often amendments to motions or bills under consideration are tabled in large numbers. This necessitates picking and choosing some. The power of selection is vested with the Chair. In the exercise of this power, the Chair is not bound by the order in which notice is given of amendments.

Uttar Pradesh: Vidhan Sabha

Members have rights to move amendments subject to the rules of relevancy, form of amendments and the prescribed period of prior notice. The Chairman may refuse to print notices of amendments, which are not received in time or do not conform to the rules. He may allow amendments to be moved and debated in groups but they have to be put separately to the House for its decision.

Ceylon: Senate

Members have the right of moving amendments to clauses in bills while they are under consideration in Committee.

Acts of Parliament providing for subordinate legislation generally require their approval by Parliament. Such approval may be obtained in one of two ways depending on the provisions of the main enactment:

1. The subordinate legislation may be first presented to the House and at a subsequent sitting a motion moved seeking approval for it. In such cases Members can only move amendments to the motion seeking approval and not to the detailed provisions of the subordinate legislation.
2. In other cases a motion seeking approval for the subordinate legislation (set out in full in the motion) is placed on the Order Paper. On such occasions Members have the right to move amendments to the subordinate legislation.

Members have the right to move amendments to motions.

It is out of order to move an amendment dealing with the subject matter of a bill or other Order of the Day appointed for consideration; and an amendment is also out of order if it deals with the subject matter of a motion of which notice has been given.

An amendment must be relevant to the question to which it is proposed.

An amendment must not raise any question which, by the rules of the Senate, can only be raised by a substantive motion after notice.

After a decision has been given on an amendment to any part of a question, an earlier part cannot be amended.

In like manner, where an amendment of any part of a question has been proposed from the Chair, an earlier part cannot be amended, unless the amendment so proposed is withdrawn.

An amendment on a question must not be inconsistent with a previous decision on the same question given at the same stage of any bill or matter.

No amendment to a bill can be proposed which is inconsistent with any decision reached upon any previous part of the bill.

Amendments to the clauses of a bill must be relevant to the subject matter of the bill.

The President may rule an amendment out of order if it violates the provisions of the Standing Orders summarised above. No provision exists for printing amendments of which notice has been given. No power is given to the President or other person to select or group amendments. Standing Orders require every amendment to be put in writing and handed to the Clerk. No time limit is prescribed for this. In practice, if the amendment is handed in early enough copies are made in the office and distributed among Senators before the debate begins.

Ceylon: House of Representatives

Amendments to bills can be moved by any Member during the Committee Stage, subject to the provisions laid down in Section 43 of the Standing Orders of the House of Representatives. Subordinate legislation such as resolutions, rules, regulations, orders, by-laws are not amended. Private Members' motions and Government motions of a general nature such as appointment of Select Committees, etc., can be amended.

Restrictions do exist under Standing Orders 61 and 63 and are applied and enforced by the Speaker or the Chairman of Committees.

Trinidad and Tobago: Senate

Where under any Standing Order notice of motion or of an amendment is required, such notice shall be given in writing, signed by the Senator and addressed to the Clerk of the Senate. Such notice shall be handed to the Clerk, or sent to, or left at, the Clerk's Office during the hours prescribed for the purpose.

Copies of motions and amendments sent to the Clerk shall be circulated by him to Senators, whether or not they be matters of which notice is required, and, in the case of amendments to bills, shall be arranged, so far as may be, in the order in which they will be proposed.

If a Member desires to vary the terms of a motion standing in his name, he may do so by giving an amended notice of motion, provided that such amendment does not, in the opinion of the President, materially alter any principle embodied in the original notice of motion that was given.

In the Senate the question upon a motion or amendment shall not be proposed by the President unless such motion or amendment has been seconded; provided that Government business shall not require seconding.

In Committee a seconder shall not be required.

If a Member other than a Minister does not, when called, move a motion or amendment which stands in his name, such motion or amendment shall be removed from the Order Paper unless deferred by leave of the Senate or moved by another Member duly authorised by that Member; but Government business may be moved by any Minister or Parliamentary Secretary.

No question shall be proposed upon a motion or amendment, which under these Standing Orders is required to be seconded, if it is not so seconded.

Standing Order No. 31 governs the moving of amendments:

(1) When any motion is under consideration in the Senate or in a Committee thereof, an amendment may be proposed to the motion if it is relevant thereto.

(2) An amendment may be proposed to any such amendment if it is relevant thereto.

(3) An amendment to a motion may be moved and seconded at any time after the question upon the motion has been proposed by the President or Chairman, and before it has been put by the President or Chairman at the conclusion of the debate upon the motion. When all amendments have been disposed of the President shall then put the question on the original motion or the motion as amended as the case may require.

(4) (*a*) Upon any amendment to leave out any of the words of the motion, the question to be proposed shall be " That the words proposed to be left out, be left out of the question ".

(*b*) Upon any amendment to insert words in, or to add words at the end of, a motion, the question to be proposed shall be " That those words be there inserted " (or " added ").

(*c*) Upon any amendment to leave out words and insert or add other words instead, a question shall first be proposed " That the words proposed to be left out be left out of the question ", and only if that question is agreed to, shall the question then be proposed " That those words be there inserted " (or " added ").

(*d*) When two or more amendments are proposed to be moved to the same motion, the President shall call upon the movers in the order in which their amendments relate to the text of the motion, or in case of doubt in such order as he shall decide.

(*e*) Any amendment may, by leave of the President, be withdrawn at the request of the mover before the question is fully put thereon, provided that there is no dissentient voice.

(5) (*a*) Any amendment to an amendment which a Senator wishes to propose may be moved and seconded at any time after the question upon the original amendment has been proposed, and before it has been put at the conclusion of the debate on the original amendment.

(*b*) The provisions of paragraph (4) of this Standing Order shall apply to the discussion of amendments to amendments except that in any question to be put, the words " original amendment " shall be substituted for the word " question ".

(*c*) When every such amendment to an amendment has been disposed of, the President shall, as the case may require, either put the question upon the

original amendment, or shall put the question upon the original amendment as amended.

(6) Any amendment, whether in the Senate or in Committee of the whole Senate, shall be put into writing by the mover and delivered to the Clerk before the question is proposed thereon.

(7) When the question upon an amendment to a motion has been proposed by the President or Chairman an earlier part of the motion may not be amended unless the amendment under discussion is withdrawn.

(8) An amendment shall not raise any question which, by these Standing Orders, can only be raised by a substantive motion after notice.

Gibraltar

Members' rights to table amendments to bills are governed by Standing Orders. In the case of any bills involving finance or matters which are not classified as defined domestic matters, the Governor's consent, signified by the Attorney-General or the Financial and Development Secretary, is required in accordance with Section 35 (2) of the Gibraltar Constitution Order, 1969.

Subordinate legislation can be tabled by the appropriate Minister if so specified in the Main Ordinance. Where it is provided for in the Main Ordinance that subordinate legislation is to be laid before the Assembly, Members have a right to seek its annulment but not its amendment in accordance with Section 25 of the Interpretation and General Clauses Ordinance.

With the exception of motions involving finance, which require the consent of the Governor, signified through the Financial and Development Secretary in accordance with Section 35 (1) (*b*) of the Gibraltar Constitution Order, 1969, Members' rights to table motions are not restricted in any way.

Restrictions on the above rights are in accordance with standing orders and the general principles embodied in Erskine May.

Grenada

Members have such rights to table and move amendments as are set out in Erskine May and Standing Orders.

Malta

All amendments to bills, subordinate legislation and motions are accepted by the Chair, if in accordance with Standing Orders. The restrictions are laid down by parliamentary practice and Standing Orders.

Western Samoa

Members are at liberty to move and table amendments to bills and motions but not to subordinate legislation. There are no restrictions on such rights.

St. Lucia

Standing Order 55 (3) provides as follows:

An amendment may be proposed to a bill in the Committee stage but it must be relevant to the subject matter of the bill and to the subject of the clause to which it relates.

It must not be inconsistent with any clause already agreed to or with any previous decision of the Committee.

It must not be such as to make the clause it proposes to amend unintelligible or ungrammatical.

If an amendment refers to, or is not intelligible without a subsequent amendment or schedule, notice of the subsquent amendment or schedule must be given before or when the first amendment is moved so as to make the series of amendments intelligible as a whole.

In order to save time and repetition of arguments, the Chairman may allow a single decision to cover a series of inter-dependent amendments.

Three copies of any proposed amendments of which notice has not been given are to be handed to the Chairman in writing.

The Chairman in Committee of the whole House may refuse to allow an amendment to be moved which is, in his opinion, frivolous or meaningless.

Except on the recommendation of the Governor to be signified by a Minister, the Committee cannot proceed upon any amendment to a bill which in the opinion of the Chairman would contravene Section 44 of the Saint Lucia Constitution Order 1967 (*i.e.* by imposing taxation or creating a charge on the Consolidated Fund or other Fund of St. Lucia).

The Chairman may at any time during the discussion of a proposed amendment withdraw it from the consideration of the Committee, if, in his opinion, the discussion has shown that the amendment violates the provisions of this Standing Order.

Standing Order 32 provides for amendments to motions:

An amendment may be proposed to a motion under consideration in the House or in Committee thereof if the amendment is relevant thereto.

An amendment may be proposed to any such amendment if it is relevant thereto.

The amendment may be moved and seconded at any time after the question upon the motion has been proposed by the Speaker or Chairman and before it has been put at the conclusion of the debate on the motion.

An amendment whether in the House or in Committee of the whole House must be put in writing by the mover and delivered to the Clerk before the question is proposed.

An amendment shall not raise any question, which, under these Standing Orders may only be raised by a substantive motion after notice

When two or more amendments are proposed to the same motion the Speaker will call upon the movers in the order in which their amendments relate to the text of the motion, or in case of doubt in such order as he shall decide.

In practice the Speaker or Chairman does not select or group amendments.

There is no provision in the Standing Orders for tabling amendments to subordinate legislation.

XV. APPLICATIONS OF PRIVILEGE

At Westminster

House of Commons (Rights of Members of the House detained in prison).—The first Report made by the Committee of Privileges during Session 1970–1 was concerned with the rights of Members of the House detained in prison. This arose out of the case of Miss Bernadette Devlin, Member of Parliament for mid-Ulster, who was convicted on 22nd December, 1969, at Londonderry Petty Sessions under Section 9(1) of the Criminal Justice (Miscellaneous Provisions) (Northern Ireland) Act 1968, of having, on 13th August in the same town, committed the offence of incitement to riotous behaviour, and was sentenced to imprisonment for six months. Such a conviction is not, it must be remembered, a disqualification for membership of the House of Commons.

Miss Devlin appealed by way of case stated to the Court of Appeal in Northern Ireland and was released on bail. On 22nd June, 1970, her appeal was dismissed and her conviction and sentence were confirmed. Leave to appeal to the House of Lords was refused on 26th June and she was duly committed to Armagh prison.

Meanwhile the Parliament of which Miss Devlin was a Member was dissolved on 29th May and she was returned a Member of the new Parliament which met on 29th June and was opened by the Queen on 2nd July. The same afternoon the Speaker informed the House that he had received a letter from the Resident Magistrate at Londonderry, informing him of Miss Devlin's conviction and imprisonment. The next day Mr. Latham and certain other Members raised, as questions of order and privilege, a number of matters in connection with those events; in particular, whether the Speaker had been informed at the earliest possible opportunity, and what were Miss Devlin's rights as an imprisoned Member of Parliament, particularly since she had not had an opportunity of taking her seat. Would she, they asked, be given an opportunity to take the oath and thus become qualified to perform some, at least, of a Member's duties, for example to put down questions to Ministers for written answer? It was emphasised that in the circumstances her constituents might otherwise be deprived of the rights to which they were ordinarily entitled.

The Speaker gave his answer on the following Monday, the next sitting day. He was satisfied that the required information had been given to him at the earliest opportunity. He could not, he went on to say, find anything in the submissions made to him, which would entitle him to rule on the issue as involving privilege, but this would not, of course, prevent Members from raising the matter by other

means open to them. When pressed on the subject of an imprisoned Member's right to conduct a parliamentary correspondence he reminded the House that his predecessor had ruled in 1926 (in the case of Mr. Saklatvala) that " a Member of the House is, with regard to the criminal law, in exactly the same position as any other person".

Mr. Latham and a number of other Members then put down an " early day " motion:

That this House believes that the matter of the rights of honourable Members of this House who have been committed to Her Majesty's Prisons, and of their constituents, be referred to a Select Committee to be appointed for this purpose, and that they do consider and report, in particular, what action should be taken if any person deliberately delays the receipt of mail by an honourable Member, interferes with a Member's right to correspond with any constituent, member of Her Majesty's Government, Department of State or another Member of this House, forcibly prevents a Member from attending this House or prevents a Member who wishes to do so from interviewing a constituent or a fellow Member who is assisting him in the conduct of his constituency business.

This was not moved; but the matter was referred on 23rd July to the Committee of Privileges, on the motion of Mr. William Whitelaw, the Leader of the House, in the following terms:

That the matter of the rights of any honourable Member of this House who may be detained in one of Her Majesty's Prisons, and of his or her constituents, be referred to the Committee of Privileges; and that they do consider and report to what extent the privileges of this House require that such a Member should be granted facilities to carry out his parliamentary duties while in prison.

On the following day the House adjourned for the summer recess and did not meet again till 27th October. By that time Miss Devlin, having earned her full remission of sentence, had been released from prison; and she proceeded to take the oath at the earliest opportunity. The conditions of her imprisonment had therefore ceased to be a live issue before the Committee held their first meeting.

The Committee made their Report on 1st December, having held five meetings; only one witness, the Clerk of the House, was examined, but the Committee received memoranda from the Departments responsible for prisons in England and Wales, Scotland and Northern Ireland respectively. The Report referred briefly to the rules (set out in detail in the memoranda) regarding the rights of prisoners, both unconvicted and convicted, to receive and send letters and to receive visits. The Committee, having examined the precedents, were satisfied that no question of privilege was involved in the treatment by the prison authorities of a Member of Parliament detained in prison, and they made it clear that, in their view, while a Member of Parliament in prison remained a Member of Parliament he was in no different position from any other person so detained. They thought that he should not be given any special advantages by reason of his being

a Member; and they could not see any reason for a distinction between a Member who had taken the oath and one who had not. The Committee concluded their Report by saying that they recognised that when a Member was imprisoned his constituents, like the House, were deprived of his services; but they recalled that there were many other circumstances in which a constituency might be left unrepresented for considerable periods.

The Report has not been debated by the House and there is no reason to think that it will be; it is therefore likely to be regarded as an authoritative statement of parliamentary law on this subject.

House of Commons (Chairman of Committee criticised in Press)—On 13th October, 1969, Mr. Robert Maxwell, Labour M.P. for Buckingham, complained in the House of Commons, of an article in the previous day's *Sunday Times* which related in part to his conduct as Chairman of the Catering Sub-Committee of the House of Commons (Services) Committee. This Sub-Committee has responsibility for the refreshment services in the House of Commons, which were showing a large deficit when Mr. Maxwell, a well-known businessman, was first appointed to the chairmanship in March 1967. The article claimed to describe the methods which, before his resignation from the Sub-Committee in April 1969, Mr. Maxwell had employed in order to cut this deficit, and suggested that they represented the " pattern in microcosm " of Mr. Maxwell's business career as a whole. In particular the writer alleged that Mr. Maxwell had exaggerated the real extent of the improvement that had been achieved in the Refreshment Department's finances, and had in fact relied primarily on Treasury subsidies to eliminate the deficit. It was also stated that the Exchequer and Audit department, after examining the draft refreshment accounts for 1968, had revised them to show a loss of £3,400 rather than a profit of £1,787.

Mr. Maxwell told the House that he had already taken legal action as a result of other articles about him in the *Sunday Times* but said that this particular article affected the privileges of the House; it constituted an intrusion into the activities of Members of the Catering Sub-Committee and might deter other Members from accepting such duties in the future. The following day Mr. Speaker ruled that a prima facie case of breach of privilege had been made out. In the short debate that followed, two or three speakers expressed the view that in this sort of case the remedy sought should, in the words of Mr. Michael Foot, " be a remedy provided by the laws of the land and not by the privileges of Parliament ", but the motion to refer the matter to the Committee of Privileges was agreed to without a division.

The Committee held 13 sittings on the matter and their report was presented in March 1970. Its key sentences were as follows:

Your Committee consider it right to report that they heard no evidence that Mr. Maxwell's conduct as Chairman of the Catering Sub-Committee was in

any way improper or departed from normal procedures in compiling the accounts. However Your Committee are of the opinion that neither the question of privilege nor that of contempt arises.

The Committee also said that there was " no proof " that the *Sunday Times* had had improper access to the draft account of the Refreshment Department or to a letter from the Exchequer and Audit Department relating to the account. They decided not to publish any of the evidence which they had taken because it might have a bearing on the action brought by Mr. Maxwell, which was still pending in the courts. (*H.C. Deb.*, Vol. 788, cols. 44–6, 220–33.)

House of Commons (Alleged attempt to serve legal documents on a Member).—On 17th December, 1969 a further complaint of breach of privilege, again involving Mr. Maxwell, was made in the House. Mr. Mackintosh, Labour M.P. for Berwick and East Lothian, drew attention to a report in *The Times* which suggested that a representative of Pergamon Press, the firm of which Mr. Maxwell had formerly been Chairman and Chief Executive, had attempted to serve legal papers on Mr. Maxwell within the precincts of the House. The matter of the complaint was referred to the Committee of Privileges on the following day. The Committee presented their report on 8th April, 1970, after hearing evidence from Mr. G. B. Nelson, the private investigator who was alleged to have made the attempt, and from two members of Mr. Maxwell's staff.

Precedents showed that an attempt to serve a legal process on a Member within the precincts on a sitting day had in the past been regarded as a breach of privilege even if the papers were not in fact served. The questions to be determined on this occasion, therefore, were essentially one of fact. The conclusion the Committee reached was that Mr. Nelson had brought legal papers into the precincts of the House but the evidence did not prove that he had attempted to serve them on Mr. Maxwell. Accordingly they expressed the view that no contempt of the House had been committed. (*H.C. Deb.*, Vol. 793, cols. 1363, 1565–6.)

Northern Ireland

Reflection upon legislative authority of House of Commons.—On 9th July, 1970, Mr. Desmond Boal, Member for Shankill, raised a question of breach of privilege in the following terms:

I want to direct your attention to last evening's copy of a local newspaper which circulates throughout Northern Ireland, the *Belfast Telegraph*. I have a copy here of the sixth edition and, with your permission, I will read the matter on which I will base a complaint for your examination. What I read is, unfortunately, verbatim; it is not my language, I am glad to say. It is headed:

" TIME, GENTLEMEN, PLEASE—AT 11 P.M. "

and, on the front page, the article—it is represented to be by, if you please, a political correspondent—reads as follows in black type:

> " The long-awaited legislation to up-date Northern Ireland's much-criticised licensing laws is to be presented by the Government in the Commons at Stormont tomorrow."

This is the first paragraph. I make no complaint about it. It is not an offence to this House although it is obviously an offence to Fowler and to English syntax, grammar and everything else. In other words, it may be the worst of journalese but unfortunately I as a Member of Parliament cannot complain about that.

It is the second paragraph to which I respectfully and solemnly direct your attention, Mr. Speaker:

> " It will legalise the sale of Sunday drinks with meals to non-residents in hotels and licensed restaurants. But it will not bring the Sunday opening of public-houses."

I will read only one more paragraph:

> " The law, however, is expected to be changed to extend the week-day closing hour of pubs from 10 to 11 o'clock at night. There is to be a period of afternoon closing. Details will not be known until the Bill is published shortly."

Mr. Speaker, I do not want to take up your time and the time of the House by reading further from the article. It is on the second paragraph that I base my complaint. The complaint I formally make is twofold. First of all, what is in that paragraph is represented to be the content of a Bill which only now has been placed on the Table of this House by the appropriate Minister. You will recognise, Mr. Speaker, that I do not know the content of that Bill nor does any other hon. Member. Yet in last evening's *Belfast Telegraph* it was represented by the political correspondent that he knew the content of that Bill in part at least.

My respectful submission to you and to the House is that prima facie there is the suggestion therefore that a Member of the Government or the Government has disclosed to somebody other than to this House, before presenting to this House a Bill, the contents of that Bill. If that be the case—notice, I make it conditional—then it is my respectful submission to you that it is a gross affront to this House to present a Bill to this House for its consideration but, before presenting it, to disclose the content of that Bill to people other than the Members of this House. That is my first submission. It would be an indictment of the Government if it were proved. I suggest that it is something which ought to be investigated in the appropriate way.

My second submission is directed not to the Government but against the *Belfast Telegraph*. The phraseology of the second paragraph is a matter for your consideration, Mr. Speaker, and for the consideration of this House. I now direct your attention to it again:

> " It will legalise the sale of Sunday drinks with meals to non-residents in hotels and licensed restaurants. "

I am not concerned with the content as you will appreciate. It does not say, " It will be proposed to legalise ", or " It will propose to legalise the sale of Sunday drinks ". In other words, the political correspondent of the *Belfast Telegraph* is saying that the Bill as it is first presented to the House will be the Bill that will eventually be passed unamended by this House. If that statement is taken literally to mean what it is represented to say then it is again a gross affront to the dignity of this House because it is saying that the Bill which is presented here today will be exactly the Bill that will receive Royal Assent on the appropriate occasion . . .

Mr. Speaker gave his consent and the matter was referred to the

Committee of Privileges which made its Report to the House on 20th October, 1970, in the following terms:

1. Your Committee have held four meetings and have, in the course of their inquiry, examined Mr. Eugene R. Wason, Editor of the *Belfast Telegraph*, Mr. John Wallace, Political Correspondent of the *Belfast Telegraph*, and the Rt. Hon. John Dobson, M.P., Leader of the House of Commons. The Clerk-Assistant of the House submitted a memorandum and a supplementary memorandum which are printed as Appendices to this Report. The Librarian of the Houses of Parliament supplied us with a note on the Publication of Bills which is printed as an Appendix.

2. The complaint which was considered by your Committee may be divided into two parts. The first concerned the publication by the *Belfast Telegraph* of what was represented to be part at least of the contents of the Licensing Bill before it had been seen by Members of the House. Prima facie, therefore, there was a suggestion that a Member of the Government or someone in their confidence had disclosed the contents of the Licensing Bill before its presentation to the House.

3. In evidence, Mr. Dobson stated, after having consulted each of his colleagues, that neither he nor any other member of the Government had communicated to the Political Correspondent of the *Belfast Telegraph* or to any other person anything about the contents of the Licensing Bill.

4. Mr. John Wallace, the author of the article in the *Belfast Telegraph*, assured your Committee that no person had disclosed to him the contents of the Licensing Bill and that he had not seen the Bill or any part of it. Mr. Wallace stated that his article was based upon information contained in a number of articles which had already been published in newspapers and which related to possible changes in the licensing laws. Mr. Wallace also assured your Committee that he had had no conversation with any Member of the Government or any Member of Parliament about the content of the Bill.

5. In the absence of any evidence—other than that implicit in the article itself—to the contrary, your Committee accept these assurances and as no premature disclosure of the content of the Bill was established, your Committee do not think it necessary or desirable to go further in the matter and to advise the House as to whether or not, in their opinion, there are circumstances in which the disclosure of the content of a Bill before, or after, it is presented to the House could constitute a contempt of the House.

6. The second part of the complaint referred to your Committee related to part of the wording in the article in the *Belfast Telegraph*. It was submitted that the words

> " It will legalise the sale of Sunday drinks with meals to non-residents in hotels and licensed restaurants "

constituted a grave affront to the dignity of the House because of the implication that the Bill would eventually be passed, unamended, by the House.

7. Your Committee have no hesitation in stating that in their view the use of such wording in a newspaper article referring to proceedings in Parliament is most offensive and should not be repeated.

8. The Editor of the *Belfast Telegraph* informed your Committee that the wording was a " mistake " and that the article should have said, " It is proposed to legalise " rather than " It will legalise ".

9. The author of the article, Mr. Wallace, also accepted that offence was given to the House of Commons by the words but assured your Committee that no offence was intended. Mr. Wallace said he did not mean to convey the impression that the Bill could be passed without amendment and he apologised if Mem' ers had taken that meaning out of the article.

10. Your Committee have already made clear their opinion of the words

used in the article. They are unable to go further and say that the words of the article fall within the accepted definition of a contempt of the House, which is:

> "Any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or Officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such a result." (*May's Parliamentary Practice*, 17th ed., p. 109.)

11. Therefore, in view of the ready admission by the Editor of the newspaper that the form of words was a mistake and the apology offered by the author of the article for any affront or disrespect to the House of Commons, your Committee recommend that the House should take no further notice of the matter.

CANADA: HOUSE OF COMMONS

Returns to Orders for production of papers not in proper form.—On 25th February, 1970, Mr. J. L. Skoberg (Moose Jaw) rose on a question of privilege and drew attention to the returns to two orders for production of papers which had been presented two days previously. He said that when he had received these returns he had been surprised to find a package of microfilm enclosed in a brown envelope, with an accompanying letter signed by the President of the Privy Council stating:

> The attached information has been received by the President of the Privy Council from the Department of Regional Economic Expansion.

Mr. Skoberg said that he had no room in his office to install a projector to view the microfilms, and asked the Speaker for a determination to be made as to whether or not this was a proper response to a member's motion for the production of papers.

The Speaker immediately replied with the following ruling:

> I am not sure whether the hon. member has a point of order or a point of privilege but certainly he has a point. The return presented by the department obviously is not in the conventional or traditional form. It seems to me that if a return is to be of any value to an hon. member it should be presented in a form that will convey to the member the information he is seeking and which the House has ordered he should receive. I suggest that this requirement is not met by the filing, by way of reply, of material which cannot be interpreted without the use of a mechanical device.
>
> As of the present date there is not readily available to members the equipment required to print out the material contained on a film negative. I might say that even if such equipment were available it is still very doubtful that a return in the form now presented would be acceptable without a special order of the House or without a change in our rules.
>
> It may be that at some time in the future the House will consider it expedient to provide for the submission of returns in this form, but this is looking into the future. For the moment I must rule that the return is not in proper form and does not comply with the order of the House.

WESTERN AUSTRALIA: LEGISLATIVE ASSEMBLY

Criticism of Minister for remarks in House.—On 29th October, 1970, a Mr. T. Luckett in a radio news report was extremely critical

of the Minister for Industrial Development, the Hon. C. W. M. Court, regarding certain remarks made by Mr. Court in the House on a motion seeking compensation for one Kenneth Bernard Gouldham, who had been gaoled and subsequently released after an appeal to a Court of Criminal Appeal.

During the course of his remarks, Mr. Luckett had this to say:

he (Mr. Court) has laughed at logic, ridiculed reason, jeopardised justice and prostituted Parliamentary privilege.

Mr. Luckett then issued the following challenge to Mr. Court:

to come down from the Hill and justify his defamation not only of person but of Parliament.

On the first meeting of the House following the news report a question was asked of the Premier in the House regarding a possible breach of parliamentary privilege amounting to contempt of Parliament. Sir David Brand in reply had this to say:

The Government has given serious consideration to this matter and we have decided to treat the comments with the contempt they deserve.

To further questions two days later, Sir David replied, in part:

having regard to the fact that this was the only incident of its kind to come to notice in recent memory, the Government resolved to exercise discretion and not to initiate any action.

The House is the custodian of its Privileges and every member of the House has the responsibility of asserting and defending those privileges.

(*Parl. Deb.*, pp. 1751, 1900, 1901 and 1902.)

India: Lok Sabha

Imprisonment of two visitors following disturbance in the gallery.—On 31st August, 1970, two persons, Swami Yogeshwara Nand Giri and Shri Raj Kumar Jain, raised some slogans from the Visitors' Gallery of the House. They were immediately taken into custody and removed from the Visitors' Gallery by the Watch and Ward Staff. After some time, on the same day, the Minister of Parliamentary Affairs (Shri K. Raghuramaiah) moved the following motion, which was adopted by the House:

This House resolves that the persons calling themselves (1) Swami Yogeshwara Nand Giri and (2) Shri Raj Kumar Jain, who raised slogans from the Visitors' Gallery at 12.45 p.m. today and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be sentenced to simple imprisonment till 6 p.m. on Tuesday, the 1st September, 1970 and sent to Tihar Jail, Delhi.

In pursuance of this motion adopted by the House, the Speaker issued a Warrant of Commitment, addressed to the Superintendent, Central Jail, Tihar, Delhi. Swami Yogeshwara Nand Giri and Shri

Raj Kumar Jain were accordingly taken by the Watch and Ward Staff and lodged in the Central Jail, Tihar, Delhi, where they served out their sentence of imprisonment.

False evidence given before Public Accounts Committee by a Government officer.—On 6th March, 1969, Shri Madhu Limaye, a Member, moved the following Motion in the House:

> That the question of privilege against Shri N. N. Wanchoo, former Secretary, Department of Iron and Steel, and Shri S. C. Mukherjee, then Deputy Iron and Steel Controller, for allegedly giving false evidence before the Public Accounts Committee, be referred to the Committee of Privileges.

Shri Madhu Limaye said that on the basis of irrefutable evidence he accused the two persons named in the Motion of giving false evidence before the Public Accounts Committee during the Committee's enquiry in 1965–6 into certain steel transactions. In the presence of Shri Mukherjee, Shri Wanchoo had told the Committee that the instructions of the Ministry of Iron and Steel in regard to the conditions for the issue of pre-import licences were not as clear as they ought to have been and " left some room for different interpretations "; and on the basis of this evidence the Committee had made some strong criticisms of the Ministry in their report. In fact this suggestion of ambiguity in the instructions had been, according to Shri Madhu Limaye, " a concoction pure and simple "; the instructions conveyed by the Ministry of Steel to the Steel Controller had been clear and unambiguous, and the fault lay with the Steel Controller, who had violated the instructions.

The Minister of Steel and Heavy Engineering (Shri C. M. Poonacha), speaking on the Motion, said that Shri Wanchoo did appear to have committed certain errors when furnishing information to the Public Accounts Committee, but had taken an early opportunity of correcting the errors. The subsequent Committee of Inquiry on Steel Transactions had not drawn any adverse inference against Shri Wanchoo, though one member of that Committee, in a dissenting note, had expressed the view that Shri Wanchoo had been misled by Shri Mukherjee. It was in the interests of all concerned that this possible doubt about Shri Mukherjee's conduct should be looked into, and the Government had no objection to the case being referred to the Committee of Privileges.

The Motion moved by Shri Madhu Limaye was then adopted by the House and the matter was accordingly referred to the Committee of Privileges.

Subsequently, on 22nd March, 1969, Shri Madhu Limaye submitted to the Speaker another notice on the same subject, which was referred by the Speaker to, and considered by, the Committee of Privileges together with the previous reference made by the House. In the new notice Shri Madhu Limaye claimed that on three further points Shri

Mukherjee had given false information to the Committee of Public Accounts. He had been asked when the Iron and Steel Controller became aware that certain pre-import licences had been mistakenly issued in the absence of the necessary conditions, and the date he had given in his reply had been absolutely false; he had also deliberately misled the Committee on the amount of imports that had been cleared after this mistake was discovered; and, finally, he had implied that the Bank Guarantee Bond used in these transactions had been the one drafted and approved by the Central Government Solicitor, though in fact he himself had secretly revised it subsequently.

The Committee of Privileges first asked the Public Accounts Committee for their views on the question whether any false evidence had been given before them as was alleged by Shri Limaye. The Public Accounts Committee appointed a Sub-Committee to investigate the matter, and this Sub-Committee, after examining Sarvashri N. N. Wanchoo and S. C. Mukherjee, submitted a report to the Public Accounts Committee which was then forwarded to the Committee of Privileges.

The report of the Committee of Privileges was presented to the House on 24th November, 1970, and expressed complete agreement with the findings of the Public Accounts Committee on the various points at issue. On the allegation raised by Shri Limaye's original motion, that Shri Wanchoo had falsely suggested that instructions issued by the Ministry of Steel were ambiguous, the Committee stated that, though Shri Wanchoo had omitted certain relevant facts in his testimony, it could not be concluded that he had deliberately intended to mislead the Public Accounts Committee; and Shri Mukherjee could not be held directly responsible for the Committee having been misled, for he had not himself given evidence on this point.

The Committee of Privilege's report then turned to the further allegations made by Shri Limaye in his subsequent notice. In regard to the date on which the mistake in the issue of the pre-import licences was first noticed, the Committee decided that Shri Mukherjee "should be given the benefit of doubt". The Committee acknowledged that there had been a factual inaccuracy in the statement made to the Public Accounts Committee about the amount of imports made by the firm concerned after the mistake had been noticed, but concluded that, in view of the reasons given by the Public Accounts Committee, this " did not tantamount to misleading the Committee ".

On the final point, however, the Committee stated that " a material change in the form of the Bank Guarantee was made by Shri Mukherjee and not by the Government Solicitor and that therefore a misrepresentation of the position to this extent was made by Shri Mukherjee when he gave evidence before the Public Accounts Committee ". Their report continued:

> The Committee are therefore of the opinion that Shri S. C. Mukherjee has committed a breach of privilege and contempt of the House by misrepresenting the position in the matter and thereby misleading the Public Accounts

Committee. The fact that such contempt has been committed by a responsible public servant of Shri S. C. Mukherjee's position, has increased the gravity of the offence.

The Committee of Privileges concluded with the following recommendation:

Shri S. C. Mukherjee deserves to be censured for the contempt of the House committed by him in misleading the Public Accounts Committee in the matter of changes made in the bank guarantee form. The Committee, however, feel that the requirements of the case would be fulfilled if the disapproval and displeasure of the House in respect of the contempt of the House committed by Shri S. C. Mukherjee is conveyed to him and also to the Government of India for such disciplinary action as they deem fit.

The report of the Committee of Privileges was considered by the House on 2nd December, 1970, when Shri Madhu Limaye moved a motion that Shri Mukherjee, in view of his contempt of the House, should be committed to jail custody for a week. Dr. Ram Subhag Singh, another member, however, moved an amendment to the above Motion moved by Shri Madhu Limaye to the effect that instead of committing Shri S. C. Mukherjee to jail custody for a week, he be summoned before the Bar of the House and be reprimanded and that the House might further recommend that the Government in the light of gravity of the offence should administer to Shri S. C. Mukherjee maximum punishment under the law and report the same to the House.

After some discussion, the above amendment moved by Dr. Ram Subhag Singh was agreed to and the motion was adopted by the House in the following amended form:

That this House having considered the Twelfth Report of the Committee of Privileges presented to the House on the 24th November, 1970, in which Shri S. C. Mukherjee, the then Deputy Iron and Steel Controller, has been held to have deliberately misrepresented facts and given false evidence before the Committee on Public Accounts and committed contempt of this House, do resolve that he be summoned before the Bar of the House and be reprimanded and the House do further recommend that the Government in the light of gravity of the offence administer to Shri S. C. Mukherjee maximum punishment under the law and report the same to this House.

On 9th December, 1970, immediately after Question Hour, Shri Mukherjee was brought to the Bar of the House by the Watch and Ward Officer, and the Speaker (seated in the Chair) reprimanded him in the following terms:

S. C. Mukherjee, this House having considered the Twelfth Report of the Committee of Privileges presented to the House on the 24th November, 1970, has adjudged you guilty of committing contempt of the House for having deliberately misrepresented facts and given false evidence before the Committee on Public Accounts. The House resolved on the 2nd December, 1970, that you be summoned before the bar of the House and be reprimanded therefor.

Accordingly, in the name of the House, I reprimand you for having committed contempt of this House.

I now direct you to withdraw.

Shri Mukherjee then bowed to the Speaker and withdrew as directed by him.

Andhra Pradesh

Non-implementation of Government assurances.—Eight Members gave notice of a Motion, dated 11th December, 1970, under Rule 173 of the Andhra Pradesh Assembly Rules, seeking to impeach the Government in general for contempt of the House on the ground that the Committee's Report on Government Assurances for the years 1968–70, placed on the Table of the House on 10th December, contained serious remarks regarding the non-implementation of Government assurances pertaining to the Second, Third and Fourth Legislative Assemblies. The Members claimed that the Report bore out the callous attitude of the Government, which was tantamount to a contempt of the House.

The matter was taken up in the Assembly on 15th December. The Minister for Education, Sri P. V. Narasimha Rao, speaking on behalf of the Government, stated that in the matter of implementing assurances given on the floor of the House, each case had to be judged on the nature of the problem involved; there was, for instance, a great difference between a problem which could be disposed of within a short time and one which, on the very nature of it, involved a long process extending sometimes over several years.

On 18th December the Speaker ruled as follows:

From the observations made by the Committee on Government assurances in its Fifth Report, it is seen that the Government Departments have not at all been evincing any interest in implementing the assurances and that, in the opinion of the Committee, the very purpose of giving assurances is being defeated on account of this abnormal delay in implementation of the assurances. The Committee while making these observations has not stated any specific instances where in spite of an assurance given by a Minister there was long delay in the matter of its implementation. This apart, the question arises whether, even if there is delay in the matter of the implementation of an assurance, it would amount to a contempt of the House. Neither a search to find out any Ruling on a similar nature in any Legislature nor *May's Parliamentary Practice* has revealed a similar instance where it was held that non-implementation of assurances given by the Ministers amounts to a contempt of the House. There is, however, a solitary instance as seen from the proceedings of the Madras Legislative Assembly in the year 1956 where it was held that failure to implement an assurance does not amount to a breach of Privilege. In cases where there is unreasonable delay in the matter of implementing the assurances, though it can be held that it amount to indifference or carelessness due to negligence on the part of the Department, I consider that it is not proper to hold that it amounts to a contempt of the House, unless it is also proved in addition that it was deliberately and intentionally caused with the sole object of bringing the House into contempt. In the absence of such *mala fides* which is neither attributed nor borne out from the records, it is not fair to hold that it amounts to a contempt of the House.

For the above reasons, I am of the opinion that no *prima facie* case has been made out to refer this motion to the Committee on Privileges for enquiry and report. It is, therefore, disallowed.

MYSORE

Allegation that a State Governor had adversely commented on the Indian parliamentary system.—On 17th October, 1970 Sri G. S. Ullal, a member of the Legislative Council, raised a question of privilege against the Governor of Mysore for certain remarks reported to have been made by him during the course of a speech at Mangalore. The Governor was reported to have stated that " the Indian parliamentary system had become a victim of chaos and disorder and legislatures were being used as a stage for wrestling ". The Governor was also reported to have stated that " no real work was being done and public money was being wasted ". The Governor was further alleged to have said that " if people failed to check this tendency, the day when the country would be ruled by goondas, blackmarketeers and unsocial elements was not far ".

The Chairman of the Legislative Council, after hearing some Members in the House, gave the following ruling:

Sri Ullal bases his privilege Motion on newspaper reports. He has not stated that he was present at the time the Governor was reported to have made the above statements, nor is it his contention that he has obtained an authenticated copy of the Governor's speech.

It is unnecessary for me to go into the question as to whether the Governor's conduct can be discussed on the Floor of this House. This issue bristles with complications and no final conclusions have been arrived at. It would be enough for me to give my ruling on the basis whether the Governor's Speech if made by a citizen tantamounts to breach of privilege of the House. It is not the contention of Sri Ullal that the Governor was giving expression to the official view of the Government of Mysore which he could do only on the basis of advice tendered by the Council of Ministers. Even though the Governor was addressing a meeting, it is clear that he was giving vent to his personal view.

The House is aware that the privileges of members of the Legislatures in India are the same as those available for members of the Parliament of the United Kingdom. The essential purpose of Parliamentary privilege is to enable the members to speak their mind without fear or favour. The members of the Legislature are ensured freedom of speech and to the extent that any person inside or outside threatens to curtail or thwart the exercise of such freedom, a breach of privilege could be said to have ensued. It has been held by the House of Commons that general remarks concerning the conduct of members of the House would not amount to infringement of the privileges of the Members, since such remarks do not tend to influence the privilege of the House. Reflections on the parliamentary conduct of members who are even named, have been held not to be breaches of privilege unless it is proved that such remarks were made for a *mala fide* purpose. It has also been held that the law of Parliamentary privileges should not except in the clearest case, be invoked so as to inhibit or discourage the formation and free expression of opinion outside the House by citizens in relation to the conduct of the affairs of the Nation. Here I will refer to the ruling given by the Speaker of the House of Commons in the United Kingdom in relation to a case of breach of privilege. I quote:

> " . . . however grave the charges and imputations made in that article may be, I do not think it is a case of privilege. It has been the practice of this House to restrain privilege under great limitations and conditions; and

these restrictions and limitations have been in my opinion, very wisely imposed by the House upon itself. The rule is that, when imputations are made, in order to raise a case of privilege, the imputation must refer to the action of Honourable Members in the discharge of their duties in the actual transaction of the business of this House, and though I quite understand the Honourable Baronet having brought this matter to my notice, I cannot rule that this is a case of privilege. Of course if the Honourable Members think themselves aggrieved they have a remedy; and they will not be precluded from pursuing their remedy elsewhere than in this House. "

This House is no doubt aware of the case of breach of privilege alleged against Sri C. Rajagopalachari for his remarks against the members of the Legislatures that " they were such people whom any First Class Magistrate could round up ". The Lok Sabha declared the statement as not amounting to breach of privilege and the Andhra Pradesh Legislative Assembly also held that the statement had not been proved and was not a breach of privilege. I would also draw attention of the House to a statement appearing in the Press concerning the statement of our President regarding " falling standards and lack of the decorum and behaviour inside the Legislative Chambers ". The former President of India, Babu Rajendra Prasad, also made some caustic remarks about the functioning of the legislatures in this country.

I am sure the members will realise that we in this House function under public gaze. Our proceedings are open to the visitors and are widely published in the newspapers. The members of the public are entitled to form opinions about our contribution to national life and our conduct as lawmakers.

It might be that occasionally public criticisms and remarks are unpalatable to us. But as long as those remarks do not impede or obstruct the course of proceedings in the House and do not reflect upon the personal conduct of Members in their capacity as elected representatives, I do not think that it would be fair for this House to stifle public opinion however strongly expressed. It is better that we avoid being over-sensitive of our privileges. On the other hand it will be conducive to the discharge of our responsibility, if we conduct ourselves as per the dictates of our conscience, uninfluenced by opinions expressed, right or wrong.

In the instant case, the Governor has not spoken with particular reference to the Mysore Legislative Council. I do not therefore think it would be proper for us to take particular notice of his remarks.

I am sure that the Governor in making the aforesaid remarks did not have in mind the Mysore Legislative Council which has been known over decades for its sobriety, dignity and decorum. I am sure the reported remarks of the Governor are totally inapplicable to the facts and conditions obtaining in this House.

In the circumstances, I decline to give my consent to the Motion being taken up in this House.

Unsubstantiated allegations made by a Member against a Minister.—On 13th October, 1970 Sri N. Rachaiah, a Member of the Legislative Council during the course of his speech on the Mysore Excise Bill which was being considered by the House, made some allegations against the Minister for Agriculture, Sri B. Rachaiah. The Member stated *inter alia*, that the Minister was receiving Rs.3,000 from the people of Alur and that two nephews of his were running toddy shops in Alur, Chamarajnagar Taluk, and also that the Minister misused the imported Russian tractors by employing them first for the improvement of his private farm.

A question of privilege was raised by Sri B. Rachaiah, Honourable Minister for Agriculture, against Sri N. Rachaiah, the Member who had made the allegations.

After considering the matter, the Chairman of the Legislative Council observed as follows:

My Secretariat wrote to Sri N. Rachaiah on 17th October, 1970, requesting him to furnish any material or proof to support the allegations made against Sri B. Rachaiah. I regret to state that though five days have elapsed since the letter was received by him, Sri N. Rachaiah has not sent a reply. It is significant to note that Sri N. Rachaiah himself admits in the course of the speech that the allegations are based on hearsay. It is therefore clear that Sri N. Rachaiah has no proof to substantiate the allegations.

Speech and action in Parliament are no doubt unquestioned and free. But this freedom cannot be understood to imply an unrestrained licence of speech within the walls of the House. Reflections of a libellous character upon Members in their parliamentary capacity have long been held by the House of Commons to be breaches of privilege or contempt amounting to reflections on the House itself. A Member is responsible for the statements that he makes in this House. This would mean that action can be taken against him for his remarks if they are found to be wrong. This is intended to see that Members do not cast allegations against one another without verifying the facts themselves beforehand.

Under Rule 261 of our Rules of Procedure, any Member intending to make allegations of a defamatory or incriminatory character should give previous intimation to the Chairman and the Minister concerned. Sri N. Rachaiah failed to observe this Rule, though I repeatedly cautioned him not to make allegations without proper notice. I, however, gave another opportunity to Sri N. Rachaiah to prove his allegations and he has failed to bring forward any such proof. It is with great pain and anguish I have to characterise the allegations of Sri N. Rachaiah as baseless and reckless. I cannot but deprecate in the strongest terms biased and unverified allegations offending the personal conduct and character of another Member of the House. It is the bounden duty of every Member to make a thorough investigation and satisfy himself on facts before he proposes to make allegations against another Member, much more so when that Member happens to be a Minister who is vulnerable often to unfounded suspicion and attack by virtue of the office he holds and the powers he exercises.

This august House has a great tradition in self-discipline, decorum and in the observance of rules. It is my sincere desire that every Member of this House should strive his utmost to uphold and even improve upon those traditions instead of sullying the fair name of this House. I fervently believe that I am reflecting the voice of everyone in this House, when I express the hope that the House will not witness the recurrence of the events of the 13th instant.

I, therefore, expunge from the records all the remarks made by Sri N. Rachaiah against the Minister for Agriculture and the discussion thereon. The notice of privilege against Sri N. Rachaiah is treated as closed.

Tamil Nadu: Legislative Council

Incorrect statement made by Minister.—On 28th January, 1970, a Member raised a matter of privilege in regard to the statement made in the House by a Minister regarding the resignation submitted by a former First Member of the Board of Revenue, on the grounds that it

was deliberately calculated to mislead the House in respect of a matter which was in writing and within the knowledge of the Government.

The Minister, on a notice given by him, was permitted to make a statement correcting his previous statement and then the Minister for Education and Health, on behalf of the Government, submitted that in view of the statement by the Minister concerned correcting his previous statement for which he expressed regret, and as there was no intention on his part to mislead the House, no question of privilege was involved. The Chairman thereupon deferred his ruling in the matter.

On 28th February, 1970, the Chairman, referring to the privilege issue, observed *inter alia* as follows:

> In Profumo's case the Minister concerned told a lie to the House regarding his own personal conduct, thus misleading the House. The House of Commons resolved that in making a personal statement which contained words which he later admitted not to be true, a former member had been guilty of grave contempt. . . . Only if a statement is deliberately made with a view to mislead the House is it considered as a breach of privilege even in the House of Commons.
>
> In the Lok Sabha, it has been held that " an incorrect statement made by a Minister cannot make any basis for a breach of privilege. It is only a deliberate lie if it can be substantiated that the Minister deliberately intended to mislead the House; that would certainly bring the offence within the meaning of a breach of privilege. Other lapses, other mistakes, do not come under this category, because every day we find that Ministers make statements in which they make mistakes and which they correct afterwards. That is happening every day. If it were to be held that that also is a breach of privilege, then probably it would be an everyday occurrence and then privilege would not mean anything of consequence. " Therefore, I find from precedents that, so long as wilful intention to mislead the House was absent, and if the member concerned had apologised for the mis-statement, the practice has been to accept the apology and drop the matter. In the present case, I find that there was no intention on the part of the Minister to deliberately mislead the House as he came before the House at the earliest opportunity to correct his own earlier statement.
>
> In view of the regret expressed by the Minister, I feel that the House will serve its own dignity and show proper appreciation of the regret expressed by the Minister if it proceeds no further in the matter.

The matter was dropped. (*Tamil Nadu Leg. Co. Proc.*, 28th January, 1970, Vol. LXXII, No. 7; 28th February, 1970, Vol. LXXXIII, No. 2.)

Tamil Nadu: Legislative Assembly

Walkout by some Members of the Legislative Assembly before Governor's address to both Houses.—On 25th January, 1969, when the Governor rose to address both the Houses assembled together under Article 176 of the Constitution, the Leader of the Communist-Marxist group made a speech and staged a walk-out accompanied by the members of his party and also by members of the Communist Party of India, the Samyuktha Socialist Party and the Republican Party. On 27th January the Speaker stated that the interruption and walk-out amounted to a breach of order and of the dignity of the House and a violation

of Rule 12 of the Tamil Nadu Legislative Assembly Rules, and therefore *suo motu* referred the matter to the Committee of Privileges for examination and report.

The Committee of Privileges, after hearing the evidence tendered by the Leader of the Communist-Marxist group and also other Members who had participated in the walk-out, in its report presented to the House on 30th March, 1970, reported as follows:

> The interruption to the Governor's Address and walk-out thereafter must be construed as obstruction or interruption to the Governor's Address either before, during, or after the Address and as such must be held to be in violation of the express provision of Rule 12 and that as much as Rule 12 lays down that such an act shall be construed as a gross breach of order of the House and, hence, it must be held to be a contempt of the House. The Committee held that the act of commission and the conduct of the Members constituted a contempt of the House and as such, a breach of privilege of the House. The Committee, however, noted that the Members have reiterated that they have the highest regard for the Governor and that it was not their intention to show disrespect or disregard to the Governor, but that their intention was only to focus the attention of the Government and no more to a very serious matter. The Committee therefore recommend to the House that the House should express its strong disapproval of the acts of commission and conduct of the said Members in having obstructed and interrupted the Governor's Address and that the matter be allowed to rest there.

The Report of the Committee was presented to the House on 30th March, 1970, and it was considered and adopted by the House on 31st August, 1970.

Uttar Pradesh: Legislative Council

Seat Reservations of Chairman of Council not honoured.—On 2nd March, 1970, the Deputy Chairman informed the Legislative Council that the Chairman, who had gone to Agra, could not return to preside over the sitting because the first class compartment allotted to him by the railway authorities had been occupied by some other passengers and the railway staff on duty did not get the reserved accommodation vacated for him. He further informed the House that the whole matter would be considered when the Chairman returned.

The next day the Deputy Chairman, Kr. Devendra Pratap Singh, raised a question of privilege against the railway officials, alleging that they did not care to get the accommodation vacated although they knew that the Chairman had to proceed to Lucknow to preside over the meetings of the Legislative Council, and that this amounted to obstruction of the Chairman's access to the House. The Chair held that it was a *prima facie* case of breach of the privileges of the House, and the matter was referred by the House to the Committee of Privileges.

The Committee of Privileges took evidence from the railway traffic assistant, a ticket collector and an enquiry clerk from Tundla Junction, a ticket collector and an enquiry clerk from Agra Cantt. station, from the coach attendant, and from the Divisional Commercial Superin-

tendent, Sri Shanti Prakash. It transpired that a reservation had been made for the Chairman from Agra to Lucknow, and the reservation chart had also been prepared at Agra. In the original chart the Chairman's name appeared with the remark that he would be boarding the train at Tundla Junction; but the reservation chart with the ticket collector at Agra Cantt. did not indicate that the Chairman would join the train at Tundla. For this reason the ticket collector at Agra Cantt., the starting station, allotted the berth to Sri Hukum Singh, M.L.A., because the Chairman had not turned up. Shrimati B. L. Desh Pande, the reservation clerk at Agra Cantt. station, admitted that due to rush of work she had forgotten to indicate in the reservation chart that the Chairman would be boarding the train at Tundla. The Divisional Commercial Superintendent expressed regret for the inconvenience that this omission had caused to the Chairman, and assured the Committee that he would take departmental action against the officials found guilty.

In view of the regrets expressed by the Divisional Superintendent, and his assurance of suitable action in the matter, the Committee recommended in its report that no further action needed to be taken in the matter.

MAURITIUS

Prosecution of party leader for offence against privileges of the House.—On 18th December, 1970, Mr. H. P. Sham (third Member, Beau Bassin and Petite Rivière) rose on a matter of privilege and drew the attention of the House to an article in that day's edition of *L'Express*, an extract from which he read to the House. The article reported that the M.M.M. party was intending to draw up a list of the Members who voted in favour of one of the bills that was to come before the House that day (the Public Order Bill), and to post up a copy of this list in each constituency " with a view to the settling of accounts which will inevitably follow the fall of the present government, which is at the end of its tether ". Mr. Sham also referred to another article to the same effect which had appeared in *Le Mauricien*, and to a leaflet which had been distributed in the vicinity of the Assembly, and asked whether the matter did not constitute a contempt of the House.

On 22nd December, Mr. Speaker declared that in his view the matter amounted to an offence under paragraph (e) of Section 6 of the Legislative Council (Privileges, Immunities and Powers) Ordinance 1953; and on the motion of the Prime Minister, the Attorney-General and Minister of Justice was instructed to institute proceedings in the matter.

The case went before Court on 18th February, 1971. The leader of the M.M.M. party was prosecuted, found guilty and fined Rs. 300. He gave notice of appeal to the Supreme Court.

XVI. MISCELLANEOUS NOTES

1. Constitutional

House of Lords (Judicial Sittings during the Dissolution of Parliament).—When Parliament is dissolved, appellate powers of the House of Lords can still be exercised by virtue of the Appellate Jurisdiction Act 1876, section 9 of which provides that the Queen, by a Writing under her Sign Manual, may " Authorise the Lords of Appeal in the name of the House of Lords to hear and determine Appeals during the Dissolution of Parliament and for that purpose *to sit in the House of Lords*".

Until 1970 the words " to sit in the House of Lords " had been interpreted to mean that the Lords of Appeal were authorised to sit in the Chamber of the House and nowhere else. Before 1948 this strict interpretation of the Statute had raised no difficulty since the Lords of Appeal had never sat anywhere other than in the Chamber of the House, but after 1948, with the setting up of the Appellate Committee, it became more usual for the Lords of Appeal to hear Appeals in a Committee Room. By the end of the 1960s it had become comparatively rare for the House to hear Appeals and it was therefore felt that the wording of the Statute should be looked at again in order to see whether a different interpretation could be put on the words " House of Lords ". The problem was made more acute during the Dissolution of 1970 since it had been agreed that the Opening of the new Parliament should be televised, and if the Chamber were to be properly prepared for the televising it was necessary for the B.B.C. authorities to have access to the Chamber some weeks before the date of the Opening.

Various views were put forward. On the one hand it was held that the Lords of Appeal might sit in any convenient part of the Lords' end of the Palace of Westminster and examples were cited when the House had met in Church House and when the House of Lords had sat in the Robing Room. Others, however, maintained that if the Lords of Appeal sat in a room other than the Chamber of the House then the room in which they sat would have to be identifiable as the Chamber and be provided with a Woolsack and Table.

The view that eventually prevailed was that the original purpose of the Appellate Jurisdiction Act was to enable the Lords of Appeal to carry on the judicial business of the House during the period of Dissolution in the manner to which they were accustomed. Before 1948 they had always sat in the Chamber; today it was more usual for them to sit in a Committee Room. Therefore the words of the Act should be interpreted to allow the Law Lords to sit in a Committee Room in their normal manner.

This solution was adopted, and for the period of the 1970 Dissolution Appeals were heard in Committee Room No. 1 and were attended by unrobed Clerks. But although the Lords of Appeal sat in a Committee Room they were not of course sitting as a Committee of the House of Lords.

During previous Dissolutions the Lords of Appeal frequently delivered Judgment, as the Act enables them not only to hear Appeals but also to determine them. Logically, therefore, the Lords of Appeal might have given Judgment, in the name of the House of Lords, in the same Committee Room in which the Appeal had been heard. It was felt, however, that to give Judgment in a room other than the Chamber raised fresh questions and the problem was avoided during the Dissolution of 1970 by ensuring that no Judgments were delivered until after the new Parliament had assembled.

(*Contributed by J. A. Vallance White, a Senior Clerk in the House of Lords.*)

South Australia (Constitution (Amendment) Act).—Act No. 33 of 1970 amended the Constitution Act so as to provide for one additional Minister of the Crown. Section 65 of the Constitution Act now reads:

(1) The number of Ministers of the Crown shall not exceed ten.
(2) The Ministers of the Crown shall respectively bear such titles and fill such ministerial offices as the Governor from time to time appoints, and not more than seven of the Ministers shall at one time be members of the House of Assembly: Provided that a Minister shall not bear the titles or fill the Ministerial offices of Minister of Agriculture and Minister of Lands at the same time.

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

South Australia (Public Works).—The Public Works Standing Committee Act Amendment Act (No. 28 of 1970) increased from £200,000 to £300,000 the present limit of the estimated cost of a public work that does not require to be referred to the Parliamentary Standing Committee on Public Works.

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

Western Australia (Constitution).—Arising from the introduction in 1968 of more than one period in a parliamentary session, it was found necessary to arrange for leave for all Members from the conclusion of the first period of the session to the commencement of the second period because of the then current provisions of Section 38 (5) of the Constitution Acts Amendment Act. This section stated, in effect, that should a Member fail to attend for two consecutive months of any session without the permission of the House, his seat should become vacant.

In amending the section by substituting the words " for an entire session " for the words " for two consecutive months of any session ",

any legal doubt has now been removed in respect to a seat being declared vacant.

Although the session continues over two periods, totalling about eight months, with possibly three to four months between the periods, it is now no longer necessary for leave to be granted for the intervening months.

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

India (State of Himachal Pradesh Act 1970).—The Act established a new State of Himachal Pradesh comprising the territories of the existing Union Territory of Himachal Pradesh and *inter alia* makes provision for the allocation of seats in the Parliament from this new State.

There has been no change in the number of seats allocated from the new State to the Rajya Sabha which continues to be three. However, the Act reduces the number of seats in the House of the People (Lok Sabha) from six seats to four.

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

Ceylon (Constitutional Reform).—The Members elected to the House of Representatives on 27th May, 1970 formed into a Constituent Assembly for the purpose of adopting, enacting and establishing a Constitution for Ceylon. The first meeting of the Constituent Assembly was held on 19th July, 1970, at which the Hon. Sirimavo R. D. Bandaranaike, Prime Minister, moved the following Resolution:

We the Members of the House of Representatives in pursuance of the mandate given by the people of Sri Lanka at the General Election held on the 27th day of May 1970 do hereby resolve to constitute, declare and proclaim ourselves the Constituent Assembly of the people of Sri Lanka for the purpose of adopting, enacting and establishing a Constitution for Sri Lanka which will declare Sri Lanka to be a free, sovereign and independent Republic pledged to realise the objectives of a socialist democracy including the fundamental rights and freedoms of all citizens and which will become the fundamental law of Sri Lanka and not from the power and authority assumed and exercised by the British Crown and the Parliament of the United Kingdom in the grant of the present Constitution of Ceylon nor from the said Constitution and do accordingly constitute, declare and proclaim ourselves the Constituent Assembly of the people of Sri Lanka and being so constituted appoint the 29th day of July at 10 a.m. as the date and time when the Constituent Assembly shall next meet in the Chamber of the House of Representatives for carrying out the said mandate under the Presidentship of Wanniarachige Don Stanley Tillekeratne, M.P., or in his absence of Ibrahim Adham Abdul Cader, M.P., and to consider business introduced by or on behalf of the Minister of Constitutional Affairs.

The Minister of Constitutional Affairs presented a Bill in the House of Representatives to " amend the Ceylon (Constitution) Order in Council, 1946, for the purpose of abolishing the Senate and increasing the number of appointed members of the House of Representatives from six to eight, to make a consequential amendment in the Ceylon Independence Order in Council, 1947, and to enable other Enactments to be read and construed subject to the provisions of this act ".

This Bill was passed in the House of Representatives with the required two-thirds majority on 26th October, 1970, and was sent to the Senate on 2nd November 1970.

This Bill is still on the Order Paper of the Senate and has not been disposed of.

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

2. General Parliamentary Usage

Westminster (Sittings by candlelight).—Both Houses of Parliament at Westminster sat in virtual darkness on two successive days during December 1970 because of power cuts caused by a " work-to-rule " in the electricity supply industry. Emergency generators maintained a few small lights in the roofs of the chambers, while candles guttered on the Clerks' Tables.

In the House of Lords, backbenchers were invited to speak from the Despatch Boxes on the Table but the Lord Chancellor, who has to speak from the left of the Woolsack when he intervenes in debate, was provided with a candle and a powerful battery lamp.

In the Commons only crude storm lanterns were available on the first day of the blackout, and there was a slight disturbance at one point when one of them threatened to burst into flames. The nearest Member hurriedly removed it from the Chamber, and it was observed with acclaim that even in this emergency he did not forget the traditional courtesy of bowing to the Chair as he rushed out. By the following day powerful paraffin lamps had been procured, some of which were eventually suspended from the galleries, and proceedings thereafter were conducted without too much difficulty.

House of Lords (Customs and Observances).—The First Report of the Procedure Committee in Session 1969–70 (H.L. 81) included a report from a sub-committee set up to consider Observances and Customary Behaviour in the House. The Committee's purpose was to draw to the attention of Members of the House certain customs and observances which were not always fully understood or observed. The Report covers such subjects as Bowing, Movement in the House, Conversation in the House, Reading of Speeches, Declaration of Interest and Abuse of Question Time.

House of Commons (Members' Outside Interests).—The 1969 edition of The Table (pp. 182–3) set out the statement made by the Prime Minister on 26th March of that year, announcing the Government's decision to move for a Select Committee to consider the rules and practices of the House in relation to the declaration of Members' interests. A Committee was duly appointed, and made their report to the House on 4th December, 1969.

The principal proposal that had been put forward in discussion of this subject, both inside and outside the House, was that a public regis-

ter should be established in which Members would be required to declare their financial and business interests. This proposal was put to the Committee in many forms, the most radical idea being that Members' income tax returns should be published; but all the suggestions were rejected by the Committee. They raised a number of detailed objections to the individual schemes proposed, but the basic objections put forward in their report were ones of principle:

> A general register is directed to the contingency that an interest *might* affect a Member's action. The House's practice is, or should be, aimed at revealing an interest when it *does* affect it. . . . Your Committee believe that the real choice is either to establish a cumbrous inquisitional machinery which is likely to be evaded by the few Members it is designed to enmesh or to improve and extend the traditional practices of the House.

The Committee also rejected an alternative proposal for a register in which persons or bodies employing a Member would declare the fact.

The Committee's suggestions for the improvement and extension of the traditional practices of the House fell into two main groups. One set of recommendations was designed to make clear what sort of interest a Member should declare, and when and how the declaration should be made; and the other was aimed at extending the old rule forbidding professional advocacy in the House by Members in order to bring it into conformity with modern developments, particularly in the field of public relations. The Committee summarised these two groups of recommendations in two draft resolutions, which they suggested should be adopted by the House as a code of conduct for Members. These draft resolutions were:

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

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

No action was taken on the Committee's report before the General Election of June 1970. On 28th October, 1970, the Leader of the House (Mr. Whitelaw) was asked if he would make a statement on the new Government's policy on the recommendations of the Select Committee, and replied:

> I am sure that the House is indebted to the Committee for its statement of the principles which should guide the conduct of Members. This I gladly

endorse. But the Resolutions proposed by the Committee have defects which I can see no means of curing and I could not recommend them to the House.

The following day, in response to questioning from the Leader of the Opposition, he said that he was prepared to discuss " through the usual channels " how best to give effect to the recommendations of the Committee, but reaffirmed his own conviction that it was " best to rely on the good sense of Members and not to put down matters too rigidly on paper ". So far no further action has been taken on the Report, and the recommendations have not been debated in the House.

(*H.C. Deb.*, Vol. 805, cols. 214, 427–9.)

House of Commons (Statutory Instrument annulled at the instance of the responsible Minister.)—On 18th March, 1970, the House of Commons, by 291 votes to 230, passed a Motion to annul the London Authorities (Transfer of Housing Estates, etc.) Order 1970, a statutory instrument made by the Minister of Housing and Local Government under the London Government Act 1963. There had been only four previous occasions when motions of this type, moved under the annulment procedure set out in the Statutory Instruments Act 1946, had been successful; and this case was the more unusual because the Minister himself advised the House to pass the Motion, and Government Whips acted as tellers for the ayes in the division.

The purpose of the Order was to give effect to an agreement betweer the Greater London Council and the councils of certain London bo roughs for the transfer of housing accommodation to the boroughs The Greater London Council was controlled by the Conservative party, and this transfer of local authority housing from the central authority to the separate boroughs represented Conservative policy. The possibility of such transfers had been explicitly provided for when the London Government Act 1963 was drafted, for section 23 (4) lays down that where the Minister is asked by both the Greater London Council and the London boroughs concerned to make an order transferring houses from one to the other, he must make such an order and lay it before Parliament. The Labour Minister of Housing had thus had no choice but to make the order implementing the Conservative council's policy.

In the debate on the Motion to annul the order, which was limited by Standing Order to one and a half hours, the Minister and other Labour Members who spoke drew attention to a number of detailed objections to the proposed transfers, but stressed principally the general point that no adequate justification had been advanced by the Greater London Council for making the transfers. On the other side it was argued that the Minister had already had ample opportunity, during the previous two years when the transfer had been under consideration, of making known his objections, and that to annul the Order at that stage, a week before it was due to take effect, would involve considerable administrative disruption and waste of money.

Under the terms of the Statutory Instruments Act 1946, the annulment of a statutory instrument does not prejudice the making of a new one; and on 19th February, 1971, a new order, in similar terms to the one previously annulled, was laid before Parliament by the Conservative Government.

(*H.C. Deb.*, Vol. 789, cols. 531–60.)

House of Commons (Election of a woman as Deputy Speaker).—On 2nd July, 1970, soon after the first meeting of the new Parliament returned at the General Election in June, the House of Commons elected Miss Harvie Anderson, the Conservative Member for Renfrewshire East, to be Deputy Chairman of Ways and Means. This was the first occasion that a woman had been appointed to this post which, under Standing Order No. 104, entails also the right to act in the House as Deputy Speaker. Later that same evening Miss Harvie Anderson duly took the Chair for the first time as Deputy Speaker during the course of a speech by Mr. Huckfield, Labour Member for Nuneaton, who proceeded to mark the occasion with the following words:

> Mr. Deputy Speaker, if I may call you that, may I congratulate you on assuming your office? I have always been in favour of the advancement of women. I am very conscious that we are both making history in this place, since I was obliged to have a discussion with Mr. Speaker and the Clerk at the Table about what to call you. We discussed the possibilities of " Madam " and " Miss". Ultimately we settled on the title that I have used. I hope that it will be acceptable to you.

Miss Harvie Anderson did not comment, and later speakers in the debate and on subsequent days followed the precedent thus set and addressed the new Deputy Speaker as " Mr. " Since then the practice has shown signs of changing, and " Madam Deputy Speaker " is now the form of address most commonly employed by Members. *Hansard* however, ignores these departures from the doctrine originally enunciated, and continues to print only the masculine title.

(*H.C. Deb.*, Vol. 803, col. 149.)

Australia (Parliamentary Counsel Act 1970).—When introducing the Parliamentary Counsel Bill, the Attorney-General said:

> This is a Bill which directly or indirectly affects the work of each Member of the Parliament. I hope that it will be supported on both sides of this House as a measure that is designed to make a substantial contribution to the efficiency of the Parliament as a legislative body.

The Attorney-General then described the recent increase in both the quantity and complexity of legislation in the Commonwealth, and to the arrears in legislative drafting work, the main reason for which he believed to be the great difficulty experienced in recruiting sufficient competent and experienced draftsmen, or people who were capable, with

training, of becoming competent draftsmen. He indicated that the Bill was intended to raise the status of parliamentary draftsmen by the use of the word " counsel ", which description was well justified, and which followed the examples of the United Kingdom, Canada, New Zealand and some States of the United States of America.

The Attorney-General went on to say:

> The Parliamentary Draftsman, although still under the head of the Department in a formal sense, has come to occupy a position of some independence and, in practice, is now only nominally responsible to the head of the Department in relation to professional work. In this field, the Parliamentary Draftsman usually deals directly with the Attorney-General, other Ministers and the heads of other Departments and also has other responsibilities in his own right, such as those to the Legislation Committee of the Cabinet. It is therefore no longer appropriate that he should be an officer of my Department.
>
> The Government has accordingly decided that the role of the Parliamentary Draftsman should be defined by statute; that there should be established an organisation of appropriate status and with sufficient resources to meet the increasing demands for Commonwealth legislative drafting; and that this organisation should be placed under direct control of an officer designated as First Parliamentary Counsel who will be subject to the general direction of the Attorney-General. The title " Parliamentary Counsel " is thought by the Government to be a more appropriate recognition of the important functions and status of the persons concerned.
>
> In view of the amount of individual responsibility necessarily involved in legislative drafting and in matters associated with its introduction into and passage through Parliament, the Bill provides for the First Parliamentary Counsel to have two deputies, each of whom is to be designated a Second Parliamentary Counsel. These three officers will hold statutory appointments for terms of years. In addition, the Office will have a staff appointed or employed under the Public Service Act, and clause 16 (*a*) of the Bill provides for the First Parliamentary Counsel to have, in relation to the officers in that staff, the powers of a Permanent Head of a Department under the Public Service Act. The creation of appropriate offices for the staff will be a matter for the Public Service Board in the light of this Act and in consultation with the First Parliamentary Counsel.

The functions of the new Office of Parliamentary Counsel are described in the Act as:

> (*a*) the drafting of proposed laws for introduction into either House of the Parliament;
> (*b*) the drafting of amendments of proposed laws that are being considered by either House of the Parliament;
> (*c*) the drafting of ordinances, regulations, rules, proclamations and other legislative instruments;
> (*d*) the drafting of other instruments, being instruments that are to have or be given the force of law or are otherwise related to legislation;
> (*e*) the making of arrangements for the printing of laws of the Commonwealth and Territories of the Commonwealth including the reprinting of such laws with amendments; and
> (*f*) functions incidental to any of the preceding functions.

The Bill, as introduced in the House of Representatives, provided that the salaries and allowances of Parliamentary Counsel should be

determined by the Governor-General. During the Committee stage of the Bill the Leader of the Opposition moved two amendments, to provide that the salaries and annual allowances should be " as are prescribed ", and that " other allowances " should be " as the Attorney-General determines ", and to include in the Bill the necessary regulation-making power.

When the Bill was debated in the Senate the question of the method of determination of the salaries and allowances to be paid to the officers referred to in the Bill was discussed at some length, both on the Second Reading and in Committee. The end result of the debate was that the Bill was amended, on the motion of Senator Greenwood, a Government backbench Senator, to provide:

> (1) The First Parliamentary Counsel and the Second Parliamentary Counsel shall be paid salary at such respective rates, and annual allowances (if any) at such respective rates, as the Parliament provides, but until the first day of January, One thousand nine hundred and seventy-one, those salaries and those allowances shall be as are prescribed.
> (2) The First Parliamentary Counsel and the Second Parliamentary Counsel shall be paid such other allowances as are prescribed.

This amendment was subsequently agreed to by the House of Representatives.

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

Australia (Drafting assistance to private Members).—On 14th May, 1970, Mr. Hughes (Attorney-General) made a ministerial statement* informing the House that he was sympathetically disposed to the giving of drafting assistance to private Members. However, the present shortage of draftsmen is such that he could give no undertaking that all requests for assistance will be met. Each request will be considered in the light of the commitments for drafting required by the Government.

Where a draftsman is made available to a private Member, his dealings with the private Member will be regarded as confidential between him and the Member. This means that the draftsman will not communicate drafts or other particulars to the Government without the permission of the private Member concerned. The Attorney-General shall not attach a condition that the draftsman furnish a copy of his drafts to him or to any other Minister or officer. Nor will the officer be under an obligation to report to a Minister concerning his work for the private Member. However, circumstances may arise in which the officer would genuinely find himself in a position in which it would be inconsistent with his duty to serve the Government for him to continue to provide assistance to a private Member. In those circumstances the officer would cease to provide further assistance for the private Member.

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

* *Hans. H. of R.*, 14th May, 1970, p. 2192.

Australia: House of Representatives (Adjournment of sitting). —For many years Members have complained about the late sittings of the House and, as all Members are expected by the Whips to be present until House rise, it was with a sense of relief that Members (and officers) listened to the Leader of the House move on 26th April, 1970, the following Motion:*

That until the end of June, at eleven o'clock p.m. on each Tuesday, Wednesday and Thursday and at four o'clock p.m. on Friday the Speaker shall propose the question—That the House do now adjourn—which question shall be open to debate; if the House be in committee at that hour, the Chairman shall report progress and upon such report being made the Speaker shall forthwith propose the question—That the House do now adjourn—which question shall be open to debate.

Provided that:

(*a*) if a division be in progress at the time of interruption such division shall be completed and the result announced,

(*b*) if, on the question—That the House do now adjourn—being proposed, a Minister requires the question to be put forthwith without debate, the Speaker shall forthwith put the question,

(*c*) nothing in this order shall operate to prevent a Motion for the adjournment of the House being moved by a Minister at an earlier hour,

(*d*) any business under discussion and not disposed of at the time of the adjournment shall be set down on the Notice Paper for the next sitting, and

(*e*) if the question—That the House do now adjourn—is negatived, the House shall resume the proceedings at the point at which they had been interrupted.

On 26th August a similar motion was agreed to,† effective until the end of the year, but with the following additional proviso:

Provided further that if, at twelve o'clock midnight, the question before the House is—That the House do now adjourn—the Speaker shall forthwith adjourn the House until the time of its next meeting.

The House of Representatives nearly always sits on Tuesday, Wednesday and Thursday nights and sometimes on Monday nights. Whereas the average time of rising on nights on which the House sat in 1969 was 11.44 p.m., it is of interest that, under the new system which everyone had looked forward to so eagerly, the average time of rising for the first sitting period in 1970 was 12.19 a.m. and 11.56 p.m. for the latter part of the year.

It can hardly be said that this experiment has been an unqualified success in meeting Members' complaints.

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

Australian House of Representatives (Questions on notice). Because of a system of questions without notice, the House of Representatives does not have the large number of questions on notice of

* *V. & P.* No. 15, pp. 92–3. *Hans. H. of R.*, pp. 1231–48.
† *V. & P.* No. 44, p. 267. *Hans. H. of R.*, p. 527–33.

some Parliaments. However, a record number of 2,269 questions were placed on the Notice Paper in 1970 and as some of them have numerous parts and are rather lengthy, a point of crisis was reached as far as both the Clerks and the Government Printer were concerned.

On 22nd April, 1970, the Speaker informed the House* that, due to the large number of questions on notice being received and the difficulty being experienced by the Government Printer in the publication of the Notice Paper in the time available, he had fixed 5.30 p.m. as the close-down time, in normal circumstances, for the lodgment of questions for the next day's Notice Paper.

On 15th September, 1970, the Speaker informed all Members by letter that the new arrangement had facilitated the printing of the Notice Paper and had also assisted, to some extent, the work of the Clerks. However it had been found that the close-down time, 5.30 p.m., had been inappropriate for a sitting day at the end of the week when the House rises at about 4 p.m. until the next week. Accordingly, the Speaker stated that the close-down time for the receipt of questions on a Friday when the House adjourns to the next week would be 2.15 p.m.

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

South Australia: House of Assembly (Dress of Members).—On 25th/26th August, 1970, the House of Assembly passed a resolution that the dress of Members in the House is a matter for the discretion of individual Members. As a result, with the advent of hot weather, the hitherto conventional dress of some male Members was replaced with the wearing of shorts and led to the discard of coats in the Chamber.

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

Zambia (Changes in parliamentary procedure, customs and traditions).—The Parliament adopted a Report of the Standing Orders Committee on proposals for amending parliamentary procedure, customs and traditions, which was laid on the Table of the House on 10th December, 1970.

The amendments, most of which were effected from 1st January, 1971, included changes in the regulations for dress and ceremonial attire. These were as follows:

(*a*) *Members of Parliament*

Formerly, Members of Parliament (male) were required to wear either a formal dress of trousers, jacket and tie, or national dress as worn by the President when addressing Parliament, consisting of local style shirt and long toga.

These requirements have now been extended to include safari suits, provided they have long sleeves and long trousers, are worn with a scarf or necktie, and are not khaki in colour.

There are at present only two lady Members. No ruling had existed

* *V. & P.*, No. 17, 22nd April, 1970, p. 105. *Hans. H. of R.*, p. 1425.

previously on the subject of their dress, but under the new provisions they are permitted to wear any *decent* clothing.

(*b*) *Visitors*

The previously acceptable dress for visitors was trousers, jacket and tie; traditional dress; and recognised official uniform, *e.g.* military, police, school uniforms, etc. Visitors wearing open-necked safari suits were not allowed to enter the Public Gallery. No particular provisions were made for female attire.

Under the new provisions the compulsory aspect of the "jacket and tie" rule has been dropped, since the safari suit is so widely worn, especially by visitors from neighboring countries. Short trousers, however, are banned, as are mini-skirts for women. Aliens wearing their own national dress (within reasonable limits) are also admitted.

(*c*) *Mr. Speaker*

Mr. Speaker's dress is at present modelled on the Westminster style, *i.e.* white tie and tails, knee breeches, black stockings and buckled shoes, worn with a judge's wig and gown.

The Standing Orders Committee recommended that a new gown should be designed, embroidered in the Zambian national colours of black, green, orange and red, symbolising the people, the land, Zambia's copper, and the blood that was shed during the Independence struggle. The design for the gown has already been sent to a manufacturer, and until such time as it is ready the Speaker will continue to wear his present gown.

Under his new gown, Mr. Speaker will in future wear a black lounge suit, white shirt, Zambian national tie, and black shoes. He will continue to wear a judge's wig.

(*d*) *Clerks-at-the-Table*

The Clerks will also have new gowns embroidered in the Zambian national colours, and their present dress of white tie and tails will also be replaced with black lounge suits, white shirt and Zambian tie. Their lawyers' wigs will be retained.

(*e*) *Serjeant-at-Arms*

The Serjeant-at-Arms present Westminster-style dress of tail-coat, knee breeches, black stockings and buckled shoes will be replaced by a police ceremonial uniform (navy blue). The sword will still be worn as a symbol of his office.

Among other changes recommended by the Standing Orders Committee were the playing of the Zambian National Anthem at the beginning of each day's business and replacing the fanfare of trumpets which used to herald the entrance of the President into the Chamber at the opening ceremony of a new session and was repeated when he left the Chamber at the conclusion of his Address, by the beating of traditional drums.

The name of the official report of the debates of the Assemby has been changed from *Hansard* to that of *Parliamentary Debates, Zambia National Assembly.* The *Daily Hansard* is now called *Daily Parliamentary Debates.*

The present mace has been retained. In addition, in order to portray Zambia's natural resources and to give more dignity to the Chamber,

two huge elephant tusks have been placed in front of the Table in the Chamber. These tusks will be kept there whether the House is sitting or not.

As there is no effective way of enforcing that a Government department or statutory organisation must produce to Parliament its annual report at the time stipulated in the Act of Parliament setting up that organisation or affecting that department, it was decided by the Standing Orders Committee, and adopted by the House as a welcome measure, that if any Government department or statutory organisation fails to lay its report on the Table at the right time, Parliament should not vote or grant funds to that department or organisation for use during the following financial year.

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

St. Lucia (Dress of Members).—After Prayers were read at the meeting of 24th October, 1969, Mr. Speaker announced that " Members would not be allowed to attend Meetings in attire which did not meet the standard of conventional dress, unless the House resolved otherwise on the recommendations of a House committee ". This was prompted by the entry of a Minister who was not clad in the conventional manner of jacket and tie.

However, a Select Committee was appointed on 14th November 1969, to recommend a suitable form of attire for Members attending meetings of the House, and to report back not later than the next sitting.

The Committee took cognizance of the fact that the Cabinet had recently announced its approval of the wearing of a loose-fitting shirt of linen-like material with three pockets, and uniform in colour, preferably light, as optional wear, on occasions when jacket and tie were accepted in the State. The view was that consideration should be given to the feelings of those Members who found it uncomfortable to wear a jacket and tie.

The Report was considered by Members with mixed feelings, but was adopted on the Question being put. The recommendation was that at normal sittings Members should have the option of being attired conventionally, or in a short sleeve shirt/jacket of light colour with three pockets, one of which would be on the left breast. The shirt would be made of linen-like material or other lightweight men's suiting. It was recognised by the Committee that there should be some difference between the shirt/jacket worn at normal sittings and that used on ceremonial occasions. In the latter case it was recommended that the shirt/jacket should carry pin tucks on both sides front and back and bear four pockets at front. The Committee accepted two designs for a shirt/jacket which were drawn up by a prominent local dress designer and drawings were submitted to Members during the sitting. It was also recommended that for ceremonial occasions, pants of matching or complementary colour to the shirt should be worn.

One of the three nominated Members—the only lady Member of the

House who was herself a member of the Select Committee—had this to say while making her contribution to the debate:

> The Committee took cognizance of the fact that the Members of the House of Commons live in a land where the temperature is much lower, sometimes even to freezing point. Whereas, here, it is generally very hot and the men—not only the men in the House, but the men of the State—always complain about the heat; and at the slightest opportunity they get rid of their jackets and they loosen their ties. Sometimes, the temperature gets up to 90 degrees and even though we are supposed to be in the cooler months of the year the temperature is very high—and the men feel very hot.

Although the attire of lady Members was not mentioned in the Report the nominated lady Member has herself worn a shirt-dress at meetings. It is however interesting to note that since the Resolution was passed, only one gentlemen—the Minister for Education—has appeared in the House wearing the shirt/jacket.

Mr. Speaker's attire was not changed. It was felt that no decision could be taken at that stage, as it was likely that the subject would be discussed at regional level at a Speakers' Conference.

Like most Speakers in the Caribbean and other parts of the Commonwealth, Mr. Speaker wears a wig and gown.

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

3. Procedure

House of Lords (Discharge of Committee stage on Public Bills).—On 25th March, 1970. the Procedure Committee made a report* to the House in which they recommended that in certain circumstances the Committee stage on a Public Bill could be discharged if the House wished it. The old procedure was that every Public Bill was committed to a Committee of the Whole House after Second Reading (unless in the case of money Bills and certain others the House negatived the Committee stage). However, very often when the day for the Committee stage on a Bill was reached it was obvious that the House did not wish to discuss the Bill in detail; this was either because no amendments had been set down or because no peer had indicated a wish to speak on a particular clause. But Standing Order No. 43 provided that the House would normally go into Committee on Bills. This was often a time-consuming and unnecessary process.

The Procedure Committee's recommendation was that in cases where no Lord had either put down an amendment, or made known his intention to move a manuscript amendment or to speak to a particular clause, it would be open to the Lord in charge of the Bill to move that " the order of commitment be discharged ". This procedural innovation is ringed about with safeguards for the rights of individual peers. The order of commitment cannot be discharged without due notice and if a single peer objects to the discharge, the House resolves itself into Committee, in the normal way.

* *H.L.* (1969–70), 81.

The House agreed to the Report of the Procedure Committee on 12th May, 1970, * and the necessary amendments to Standing Orders were made on 20th May, 1970.†

House of Commons (Political Contributions Bill).—On 6th May, 1970, a notice of presentation of a Bill appeared on the Order Paper of the House of Commons in the name of Mr. English, a back-bench Labour Member. The long title of the Bill described it as:

> A Bill to enable every parliamentary elector to require the Treasury, if Parliament consents, to contribute a portion of his taxation to the political party of his choice; to require political parties wishing to benefit from such contributions to register their names and those of the persons to whom the contribution should be paid with the Treasury; to require the Treasury to inform every elector of the rights so given him and the parties so registered; and for purposes connected therewith.

The old rule of the House was that all bills of which the main object was the creation of a public charge must be brought in upon a resolution authorising the charge. Standing Order No. 91, first passed in 1948, relaxes this rule for Government bills; but the rule still applies to private Members and effectively prevents them from presenting bills of this class. Mr. English had appreciated that his Bill might fall within this restriction, since its main object was to enable tax revenue to be appropriated to the use of political parties; but he had tried to circumvent the difficulty by including a provision (corresponding to the words " if Parliament consents " in the title) that this diversion of public funds should not take effect until Parliament had passed a further Act to authorise it.

It was not considered appropriate to withhold Mr. English's notice from the Order Paper; but when the time for the presentation came, Mr. Speaker rose and stated that it was " an inexorable and necessary rule " that no private Member could legislate on the expenditure of public money or on the levying of taxation unless his proposals had first been authorised by resolution; and he could not accept that the words " if Parliament consents " exempted the Bill from this rule:

> These words appear to mean that the Bill, if enacted, is inoperative unless Parliament passes another Act, since in this context their effect would be to circumvent the financial rules of the House. I cannot, therefore, allow the hon. Gentleman to present a Bill of this kind.

(*H.C. Deb.*, Vol. 801, cols. 410–13.)

House of Commons (Supporters of Bill not to tell against it).—On Tuesday, 8th December, 1970, Mr. McNamara, Labour M.P. for Kingston upon Hull, North, moved under the Ten Minute Rule for leave to bring in a Bill to make hare coursing matches illegal. Bills

* *H.L. Deb.*, Vol. 310, cols. 496–512.
† *L.J.*, Vol. 202, p. 325.

with the same object had been introduced by private Members in sessions 1966–7, 1967–8 and 1968–9, but none had made significant progress. In 1969–70 the Bill was taken up by the Labour Government and had been committed to a Standing Committee when the General Election of June 1970 intervened; and the new Conservative Government had announced that it did not intend to re-introduce the Bill.

At the end of Mr. McNamara's speech no Member rose to speak in opposition to the Bill, but when the question was put a division was forced. 183 Members voted in favour of the Bill being introduced and none voted against. Following the usual procedure, Mr. McNamara then named the Members who were acting as his supporters and formally introduced the Bill. The following Tuesday Mr. Speaker drew the attention of the House to the fact that among the ten Members who had been put forward as supporters, and whose names had duly appeared in the Votes and Proceedings as having been " ordered to prepare and bring in the Bill ", were the two Members who had acted as tellers for the Noes in the division. He ruled that this violated the principle that a Member's vote should follow his voice, and directed that the names of the two Members should be removed from the list of those ordered to bring in the Bill and that the *Journal* should be altered accordingly. Mr. McNamara said that he apologised if he had unknowingly offended against the practices of the House, and explained that he and his supporters had hoped, by forcing a division, to " get opponents of the Bill to stand up and be counted ".

The following day Mr. McNamara, now armed with the appropriate texts from Erskine May, rose on a point of order and questioned the Speaker's ruling. He claimed that the rule that vote should follow voice could not be extended to this case, because the naming of Members who were to prepare and bring in a Bill was a separate matter from the vote on the Motion for leave to bring in the Bill; he also cast doubt on the Speaker's authority to alter the list of names of supporters to be printed on the back of the Bill. In reply the Speaker re-affirmed his ruling. It was the duty of the Speaker, he said, to ensure that the *Journal* correctly recorded what took place; the two Members had acted as tellers against the Bill and " as a matter of historical fact " they could not be recorded as supporting the Bill which was introduced. He also said that there was no doubt that his authority extended to directing that the names be omitted from the back of the Bill so that the Bill and the *Journal* were in conformity in recording the proceedings of the House.

(*H.C. Deb.*, Vol. 808, cols. 269–71, 119–20, 1372–7.)

Australia (Amendments proposing alternative propositions.)—This note was prompted by proceedings associated with two amendments moved in the House of Representatives during 1970.

In the first case,* the Leader of the Opposition moved, That the

* *Hans. H. of R.*, 9.4.70, pp. 930–97.

Leader of the House should be censured for his mishandling of the business of the House and his repeated failure to honour agreements made between the Government and the Opposition.

The Prime Minister moved, as an amendment, that all words after " That " be omitted in order to insert " the *Leader of the Opposition* should be censured for his failure to respond to Mr. Speaker's request that he use his influence with the honourable Member for Wills to obey the decision of the House directed to him by Mr. Speaker. . . . " (See separate note under " Suspension of Members ".)

A point of order was raised that the amendment was not relevant to the Motion which it proposed to amend. The Chair ruled that the amendment was relevant to the circumstances of the case and to the substance of the matter and this was upheld by the House when it negatived a Motion of dissent from the ruling of the Chair. The amendment and the Motion, as amended, were agreed to.

In the second case,* the Leader of the House moved, That the House take note of a paper (relating to off-shore mineral legislation). To this Motion an Opposition Member moved an amendment to add words which expressed lack of confidence in the Prime Minister and his Cabinet because they *failed* to honour a commitment to the Australian States.

To this amendment, a further amendment was moved by a private Government Member declaring that the House *did not believe there had been any failure* on the part of the Government to honour any commitments, and added further relevant statements of fact and opinion.

A point of order was raised that the second amendment was a direct negative of the first. The Chair ruled against the point of order and this was upheld by the House when it negatived a Motion of dissent from the ruling of the Chair. (See Appendix for full statement of proceedings.)

Subsequent comment both inside and outside the House showed considerable misunderstanding of the parliamentary practice in regard to the nature and scope of amendments and some lack of knowledge of the precedents and parliamentary procedures on which the rulings were based.

There was the strong but erroneous implication, following the second case, that the Government had resorted to the use of a questionable diversionary form of amendment to rally its supporters and avoid defeat, and that the Chair had played a partial role in accepting it.

As a consequence, the Speaker had incorporated in *Hansard*† a lengthy statement dealing with relevant precedents and practice in the House of Representatives and in the House of Commons.

The only requirement of our Standing Orders is that an amendment

* *Hans. H. of R.*, 15.5.70, pp. 2242–329.
† *Hans. H. of R.*, 2.6.70, pp. 2712–7.

must be relevant to the Question which it is proposed to amend. There is no reference to a " direct " or " expanded " negative, and so resort is had to the practice of the House of Representatives or to the practice of the United Kingdom House of Commons as declared in *May's Parliamentary Practice.*

Although there are a few exceptions, the overwhelming evidence is that amendments intended to evade an expression of opinion upon a Question by entirely altering its meaning and object are allowed and that an amendment which puts forward an alternative proposition, even though it be a fundamental alteration, is in order.

The 17th edition of *May*, at pages 406–7, refers to amendments intended to evade an expression of opinion upon the main Question by entirely altering its meaning and object, and says that this is effected by moving the omission of all or most of the words of the Question after the word " That " at the beginning, and by the substitution of an alternative proposition (which must, however, be relevant to the subject of the Question).

An earlier edition of *May* (10th edition at pages 270–1), when dealing with amendments intended to evade an expression of opinion upon the main Question by entirely altering its meaning and object, says that there are many precedents of this mode of dealing with a Question, and that the best known in parliamentary history are those relating to Mr. Pitt's administration, and the Peace of Amiens, in 1802.

On 7th May, 1802, a Motion was made in the Commons for an address " expressing the thanks of this House to His Majesty for having been pleased to remove the Right Hon. W. Pitt from his councils "; upon which an amendment was proposed and carried, which left out all the words after the first, and substituted others in direct opposition to them, by which the whole policy of Mr. Pitt was commended.

Immediately afterwards an address was moved in both Houses of Parliament, condemning the Treaty of Amiens, in a long statement of facts and arguments; and in each House an amendment was substituted, whereby an address was resolved upon which justified the Treaty. (Referred to in 17th edition of *May* by way of footnote, see page 407.)

The 10th edition went on to say that the practice had often been objected to as unfair, but that the objection was unfounded as the weaker party must always anticipate defeat in one form or another. If no amendment is moved, the majority can negative the Question itself and affirm another in opposition to the opinions of the minority.

The following is a selection of some further relevant Commons and House of Representatives amendments expressing opposing points of view as alternative propositions:

HOUSE OF COMMONS

1/11/1956

Motion—That this House *deplores* the action of Her Majesty's Government in resorting to armed force against Egypt . . .

Amendment—That this House " *approves* of the prompt action taken by

Her Majesty's Government designed to bring hostilities between Israel and Egypt to an end . . . and pledges its full support . . . to secure these ends ".

16/2/1961

Motion—That this House respectfully and unhesitatingly *dissents* from the ruling given by Mr. Speaker that . . .

Amendment—that this house "*upholds* the well established rule under which . . . "

12/2/1963

Motion—That this House expresses its *full confidence* in the determination and ability of Her Majesty's Government to deal with the political and economic situation arising from the breakdown of the Brussels negotiations.

Amendment moved—That this House " *has no confidence* in the ability of Her Majesty's Government to formulate or to carry through a programme . . . "

27/2/1964

Motion—That this House *approves* the Statement on Defence 1964 . . .

Amendment moved—That this House " *declines* to *approve* the Statement on Defence 1964 which reveals . . . "

2/2/1965

Motion—That this House deplores the hasty and ill-considered actions of Her Majesty's Government during their first hundred days of office and has no confidence in their ability to conduct the nation's affairs . . .

Amendment—That this House deplores the " irresponsibility of the former administration leading to the serious situation which confronted Her Majesty's Government and pledges its support for remedial measures to strengthen the country's economy . . . "

HOUSE OF REPRESENTATIVES

22/10/1920

Motion—That the Government be censured for their failure to make provision for the payment of 5/- per bushel cash at railway sidings for this season's wheat.

Amendment—That the Government " having guaranteed the producer 5/- per bushel at sidings . . . should arrange for payment . . . "

6/5/1936

Motion—That this House censures the Government for its failure to promote the adoption of the 40-hour week in Australia . . .

Amendment—That this House " notes the action taken by the Government to promote the adoption of the 40-hour week . . . "

8/9/1949

Motion—That this House has no further confidence in Mr. Deputy Speaker on the grounds . . .

Amendment—That " this House declares its determination to uphold the dignity and authority of the Chair, and deplores the fact that the Deputy Speaker while carrying out his duties with ability and impartiality, has not at all times received the support from all Members which he is entitled to expect in maintaining that dignity and authority ".

Motions approving electoral redistribution proposals: There are numerous precedents of amendments " disapproving " the proposals and calling for fresh redistributions.

The proposed amendment should not be confined to a mere negation

of the terms of the Motion, as the proper mode of expressing a contrary opinion is by voting against a Motion without seeking to amend it. For instance, to a Motion " That this House doth agree (disagree) with the Lords in the said amendment " an amendment to insert the word " not " in the question is inadmissible. But where an amendment not only contains a form of negation, but also inserts an alternative proposition or point of view, this is not deemed to be a direct negative.

The 17th edition of *May*, page 418, states also that the Speaker has ruled that an amendment that was merely an expanded negative could not be proposed. This reference has been the basis of some of the critical comment referred to earlier in this article and it is necessary to draw some distinction between an amendment which expresses only an expanded form of negative and one which, while expressing a negation of the motion, also contains a relevant addition. In one of the cases cited in *May* (*Commons Parliamentary Debates 1938–39*, Vol. 343, col 906),the Speaker stated that he had ruled out an amendment as it was a wrecking amendment which would negative the Motion but put nothing in its place, but a further amendment which would also negative the Motion but would at the same time suggest that the Government take an alternative action, was considered to be perfectly in order.

Apart from the apparent misunderstanding which occurred relating to amendments involving alternative propositions, there appeared also to be a widely held erroneous opinion that Motions or amendments of no-confidence in a Government should be voted on directly by the House and should not be the subject of diversionary forms of amendment. Except as a means of possible embarrassment to the Government, there does not appear to be any logical procedural ground upon which such an opinion should be supported. Because a Motion is submitted in a particular form, it is surely not essential for the majority to have to accept or reject it in that form. The Standing Orders provide for the moving of relevant amendments, and it is felt that this principle should apply whether the Motion is one of no-confidence or not. It is a case of the will of the majority prevailing.

It will be seen from the precedents cited that the proceedings in the two cases referred to were consistent with established parliamentary practice which allows an amendment intended " to evade an expression of opinion upon the main question by entirely altering its meaning and object " and which effects this by first moving for the omission of words with a view, if this is agreed, to the substitution of an alternative proposition.

Appendix

15th May, 1970. Motion re off-shore legislation—Want of confidence amendment—Amendment to amendment.

Motion (Mr. Snedden)—That the House take note of the paper.

Amendment (Mr. Patterson)—That the following words be added to the Motion:

" and that the Prime Minister and his Cabinet lack the confidence of the House because they failed to honour a commitment made to the States by the previous Minister for National Development, acting for and on behalf of the Commonwealth Government, that there would be further consultation with the States before the Commonwealth Government introduced any legislation on the territorial sea and continental shelf."

Amendment to amendment (Mr. Howson)—That all words after " and " be deleted with a view to inserting the following words in place thereof:

" that this House does not believe that there has been any failure on the part of the Government to honour any commitments.

The House acknowledges that when the Government decided to change its policy on off-shore authority by legislating to take control from the low-water mark to Continental Shelf, the Government did not, at that time, inform the States of this change in the policy which had been the subject of consultations between the Minister for National Development and State Ministers.

It is of the opinion that it is this fact which has led to the Honourable Member for Farrer feeling justified in believing that an undertaking that there would be further consultations, which he gave to the States, has been dishonoured."

Point of order raised (Mr. Whitlam)—that Mr. Howson's amendment was a direct negative of the amendment moved by Mr. Patterson.

Ruling—Speaker Aston ruled that Mr. Howson's amendment was not a direct negative and was not materially different in form from amendments which have been moved, and accepted, in previous years.

Dissent from ruling moved (Mr. Barnard)—negatived on division.

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

4. Standing Orders

House of Lords.—At the beginning of each new session the House used to pass, often without notice, Sessional Orders in relation to setting up the Appellate and Appeal Committees (which deal with the judicial business of the House) and the recall of the House during adjournment. The Procedure Committee* recommended that these Sessional Orders should be replaced with Standing Orders. The House agreed to the Report and appropriate Standing Orders were made on 20th May, 1970.

House of Commons (Ten Minute Rule Bills).—Only one amendment to Standing Orders was made in 1970. This was a change in the procedure by which private Members may give notice of Motion for leave to bring in a Bill under the Ten Minute Rule (S.O. No. 13). The shortcomings of the Standing Order had been exposed in November 1969 by the action of a Member in giving notice of seventy-one Motions, on his own and other Members' behalf, at the same time, thus pre-empting all the available dates for the whole session (see The Table, Vol. XXXVIII, pp. 188–90). As a result of this incident the subject was taken up by the Select Committee on Procedure, and the substance of their recommendation was incorporated in an amendment to the Standing Order agreed to by the House on 23rd November, 1970.

* *H.L.* (1969–70), 81.
† *L.J.*, 202, p. 325.

This provided that not more than one notice would be accepted on any one day from any one Member and that no notice could be given for a day earlier than the fifth or later than the fifteenth sitting day after the day on which it was given. The effect of this change is that Members now have several opportunities during the session on which they may seek to give notice under the Ten Minute Rule, and the possibility of all the available days being booked right at the beginning of the session has been removed.

A further proposal put forward by the Leader of the House at the same time was that Ten Minute Rule Motions should be moved at the end of business, before the half-hour adjournment debate, and not, as at present, at the commencement of public business. This proposal was decisively rejected on a division by 167 votes against 52.

(*H.C. Deb.*, Vol. 807, cols. 165–92.)

House of Commons (Standing Orders Revision).—On 10th July, 1970, a Select Committee of the House of Commons was appointed " to consider and report upon the re-arrangement and re-drafting of the Standing Orders so as to bring them into conformity with existing practice ". Such committees have been appointed at regular intervals in the past, the last having been in 1963. Like its predecessors, the Committee was limited by the wording of its terms of reference to consideration of the form rather than the substance of the Standing Orders, and its report was based on a long memorandum prepared by members of the Clerk's department.

Many of the amendments suggested by the Committee were designed simply to standardise the phraseology used in the Standing Orders or to clarify their meaning. Others were directed at cases where, as the Committee delicately remarked, " it would appear that not all the implications of some alterations recently made by the House to Standing Orders were fully appreciated when they were made ". For example, Standing Order No. 3, strictly interpreted, would have permitted debate on a particular class of Motion to be continued until 11.30 p.m. on a Friday, seven and a half hours after the normal hour of interruption on Fridays. The Committee also proposed some re-grouping and re-numbering of the Standing Orders to take account of the repeals and additions agreed to since the last re-numbering in 1963; but their proposals were framed to ensure that certain very familiar Standing Orders, such as No. 9 concerning urgent debates and No. 40 relating to the committal of Bills, should retain their previous numbers.

A Motion to agree with the Committee's proposals was approved by the House on 8th March, 1971.

Canada: Senate.—The following Rules of the Senate were amended in 1970:

Rule 7: Senate to meet at two o'clock p.m. instead of three o'clock p.m. on each sitting day.

Rule 20: This amendment permits more latitude to Senators who are asking oral questions. Under the former Rule, Questions were to be directed to the Leader of the Government only; while now they may be directed to a Minister of the Crown or to the Chairman of a Committee relating to their respective activities.

Rule 67(e): The Committee on Internal Economy and Contingent Accounts is now called the Committee on Internal Economy, Budgets and Administration. The amendment also clarifies the terms of reference of the said Committee.

Rule 83(a): This is an entirely new Rule. It orders that a Committee of the Senate shall not incur any special expenses until its Chairman has submitted a budget to the Committee on Internal Economy, Budgets and Administration which is to report its decision to the Senate. It also orders the printing of such reports in the Minutes of the Proceedings of the Senate.

Rule 84: This Rule deals with reports of expenses of Committees. The word " select " has been deleted in order that the Rule applies to Joint Committees as well.

Rule 84(5): This amendment adds a new paragraph to Rule 84 ordering the printing of reports of expenses incurred by Committees. Prior to this amendment, the printing of such reports was not compulsory.

Rule 87: The Chief Clerk of Committees is now called " Director of Committees ".

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

British Columbia (Recording of Debates).—The following new Standing Order was passed:

129. That the debates of the Legislative Assembly in the House be recorded by means of magnetic-tape recorders or other suitable recording devices in accordance with the following rules:

(1) That the magnetic-tape record of the said debates shall be under the control and custody of Mr. Speaker and no duplicate or copy of the magnetic-tape record shall be made without the express authority of Mr. Speaker.

(2) That the public use, employment, publication, transmission, or broadcast outside of the House of the magnetic-tape record of the said debates, or any portion thereof, is prohibited without the express authority of Mr. Speaker.

(3) That any person who, without the express authority of Mr. Speaker, offends against sections 2 and 3 of this Order may be considered in contempt of the House.

(4) That when any question arises in the House as to the words spoken by a member in its said debates of the House, Mr. Speaker may use the magnetic-tape record as evidence of the actual words spoken by that member.

(5) That Mr. Speaker may, on request in writing of any Member, use the magnetic-tape record to verify the words spoken by that Member or any other Member in the said debates; and may, if requested by the Member, supply him with a typewritten transcript (not exceeding 25 lines) of the portion of the said debates so requested.

(6) That any Member may challenge the accuracy of the magnetic-tape record in cases where he alleges that words spoken by him have been attributed

to another Member or vice versa, and if the House gives unanimous consent, Mr. Speaker shall note the discrepancy in the *Journals* of the House.

(7) That, after the prorogation of the House, a typewritten transcript of the said debates shall be prepared under the supervision of Mr. Speaker, and a copy thereof, certified by him, shall be distributed to each Member without charge.

(8) That copies of the transcript of the said debates shall be made available for purchase by any person at cost.

(*L.A. Deb.*, pp. 795–99.)

Saskatchewan.—The Standing Orders of the Legislative Assembly were thoroughly examined by a Special Committee which recommended a number of changes. The Assembly agreed to the Report of the Special Committee on 18th April, 1970.

Australia: Senate.—Standing Order 308 was amended in the Senate on 7th April, 1970, by the adoption of a Report from the Standing Orders Committee.

The Committee recommended that there should be an amendment to remove conflict between the existing Standing Order 308 and section 2 (2) of the Parliamentary Papers Act. Section 2 (2.) reads:

> It shall be lawful for a Committee to authorise the publication of any document laid before it or of any evidence given before it,

and Standing Order 308 previously provided that:

> The evidence taken by any Select Committee of the Senate and documents presented to such Committee, which have not been reported to the Senate, shall not be disclosed or published by any member of such Committee, or by any other person.

The Committee reported that a practice had developed in Select Committees of supplying copies of evidence to certain persons, at the discretion of the Committees, and that press reports of evidence were normally permitted, with the result that the proposed amendment would bring the Standing Order into line with practice.

The Standing Order was therefore amended to read:

> The evidence taken by any Select Committee of the Senate and documents presented to such Committee, which have not been reported to the Senate, shall not, unless authorized by the Senate or the Committee, be disclosed or published by any member of such Committee, or by any other person.

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

Australia: House of Representatives (Publications Committee).—The Joint Select Committee on Parliamentary and Government Publications recommended in its report,* presented to the House in May 1964, that there should be a continuing parliamentary review into

* *P.P.*, No. 32 of 1964.

Commonwealth printing and publishing. It pointed out that the existing Printing Committees of both Houses could not undertake the task as they were restricted in their powers to recommending which petitions and papers presented to the Houses should be printed. It went on to recommend, therefore, that a joint committee should be appointed with power not only to review the printing and publication of both parliamentary and Government publications but also to undertake the function of the existing Printing Committees.

On 8th April, 1970,* the House agreed to a Motion that the Standing Orders Committee be asked to recommend a suitable amendment to Standing Order 28 to give effect to this objective.

The report of the Standing Orders Committee dated 1st June† was brought up on 4th June and adopted on 10th June.‡ The new Standing Order which became effective on 11th June is as follows:

> 28. A Publications Committee, to consist of seven Members, shall be appointed at the commencement of each Parliament with power to confer with a similar committee of the Senate. All petitions and papers presented to the House which have not been ordered to be printed by either House of the Parliament shall stand referred to the Committee, which shall report from time to time as to what petitions and papers ought to be printed, and whether wholly or in part. In addition, when conferring with a similar committee of the Senate, the Committee shall have power—
>
> (*a*) to inquire into and report on the printing, publication and distribution of Parliamentary and Government Publications and on such matters as are referred to it by the Treasurer, and
>
> (*b*) to send for persons, papers and records.

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

Australia: House of Representatives (Days and Hours of Sitting).—It has been the practice for many years for the House to sit on each Tuesday, Wednesday and Thursday for a period of three weeks and then rise for a week so that those Members living in the more distant parts of Australia may return to their electorates at regular intervals.

It was felt by the Standing Orders Committee in its report of 10th June, 1970,§ that the requirements of the House and the Government in respect of sitting days and the wishes of Members in respect of their electorate work could be better met if the sittings of the House were based on a four-day week, two weeks of sittings and one week off.

The following Standing Order¶ came into operation on 13th October, 1970:

* *Hans. H. of R.*, 8th April, 1970, pp. 826–7.
† *P.P.* No. 92 of 1970.
‡ *Hans. H. of R.*, 10th June 1970, pp. 3270–2.
§ *P.P.*, No. 114 of 1970.
¶ *V. & P.*, No. 49, 3rd September, 1970, pp. 287–8. *Hans. H. of R.*, 3rd September, 1970, pp. 987–1010.

40. Unless otherwise ordered, the House shall meet for the despatch of business—

(*a*) in the first sitting week after any non-sitting period extending beyond a week, on—
Tuesday at half-past two o'clock p.m.
Wednesday at half-past two o'clock p.m.
Thursday at half-past ten o'clock a.m. and
Friday at half-past ten o'clock a.m.;

(*b*) in the second week on—
Monday at half-past two o'clock p.m.
Tuesday at half-past two o'clock p.m.
Wednesday at half-past two o'clock p.m. and
Thursday at half-past ten o'clock a.m.

From the termination of the last sitting in the second sitting week, the House shall stand adjourned until the second Tuesday after that termination.

The three-weekly cycle will then be repeated.

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

Australia: House of Representatives (Reference to Senate).

72. No Member may allude to any debate or proceedings of the current session in the Senate, or to any measure pending therein: Provided that this Standing Order shall not prevent reference to a ministerial statement in the Senate.

The amendment of this Standing Order was recommended by the Standing Orders Committee in its report of 10th June, 1970,* following a submission by a Member that the practice in the House of referring to the Senate as " another place " and to Senators as " Members of another place " was of little present value in the procedures of Parliament and should be discontinued.

Parliamentary history is largely silent on the origin of the reference to " another place " but it is reasonable to assume that it came into use as a device to surmount the rules that allusions to debates of the current session in the other House are out of order as are also reflections on Members of the other House. These rules prevented fruitless arguments between Members of two distinct bodies who were unable to reply to each other and guarded against recrimination and offensive language in the absence of the party assailed, but it is probable that the principal reason for their existence was the understanding that the debates of the one House were not known to the other and could therefore not be noticed.

The daily publication of debates has changed the situation; the same questions are discussed by persons belonging to the same parties in both Houses and, despite the rule, there is an increasing tendency for debate and proceedings in the Senate to be referred to, a practice to which the Chair does not offer significant objection. It has for some time been

* *P.P.*, No. 114 of 1970.

permissible for reference to be made in the House to ministerial statements (many of which bear on policy) made in the Senate.

In recognition of the changes which have taken place, Standing Order 72 has been amended to allow *relevant* allusion to Senate debate and proceedings.

A safeguard against recrimination or offensive language is Standing Order 75 which prescribes that no Member may use offensive words against either House of the Parliament or any Member thereof.

It was also agreed, as a corollary, that, subject to the prohibitions imposed by Standing Order 75, there will be no restriction on direct reference to the Senate and Senators. This will not prevent Members from using the oblique references to the Senate and Senators if this is preferred.

Standing Order 72 has been amended* by the insertion of the words shown hereunder in capital letters:

> No Member may allude to any debate or proceedings of the current session in the Senate, or to any measure pending therein, UNLESS SUCH ALLUSION BE RELEVANT TO THE MATTER UNDER DISCUSSION: Provided that this Standing Order shall not prevent reference to a ministerial statement in the Senate.

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

Australia: House of Representatives (Time limits for debates and speeches).—The report of the Standing Orders Committee of 10th June, 1970,† proposed generally to take 5 minutes off a number of speaking times. It was surprising that, when debated in the House,‡ an amendment was moved and agreed to that speaking times on censure Motions and the Second Reading of Bills be further reduced.

The Standing Order now reads:

> 91. The maximum period for which a Member may speak on any subject indicated in this Standing Order, and the maximum period for any debate, shall not, unless otherwise ordered, exceed the period specified opposite to that subject in the following schedule:

Subject	Time
In the House—	
Election of Speaker or Chairman—	
Each Member	5 minutes
Address in Reply—	
Each Member	20 minutes
Discussion of definite matter of public importance (under Standing Order 107)—	
Whole debate	2 hours
Proposer	15 minutes
One Minister	15 minutes
Any other Member	10 minutes

* *V. & P.*, No. 41, 20th August, 1970, p. 253.
† *P.P.*, No. 114 of 1970.
‡ *V. & P.*, No. 49, 3rd September, 1970, pp. 288–90. *Hans. H. of R.*, 3rd September, 1970, pp. 1010–22.

In the House (contd.)—

Subject	Time
Motion for adjournment of House to terminate the sitting—	
Each Member	10 minutes
Censure or want of confidence Motion accepted by a Minister as provided under Standing Order 110—	
Mover	30 minutes
Prime Minister or one Minister deputed by him	30 minutes
Any other Member	20 minutes
Limitation of debate—Motion for allotment of time (under Standing Order 92)—	
Whole debate	20 minutes
Each Member	5 minutes
Second Reading of a Bill—	
Main Appropriation Bill for year—	
Mover	not specified
Leader of Opposition or one Member deputed by him	not specified
Any other Member	20 minutes
Other Bills (Government)—	
Mover	30 minutes
Leader of Opposition or one Member deputed by him	30 minutes
Any other Member	20 minutes
Other Bills (Private Government Member)—	
Mover	30 minutes
Prime Minister or one Minister deputed by him	30 minutes
Leader of Opposition or one Member deputed by him	30 minutes
Any other Member	20 minutes
Other Bills (Opposition Member)—	
Mover	30 minutes
Prime Minister or one Minister deputed by him	30 minutes
Any other Member	20 minutes
Question "That grievances be noted" (under Standing Order 106)—	
Each Member	10 minutes
Proposed resolution relating to tax or duty—	
Mover	20 minutes
Leader of Opposition or one Member deputed by him	20 minutes
Any other Member	10 minutes
Debates not otherwise provided for—	
Mover of a Motion	20 minutes
Any other Member	15 minutes
In Committee—	
Minister in charge	periods not specified
Limitation of debate—Motion for allotment of time (under Standing Order 92)—	
Whole debate	20 minutes
Each Member	5 minutes
Each Question before the Chair on the main Appropriation Bill for year or on a Tariff Bill—	
Minister in charge	periods not specified
Any other Member—two periods each not exceeding	10 minutes

Debates not otherwise provided for—
Each Member—two periods each not exceeding 10 minutes

In the House or in Committee—
Extension of time—with the consent of a majority of the House or of the Committee, to be determined without debate, a Member may be allowed to continue a speech interrupted under the foregoing provisions of this Standing Order (except a first speech in Committee) for one period not exceeding 10 minutes
Provided that no extension of time shall exceed half of the original period allotted.

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

Australia: House of Representatives (Senate's amendment of Bills).—When a Bill is returned *a first time* by the Senate with amendments, Standing Order 246 permits the House to make a further amendment to the Bill provided it is relevant to a Senate amendment rejected by the House. That is, the House rejects the Senate amendment, but makes in place thereof another (and relevant) amendment.

Standing Order 250, on the other hand, sets out the procedure which may be followed where a Bill is returned *a second time* from the Senate and where the Senate insists on its original amendments to which the House has disagreed. In this case, however, the Standing Order did not empower the House to make a further amendment to the Bill in place of the Senate amendment which is rejected. To this extent it was felt that Standing Order 250 was defective and in its report dated 10th June, 1970,* the Standing Orders Committee recommended that an appropriate amendment of the Standing Order should be made.

It was therefore agreed by the House† that Standing Order 250 be amended by the insertion of the words shown hereunder in capital letters:

If the Senate returns the Bill with a message informing the House that it—
I. Insists on the original amendments to which the House has disagreed....
.....
the House may, as to I.—
Agree, with or without amendment, to the amendments to which it had previously disagreed, and make, if necessary, consequential amendments to the Bill; or insist on its disagreement to such amendments AND MAKE, IF NECESSARY, AMENDMENTS RELEVANT TO THE REJECTION OF THE AMENDMENTS OF THE SENATE;.....
.....

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

Australia: House of Representatives (Quorum of Members).—The Standing Orders Committee recommended in its report of 10th

* *P.P.*, No. 114 of 1970.
† *V. & P.*, No. 41, 20th August, 1970, p. 253.

June, 1970,* that legislative action be taken to reduce the quorum in the House from one-third of the Members to one-fifth.

The present quorum of the House is fixed by section 39 of the Constitution, as follows:

> Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the Members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

As the House has not so far provided otherwise, the quorum is therefore 42 Members, including the occupant of the Chair, being one-third to the next highest whole number of the total number of 125 Members.

As the Parliament can " otherwise provide " only if it makes a law to that effect, legislative action is necessary if the Committee's recommendation is to be implemented.

The relevant Standing Orders of principal interest are as follows:

15—quorum required for election of Acting Speaker;
41—quorum required for meeting of House;
44—quorum required for division; otherwise no decision arrived at and House adjourned;
45—quorum required during sitting if attention called; otherwise House adjourned.

Of these, Standing Order 44 is of particular importance and is quoted in full:

> If it appears on the report by the tellers of a division of the House that a quorum of Members is not present, the Speaker shall adjourn the House till the next sitting day; and no decision of the House shall be considered to have been arrived at by such division.

When considering the question of the quorum, the Committee was conscious of the importance to see that the need for the House responsibly to carry out its functions and reach decisions of importance to the people, particularly when voting in division, should not be prejudiced by any reduction in the quorum numbers. It was clear, however, that this would not be at risk as, with almost negligible exception, the number of Members voting in division has been well in excess of the quorum requirement. For example, during the three years 1965–7, when the whole number of Members for quorum calculation purposes was 122 rising to 123 and the quorum was 41, the number of Members voting in division varied between 115 maximum and 68 minimum, the average for all divisions being 96. During the two years 1968–9, the whole number of Members for quorum calculation purposes was 123 rising to 124 in May 1968 when the quorum rose to 42. The number of Members voting in division varied between 112 maximum and 66 minimum, the average for all divisions being 93. These figures are extremely high as a number of Members are always away from Canberra on public business, either overseas or in Australia. There have been

* *P.P.*, No. 114 of 1970.

only four occasions in the years since 1901, the last being 1934, when there was a lack of quorum on division and Standing Order 44 operated. On each occasion, the question was the formal one, that the House do now adjourn.

Since Federation, the considerable growth in the scope and volume of Commonwealth affairs has increased the demands on Members to the point where they have to make the maximum effective use of their available time, particularly while they are in Canberra. Meetings of Committees and of Sub-Committees, meetings of the parliamentary political party to which they belong, correspondence, and discussions with constituents visiting the national capital are among the many things with which Members have to cope, in addition to their primary responsibility as Members in the House itself.

It is of substantial interest to note that, in other Parliaments, as a general rule, the bigger the membership of a legislature, the lower the percentage required for a quorum, *e.g.*

Legislature	*Membership*	*Quorum*
Tasmania Assembly	35	40%
W.A. Assembly	50	33⅓%
N.S.W. Assembly	94	21%
Ceylon House of Representatives	157	13%
South Africa Assembly	170	18%
Canada Commons	263	7½%
India Lok Sabha	523	10%
U.K. Commons	630	6⅔%

The quorum requirement for the House of Representatives of 33⅓% of 125 Members is obviously out of step with provisions which have been found realistic and acceptable elsewhere.

In all the circumstances, the Committee reached the conclusion that, although there may have been good reason for a constitutional requirement as high as one-third in the early years of the House, this is no longer the case and a reduction to one-fifth would serve the best interests of the House, its Members, and the electors whom they represent.

As illustrated earlier, an extremely high number of Members takes part in divisions but it is apparent that the attendance of Members in the Chamber itself during debates will vary according to the nature of the business immediately before the House on the one hand and their extra-Chamber parliamentary duties on the other. It follows that the need for one-third of Members to answer quorum calls (and it would be begging the question to deny that many quorum calls have a nuisance value only) is an unwarranted harassment of Members in the discharge of their legitimate duties and one which could well defeat the purpose for which this quorum level was first established.

The recommendation of the Committee was agreed to in principle by the House* and although a Bill has been introduced to implement

* *V. & P.*, No. 41, 20th August, 1970, pp. 252-3 *Hans. H. of R.*, 20th August, 1970, pp. 318–55.

the proposal it has not yet passed the Parliament. The matter will, therefore, be the subject of a report to THE TABLE at a later stage.

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

Maharashtra.—In all 23 amendments to the Legislative Assembly Rules and 20 amendments to the Legislative Council Rules were effected in 1970.

The purpose behind the more important of these amendments may be stated as follows:

1. *Ballot for Private Members' Resolutions:* The practice hitherto was to hold a ballot by subject matter for determining relative precedence of private members' resolutions. The Rules Committee thought that the ballot should be by member and not by subject. The first schedule to the Rules was, therefore, revised to serve the purpose (Rule 15 (4) of Assembly and Council Rules).

2. *Half-an-hour Discussions:* Half-an-hour discussions were confined to matters arising out of answers to questions. The Rules Committee considered that the scope of the rule should be widened, so as to allow discussion on any matter of sufficient public importance, not necessarily arising out of answers to questions. The Committee also felt that instead of allotting one day in a week for such discussions, one more day should be alloted and accordingly decided that such discussions should be held on Tuesdays and Thursdays every week (*vide* Rules 93 and 92 of Assembly and Council Rules respectively).

3. *Discussions on the amendment to the Constitution:* In the case of a Constitution Amendment Bill which is required to be ratified by the State Legislature under Article 368 of the Constitution, the practice was that a message to that effect used to be sent by the Lok Sabha Secretariat to the Chief Secretary of the State Government and the State Government, thereafter, took the necessary steps to move a motion for ratification of the Bill. There was no provision for this in the Assembly or Council Rules. The Committee considered that the Lok Sabha Secretariat should send the message direct to the State Legislature Secretariat, which should then take further steps in the matter. New rules were, therefore, introduced providing for this procedure (*vide* 158A, 158B and 158C of the Assembly Rules and 154A, 154B and 154C of the Council Rules).

4. The Rules Committee felt that a Minister of the State Government should not be elected as a member of any of the three Financial Committees (viz., Public Accounts, Public Undertakings and Estimates) and, if a member were subsequently appointed a Minister, he should not continue to be a member of the Committee. Necessary amendments have been effected in the Rules (*vide* Rules 201, 204 and 207 of Assembly Rules and 202 to 204 and 205 of Council Rules).

5. *Constitution of Committee on Public Undertakings:* The term of office of members of the other two financial Committees (viz., Public Accounts and Estimates) is one year. The Committee thought that

the term of office of this Committee should be one year, instead of five years. The necessary changes have been effected in the Rules (*vide* Rules 207 of Assembly Rules and 205 of Council Rules).

6. *Reference of Privilege Question to Committee or House:* Hitherto, when leave of the House to raise a question of privilege was granted, the procedure was for the Speaker, at his discretion to refer the question to a Committee of Privileges. The Rules Committee considered that the Speaker should have the discretion to refer the matter direct to the House. This was considered necessary as there are several cases where it is not necessary to have any detailed examination by the Committee and where the matter can be adequately dealt with on the floor of the House (*vide* Rule 262 of Assembly Rules and 236 of Council Rules).

7. *Motion on a day in the last week of the session:* Of late, according to experience, the volume of business brought in by private members was considerably increasing and it was found that the existing rule providing three hours on the last day of the Session for discussion of a matter of sufficient public importance was not adequate. The Rules Committee, therefore, decided that one whole day in the last week of every Session should be allotted for the purpose, and not more than four matters should be set for discussion on that day (*vide* Rule 277 of the Assembly Rules and Rule 251 of the Council Rules).

Papua and New Guinea.—Revised Standing Orders were approved by the House of Assembly on 5th June, 1970, following a report from the Standing Orders Committee. These came into operation on the first sitting day of the next meeting, viz.: 31st August, 1970.

The revision followed on the work of the Select Committee on House of Assembly Procedures in 1969. The more noteworthy procedural changes recommended by that Committee and contained in the revised Standing Orders are:

1. A number of " subject committees " are established, to which Bills, Motions, papers, etc., coming before the House may be referred by resolution of the House. The function of these committees is not to deliberate and report to the House on the merits of a piece of business, but rather to have an opportunity to study the matter in a less formal atmosphere, leading to a more informed debate on the Floor of the House.

2. The House now sits on Monday, Tuesday, Thursday and Friday, and adjourns at fixed times, vize.: 5 p.m. on Mondays and Fridays, and 10.30 p.m. on Tuesdays and Thursdays. Previously, the House sat each day Monday through Friday, and adjourned only on its own resolution.

3. Provision is made for a " grievance debate " each Friday, occupying the period between questions and twelve o'clock midday.

4. Each Member is limited, to four in any one week, in the number of questions he may put on the Notice Paper for oral answer in the

House. He may put an unlimited number on notice for written answer, a means of answering not previously utilised.

5. Except in certain circumstances (including money Bills), a Bill must now have been distributed to Members at least twenty-one days before the Second Reading can be moved. (A similar provision existed until 1965, when it was replaced by a provision that after the Second Reading of a Bill was moved the debate was automatically adjourned until the next meeting. Again, money Bills were excepted from this provision.)

Some further amendments were agreed to on 3rd September, 1970, recognising the additional member of the Administrator's Executive Council (Papua and New Guinea Act 1949–1968, section 20 (2)) as being virtually a Ministerial Member without portfolio.

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

5. Electoral

House of Commons (Reorganisation of Constituency Boundaries).—On 28th October, 1970, the House of Commons agreed to four resolutions approving changes in the parliamentary constituencies of England, Wales, Scotland and Northern Ireland recommended by the Boundary Commissions in their most recent periodical review. Equivalent resolutions were agreed to in the House of Lords on the following day. As was described in the last volume of The Table (Vol. XXXVIII, pp. 130–5), the implementation of these recommendations had been a subject of bitter political controversy in the previous Parliament, and in November 1969 the Commons, on the advice of the Home Secretary of the day, had passed resolutions that the orders-in-council embodying them be not approved. When the orders were brought before the House again in the new Parliament, three of the four were pressed to a division, but only some fifty Members voted in the No Lobby, and it appeared that their action did not have the support of the official Opposition.

The recommendations now implemented mean an increase in the number of Members of Parliament from 630 to 635, the new constituencies being all in England. In addition to the creation of new constituencies, the orders also provide for a great number of detailed changes in the boundaries of existing constituencies. All these changes will be operative for the first time at the next General Election, and will not affect any by-election that becomes necessary during the present Parliament.

(*H.C. Deb.*, Vol. 805, cols. 241–376.)

New South Wales (Parliamentary Electorates and Elections (Amendment) Act).—An amendment to the Parliamentary Electorates and Elections Act, 1970, reduced from 21 and 18 years the age at which persons must add their names to the electoral roll and vote at elections for the Legislative Assembly.

Voting at these elections is compulsory for all citizens whose names appear on the roll.

The Commonwealth and New South Wales Parliaments have a Joint Electoral Roll. The New South Wales Act is not yet in force, pending the passing of comparable legislation by the Parliament of the Commonwealth of Australia.

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

Western Australia (Electoral law changes).—During the 1970 session, an amendment to the electoral system was passed by this Parliament to permit persons aged 18 years and over to vote at State elections. This extended the franchise of 21 years, and will be operative for the coming general elections for both Houses in February 1971.

The change has brought Western Australia into line with many nations throughout the world, where it has been officially recognised that a person is considered an adult at the age of 18 years.

A further amendment to the electoral law was for the order of candidates' names on ballot papers to be decided upon by ballot and not, as has been the case in the past, for the names to be placed in alphabetical order.

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

Gibraltar (Elections (Amendment) Ordinance, 1970).—This amendment to the Ordinance provided that in the register of electors published in 1968 and in the case of any supplements to such a register which might thereafter be made, the expression " Qualifying date " would be deemed to be the 30th November in the year immediately preceding the publication of such a register.

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

6. Emoluments

House of Commons (Conditions of Service of Members).—On 25th November, 1970, Mr. Douglas Houghton, Labour Member for Sowerby and a former Minister, introduced a Bill under the procedure of the ballot for Private Members' Bills. The Bill was called the Members of the House of Commons (Conditions of Service) Bill, and its purpose was to

> provide for the setting up of a permanent review body to examine and make recommendations to Parliament from time to time upon the emoluments, expenses, pensions and conditions of service of Members of the House of Commons.

Moving the Second Reading of the Bill on 4th December, Mr. Houghton explained that his wish was " to remove the uncertainty about the way we have of dealing with this delicate subject." For a long time the House of Commons had thought it right to make its own decisions on the level of Members' remuneration, but experience had shown that succes-

sive Governments and Members were always reluctant to deal with the matter. So in 1963 an independent Committee had been appointed to conduct a review, but the implementation of its recommendations by a new Government immediately on taking office in 1964 had been widely misunderstood in the country, and the experiment had not been entirely successful. The permanent review body proposed in his Bill, Mr. Houghton said, would be analogous to the review body which the Government had already announced they would set up to advise on the remuneration of the boards of nationalised industries, the judiciary, senior civil servants and senior officers of the Armed Forces.

In reply the Leader of the House said that there could be no question of an increase in the salaries of Ministers or Members of Parliament under present circumstances. But he announced that it was the Government's intention, when the review body mentioned by Mr. Houghton was set up in the New Year, to refer to it, in addition to its other references, the whole question of the emoluments, allowances, expenses and pensions of Ministers and Members of the House of Commons. The advantage of this method by comparison with the proposal embodied in the Bill was that the review body already announced

> would have considerable knowledge and experience based upon looking at other salaries in the community as a whole. For this reason such a body would perhaps be better placed than any specially constituted body could be to study this difficult question of the remuneration of Members of Parliament.

Having received this assurance about the intentions of the Government, Mr. Houghton withdrew his bill.

(*H.C. Deb.*, Vol. 807, cols. 1715–27.)

British Columbia (Increase of salaries).—The Constitution Act, chapter 71 of the Revised Statues of British Columbia, 1960, was amended to change the name of the Minister of Social Welfare to Minister of Rehabilitation and Social Improvement and to increase the salaries of the Ministers and the sessional indemnities of the Ministers and members of the Legislative Assembly. (Bill No. 18, An Act to Amend the Constitution Act.)

The amendment increased the salary of the Premier from twenty thousand dollars per annum to twenty-three thousand dollars per annum; and the salaries of the members of the Executive Council from seventeen thousand dollars per annum to twenty thousand dollars per annum.

The sessional indemnities of the Ministers and members of the Legislature were also increased, in accordance with the amendments to sections 64 and 69.

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

Australia (Parliamentary Allowances Act 1970).—The main purpose of this Act* was to revise the second schedule of the principal Act which relates to electorate allowances. Two levels of electorate allowance are paid to Members, viz.: $Aus. 2, 750 per annum to a Member whose electorate is classified as city and $3,350 per annum to a Member whose electorate is classified as country. The second schedule lists electorates for which the city rate is paid and changes in the schedule were necessitated because of the redistribution of electorates in 1968 when some existing electorates were abolished and new city electorates created.

Under the principal Act Senators received electorate allowances of $2,650, or $100 less than Members representing city electorates. The amending Act provides for them now to be paid an allowance equal to city Members.

In addition the amending Act clarifies the limits of time during which both allowances in the nature of salary and electorate allowances are payable. In the first place, the Act specifies that, for the purposes of paying allowances, " the day of election " is polling day or, when there is no poll, the day the result is declared. This gives expression to existing practice. Secondly, under the principal Act, parliamentary allowances of a sitting Member who stands for re-election but is unsuccessful ceased with the election of his successor. The redistribution drew attention to the interpretation of the term " successor " and to the possibility of doubt arising in cases of changes in boundaries as to the identity of each successor to Members of the previous Parliament. Any possibility of doubt is avoided by the amending Act ensuring that a Member will be paid his allowance until the day before the day of his re-election or, if he is not re-elected, the day before polling day.

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

South Australia (Pensions).—Pensions for ex-Members or widows of Members were increased by 8¼ per cent by the Parliamentary Superannuation Act Amendment Act (No. 52 of 1970).

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

New Zealand (Civil List Amendment Act).—The Civil List Amendment Act (No. 2) 1970 amended the Civil List Act 1950 by inserting a new Clause 27 (*a*) which provided that as soon as practicable after 30th April in every year (except the year following a general election in which year a Royal Commission reviews Parliamentary salaries and allowances) the Government Statistician is to provide the Prime Minister with a certificate specifying the percentage movement in pay scales outside the State services ascertained from half-yearly surveys conducted by the Department of Labour. If that survey shows an increase or decrease in these pay scales, an Order-in-Council may be made increasing or reducing Parliamentary salaries (but not allowances)

* *Hans. H. of R.*, 11th March, 1970, p. 309.

by not more than the percentage specified in the certificate. No such adjustment may be made unless the percentage movement is equal to or greater than one-half of 1 per cent.

India (Salaries and Allowances of Officers of Parliament (Amendment) Act, 1970).—Under section 4 of the Salaries and Allowances of Officers of Parliament (Amendment) Act, 1953, officers of Parliament, *i.e.* the Chairman and the Deputy Chairman of the Rajya Sabha and the Speaker and the Deputy Speaker of the Lok Sabha were entitled, without payment of rent, to the use of furnished residence throughout their term of office and for a period of fifteen days immediately thereafter. This period of fifteen days was not considered to be sufficient especially when the family of an officer of Parliament had to vacate the residence in the event of his death.

By the above-mentioned amending Act which was passed in December 1970, this period of fifteen days has been increased to one month when an officer of Parliament vacates office. In the event of death of the officer, his family will be entitled under this Act to the use of the residence occupied by him for a period of two months immediately after the event. For the first month his family will not be liable for payment of rent or maintenance charges but during the second month his family will be liable to pay rent at the prescribed rates and charge for electricity and water consumed during that month. The Act wa given retrospective effect from the 1st November, 1969.

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

Maharashtra (Members Salaries and Allowances).—The Bombay Legislature Members' Salaries and Allowances Act, 1956 which had been amended to provide for higher salary and certain allowances to the Leader of the Opposition in the Legislative Assembly was again amended to provide for similar facilities to the Leader of the Opposition in the Legislative Council. The Act now provides:

(1) A salary at the rate of Rs. 1400/- per month;
(2) Furnished residence or, in lieu thereof, a house allowance of Rs. 250/- per month;
(3) A travelling allowance of Rs. 400/- per month;
(4) Staff, as determined by rules or orders;
(5) Entitled to travel in air conditioned coach by railway or by air.
(6) Facilities regarding reservation of accommodation in Dak Banglows, rest houses, Circuit houses, etc.

Rules were framed under the Act as follows:

(1) Expenditure for furnishing the residence, on the scale laid down by the Government for furnishing the residence of a Minister;
(2) Staff consisting of one P.A., one stenographer and two peons to be borne on the establishment of the Maharashtra Legislature Secretariat and subject to its supervision and control.

Gujarat (Members' Salaries and Allowances (Amendment) Act, 1970).—This Act entitled a Member and the members of his family who reside with and are dependent on him, to accommodation in hospitals maintained by the State Government and to medical attendance and treatment therein free of charge. It also contained a provision that a Member should be entitled to be reimbursed by the State Government with any amount paid by him on account of such attendance or treatment accorded outside such hospital on production by him of a certificate in writing by the medical officer-in-charge of such hospital to the effect that the necessary and suitable attendance or treatment was not available in such hospital.

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

St. Lucia (Increased emoluments and allowances to Members).—Following the Report of a Select Committee appointed to consider emoluments and allowances paid to Members of the House and to make recommendations, Members have been given an increase in their basic emoluments of 37½ per cent. This followed a general increase in salaries for officers in the public service, and the percentage was decided on the basis of the revision of salary of the Attorney-General.

Members now receive a basic salary (referred to as honorarium) which is taxable plus a Travelling Allowance to all Members including Nominated Members living outside the limits of the city of Castries: a Duty Allowance to all Members and an Entertainment Allowance (also taxable) to the Speaker, the Premier and other Ministers. The new rates were made effective from 1st January, 1970, and are as follows:

Member	*Basic Emoluments* $ (EC)†	*Travelling Allowance* $ (EC)	*Duty Allowance** $ (EC)	*Entertainment Allowance* $ (EC)
Speaker	6,264 p.a.	1,200 p.a.	600 p.a.	720 p.a.
Premier	16,500 ,,	2,400 ,,	2,400 ,,	2,280 ,,
Ministers (4)	13,200 ,,	2,400 ,,	1,200 ,,	1,080 ,,
Parliamentary Secretary	6,600 ,,	1,200 ,,	600 ,,	
Leader of the Opposition	6,264 ,,	1,200 ,,	600 ,,	
Other Members (Elected) (3)	3,300 ,,	1,200 ,,	600 ,,	
Nominated Members	3,300 ,,	1,200 ,, (if travelling outside limits of city of Castries)	600 ,,	

All members are allowed one rent-free telephone.

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

* Duty Allowance: New.
† E.C.: Eastern Caribbean.

7. Order

Australia: House of Representatives (Refusal of suspended Member to leave Chamber).—During the afternoon of 8th April, 1970, debate was resumed on the Second Reading of the River Murray Waters Bill.* The debate proceeded smoothly until about midnight when the Government moved the first of five closure Motions to accelerate the passage of the legislation. Tempers became short on the Opposition side as they believed that the agreed number of speakers had not been called before the closure was moved on the Second Reading and, in addition, the committee stages were gagged before the Opposition was able to move two of its three proposed amendments.

At about 12.30 a.m. Mr. Hayden was named by the Speaker for reflecting on the Chair. Mr. Snedden (Leader of the House) moved for his suspension. A division was called for but as the Tellers for the " Noes " refused to act the Speaker declared the question resolved in the affirmative and Mr. Hayden withdrew from the Chamber.

Mr. Bryant then questioned the authority of the Speaker in not having the House counted just because two Members had refused to act as Tellers. He continued speaking and was asked by the Speaker to resume his seat on two occasions. Refusing to do so he was named by the Speaker and Mr. Snedden moved for his suspension. Mr. Bryant immediately indicated that the House could come to any decision it wanted to but he would not leave the Chamber. Once again the Tellers for the " Noes " refused to act and the Speaker declared the question carried.

Mr. Bryant remained in his place and the Serjeant-at-Arms was ordered to direct him to leave the precincts. The Serjeant was asked by Mr. Bryant to advise the Speaker that he refused to leave. Grave disorder arose and the Speaker suspended the sitting at 12.40 a.m. until 2.15 a.m.

On resumption the Speaker stated that the business of the House could not proceed until Mr. Bryant was outside the Chamber. He again asked Mr. Bryant to leave in accordance with the decision of the House and requested Mr. Whitlam (Leader of the Opposition) to use his influence to see that the orders of the House were complied with.

Mr. Bryant still refused to leave and grave disorder again arose. At 2.22 a.m. the Speaker suspended the sitting until 10.30 a.m.

When the House resumed the Speaker drew attention to the presence of Mr. Bryant in the Chamber and again requested him to withdraw. Mr. Bryant stated that he would obey the Speaker, that he regretted that he had defied him and expressed his apology. Mr. Bryant then withdrew from the Chamber.

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

* *V. & P.*, No. 11, 8th and 9th April, 1970, pp. 75–6. *Hans. H. of R.*, 8th and 9th April, 1970, pp. 830–5 and p. 899.

Australia: House of Representatives (Disorder in galleries and suspension of sitting).—On 11th June, 1970, the proceedings of the House were interrupted* by shouts from the public galleries and the waving of paper placards which had apparently been secreted under the demonstrators' clothing.

The Speaker asked the demonstrators to leave the gallery but as the disturbance continued, he directed the Serjeant-at-Arms to remove them with the assistance of the police. The Serjeant-at-Arms then reported that some of the demonstrators had chained themselves to the railings. The Speaker ordered that all galleries, including the Press Gallery, be cleared and suspended the sitting until the ringing of the bells.

The House resumed 37 minutes later after bolt cutters had been obtained to cut the chains.

The Speaker decided that no action should be taken against the offenders.

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

* *Hans H. of R.*, p. 3361.

XVII. SOME RULINGS BY THE CHAIR IN THE UNITED KINGDOM HOUSE OF COMMONS AND IN CANADA, 1969–70

The following is a digest of some rulings given by the Chair in the period from 28th October, 1969, to 31st December, 1970. The digest is compiled in accordance with the principles set out in the Editorial, page 7. References in the first section are to the volume and column numbers of the relevant House of Commons *Hansard*.

Westminster: House of Commons

Adjournment of the House under S.O. No. 9: Submission cannot be debated after the Chair has ruled on it.

On 17th March, 1970, after the Speaker had ruled that a submission for an urgent debate did not fall within the provisions of S.O. No. 9, a Member attempted to speak further to the matter. The Speaker said that it was not usual for a Member to continue the matter. When the Member again tried to do so—

Mr. Speaker: Order. We cannot debate the submission. We listened to it, I ruled on it and that is the end of it.

(*H.C. Deb.*, Vol. 798, cols. 214–15; cf. also Vol. 807, col. 452, for a similar ruling.)

Adjournment of the House under S.O. No. 9: Motions allowed by Mr. Speaker.

—Relief plans for Nigeria (22nd January, 1970; Vol. 794, col. 722).
—Situation in Northern Ireland (6th April, 1970; Vol. 799, col. 33).
—Latest military activities of United States forces in Cambodia and North Vietnam (4th May, 1970; Vol. 801, col. 27).
—Proposed South African Cricket Tour (13th May, 1970; Vol. 801, cols. 1251–2).
—Financial aid for the Mersey Docks and Harbour Board (30th November, 1970, Vol. 807, cols. 912–13).

Bills, Public: Introduction. (See under Miscellaneous Notes above, p. 148.)

Member who has not taken Oath cannot table Questions.

On 20th July, 1970, Mr. Speaker was asked about the parliamentary rights which could be enjoyed by a Member who, before she could take the Oath, had been imprisoned.

Mr. Speaker: The rules about the tabling of Questions are that a Member who has not taken the Oath is not entitled to table Questions to Ministers.

This is the practice which has been observed for many Parliaments before this one. For the convenience of the House, there are certain activities which an unsworn Member can enter into, such as voting in the contested election of the Speaker, but the tabling of Questions is not one of them. Until the House directs me that its present practice must be laid aside, I am bound to follow the precedents as upheld by my predecessors.

(Vol. 804, cols. 37–8.)

Motion affecting another Member's constituency.

On 30th October, 1970, a Member drew attention to the fact that an " Early Day " Motion concerning a constituent of his had been put down by another Member, and complained that this was a departure from the normal practices of the House.

The Speaker said this was a matter quite outside the responsibility of the Chair. The Order Paper was published under his authority and if any Motion were one of extreme irregularity he could order it to be withheld from the Paper, but this was a power exercised only in the most exceptional cases. Nothing in this Motion justified taking such a course. (Vol. 805, cols. 563–4.)

Motion necessary to secure production of Committee documents not reported to House.

On 13th November, 1969, a Member asked Mr. Speaker how Select Committee documents which had not been reported to the House in the last session could be made available to the House.

Mr. Speaker said that the Select Committee of the present session which was the successor of the previous Committee had no control over documents which had not been reported to the House in the last session. The procedure by which such documents could be made available was to put on the Order Paper a Motion that they be laid upon the Table; if the House agreed to the Motion, the documents would be made available to the House. (Vol. 791, cols. 624–5.)

Personal explanation: Attempt to make, disallowed.

A Member, wishing to clarify a statement of his as reported in a newspaper, was told by the Speaker that he could not have an inquest in the House on what took place the day before. (Vol. 795, col. 430.)

Speaking twice on same question deprecated.

On 20th January, 1970, on the consideration stage of the Industrial Development (Ships) Bill, a Member sought leave to speak for the second time on an Amendment. The Member claimed that, where the House indicated that it did not object, it was perfectly proper for a Member to address the House again.

Mr. Speaker: It is customary for the Chair to dissuade hon. Gentlemen from seeking leave to speak again at Report Stage unless they can satisfy the Chair that there are special reasons that they should speak again.

(Vol. 794, col. 309.)

Weapons should not be brought into the Chamber.

A Member, speaking on methods used in controlling crowds in Northern Ireland, displayed a weapon. The Chairman said that the usages of the House clearly prohibited the bringing of a weapon into the Chamber. (Vol. 792, col. 1193.)

CANADA: QUEBEC

Amendment to Motion for second reading of a bill.

An amendment to the Motion for the second reading of a bill, proposing that it be referred to the Committee on Cultural Affairs, is inadmissible, because every public bill shall be read twice before being referred to any committee (Article 536 of the Standing Orders). The only amendments which can be moved to every Motion for second reading are those provided under Articles 557 and 558 of the Standing Orders. (16th July 1970.)

Amendment for recommittal of a bill on Motion for third reading.

An amendment moving the recommittal of a bill in whole or in part to a committee with or without instructions, may be made on the Motion for the third reading of a public bill (Article 573 of the Standing Orders and footnote 1 to Article 573 of the Standing Orders). Nevertheless, when the instructions to the committee require an amendment which is inconsistent with the principle affirmed by the second reading of the bill, such amendment shall be declared inadmissible (Article 566 of the Standing Orders). (4th December, 1970.)

President has no jurisdiction over words spoken outside House.

A Member may raise a question of privilege to protest against a newspaper article reporting words and threats made outside the House by another Member (Article 193 of the Standing Orders). Nevertheless, the President of the House does not have jurisdiction to compel a Member to withdraw any words spoken outside the House. It is up to the House and not to the President to decide in such case (footnote 3 to paragraph 20 of Article 285 of the Standing Orders). (12th November, 1970.)

XVIII. EXPRESSIONS IN PARLIAMENT, 1970

The following is a list of examples occurring in 1970 of expressions which have been allowed and disallowed in debate. Expressions in languages other than English are translated where this may succinctly be done, in other instances the vernacular expression is used, with a translation appended. The Editors have excluded a number of instances submitted to them where an expression has been used of which the offensive implications appear to depend entirely on the context. Unless any other explanation is offered the expressions used normally refer to Members or their speeches.

Allowed

" ape " (*N.Z. Hans.*, Vol. 368, p. 3191)
" carpet-bagger " (*H.C. Deb.*, Vol. 806, cols. 1016–17)
" clowning " (*N.Z. Hans.*, Vol. 370, p. 4605)
" cowardly, petty malicious lie " (*R.S. Deb.*, 29.4.70. col. 135)
" despicable " (*N.S.W. Leg. Ass.*, No. 48, p. 3525)
" Harping " (*St. L. Hans.*, 24.7.70)
" Insane person " (*St. L. Hans.*, 24.7.70)
" prevaricated " (*N.Z. Hans.*, Vol. 365, p. 717)
" renegade " (*R.S. Deb.*, 29.4.70. col. 132)
" scuttle for cover " (*N.Z. Hans.*, Vol. 365 p. 719)
" shouting is very easy " (*Gujarat Deb.*, 24.11.70)
" You be careful " (as a threat) (*N.S.W. Leg. Ass.*, No. 43, p. 3161)

Disallowed

" Aap Hamarai oopar chare aa rahai hain " (You are suppressing us) (of the Chair) (*Haryana Deb.*, 19.2.70)
" Absolute lies " (*Queensland Hans.*, p. 3139)
" Ass " (*Canada Com. Hans.*, 18.2.70)
" Ayogyathanamana " (Dishonest) (*Tamil Nadu, L.A.*, 21.1.70.)
" Babies, not even, would give such reply " (with reference to Minister) (*Malta*, S.266 11.12.70)
" Back door business " (*Gujarat Deb.*, 28.11.70)
" Bhoos Main Aag Lagai Jamaloo door khari " (To feel unconcerned after setting chaff on fire) (*Haryana Deb.*, 17.2.70)
" Big mug " (*Queensland Hans.*, p. 2817)
" Blood thirsty " (*L.S. Deb.*, 20.11.70, col. 307)
" Bloody " (*L.S. Deb.*, 13.3.70, col. 259)
" Brazen faced " (with reference to Minister) (*Malta*, S.259, 16.11.70)
" Bribed, the lady has been " (*L.S. Deb.*, 7.5.70, col. 197)
" Brother " (*Tamil Nadu L.A.*, 30.11.70)
" Chaipee Chapee " (Flattery) (of a Minister) (*Haryana Deb.*, 17.2.70)

" Chaur, Aeyar aur Makar " (Thief, cunning and deceitful) (*Haryana Deb.*, 17.2.70)
" Cheek, to have the " (*Malta*, S.188, 13.2.70)
" C.I.A. Agent " (*L.S. Deb.*, 10.4.70, col. 6)
" Consistent, you have to be " (of the Speaker) (*S. Aust. Hans.*, p. 2153)
" Cowardly, too, to express its opinions " (*N.Z. Hans.*, Vol. 366, p. 1508)
" Deceived, House has been " (*Canada Com. Hans.*, 23.2.70)
" Deliberate lies " (*Queensland Han.*, p. 3139)
" Deliberately misled the House " (*S. Aust. Hans.*, p. 1646)
" Despicable " (*N.Z. Hans.*, Vol. 368, p. 3063)
" Dirty, that shows how, some people can be " (*N.Z. Hans.*, Vol. 369, p. 4250)
" Donkey has sat down ". (*N.Z. Hans.*, Vol. 369, p. 4453)
" Drama " (of the business of the House) (*Gujarat Deb.*, 12.6.70)
" Dunce " (*St. L. Hans*, 23.10.70)
" Effeminate, we know his approach " (*N.S.W. Leg. Ass.*, No. 70, p. 5296)
" Face saving attitude " (*St. L. Hans.*, 23.10.70)
" Falsehood " (*N.Z. Hans.*, Vol. 369, p. 4318)
" Fascist " (disrespect to the Chair) (*N.Z. Hans.*, Vol. 368, p. 2993)
" Fascist, get that, out of the House " (*N.S.W. Leg. Ass.*, Vol. 81, p. 6161)
" Fascist dictators " (*S. Aust. Hans.*, p. 1459)
" Filibustering " (*Malta*, S.200, 16.3.70)
" Filthy member of Parliament " (*N.S.W. Leg. Ass.*, No. 78, p. 5836)
" Filthy, offensive material he is reading " (*N.S.W. Leg. Ass.*, No. 78, p. 5836)
" Four-eyed ape " (*Queensland Hans.*, p. 845)
" Gag " (of the Chair) (*Tamil Nadu L.A.*, 9.9.70)
" Goondas " (bad characters) (*L.S. Deb.*, 18.3.70, cols. 207–8, 212)
" Guts, they haven't got the " (*N.Z. Hans.*, Vol. 370, p. 5098)
" Guttersnipe, you are a " (*N.S.W. Leg. Ass.*, No. 45, p. 3273)
" Hammer and sickle, take your along " (*N.S.W. Leg. Ass.*, No. 85, p. 6494)
" Hard to tell the truth " (*N.S.W. Leg. Ass.*, No. 53, p. 3947)
" Hypocrites " (*Queensland Hans.*, p. 150)
" Ignorant of his Mundra chapter " (*Gujarat Deb.*, 15.6.70)
" Insane man " (*L.S. Deb.*, 18.12.70, col. 19)
" Insignificant nincompoop " (*Aust. Sen. H.*, Vol. S.46, p. 1913)
" Judas, you are a " (*N.S.W. Leg. Ass.*, No. 104, p. 8114)
" Judges have done something very immoral " (*L.S. Deb.*, 3.4.70, cols. 273, 275)
" Jhoot " (Lie) (*Haryana Deb.*, 17.2.70)
" Jumped on, would have been " (reflection on the Chair) (*N.Z. Hans.*, Vol. 368, p. 3060)

" Lackey, just a " (*Aust. Sen. H.*, Vol. S.43, p. 755)
" Lie, it is a blatant " (*L.S. Deb.*, 29.7.70, col. 327)
" Lied, the Minister . . . has " (*H.C. Deb.*, Vol. 797, col. 663)
" Lie, that is a, and you know it " (*N.Z. Hans.*, Vol. 369, p. 4365)
" Lie, that is a typical, you constantly use " (*N.Z. Hans.*, Vol. 367, p. 1863)
" Lie " (*Aust. Sen. H.*, Vol. S.46, p. 1196)
" Lie, that was a " (*S. Aust. Hans.*, p. 1753)
" Lie, that is a " (*N.S.W. Leg. Co.*, Vol. 87, p. 7149)
" Lie, that is a deliberate " (*N.S.W. Leg. Ass.*, No. 104, p. 8115)
" Lie, a total " (*L.S. Deb.*, 1.9.70, col. 222)
" Low-down skunk " (*Queensland Hans.*, p. 846)
" Lying, you are " (*N.S.W. Leg. Ass.*, No. 18, p. 1102)
" Malicious " (*Malta*, S.271, 23.12.70)
" Manipulation of public moneys " (*N.S.W. Leg. Ass.*, No. 36, p. 2464)
" Member not obliged to apologise, only to withdraw " (*N.Z. Hans.*, Vol. 369, p. 4421)
" Minister, an objectionable little man " (*N.Z. Hans.*, Vol. 370, p. 4797)
" Mug " (*Queensland Hans.*, p. 3603)
" Murderer " (*Aust. Sen. H.*, Vol. S.45, p. 457)
" Neurotic drives " (suggestion that a Member had) (*N.S.W. Leg. Ass.*, No. 70, p. 5285)
" Nonsense " (*L.S. Deb.*, 3.3.70, col. 24)
" political racketeering " (*St. L. Hans.*, 29.5.70)
" political tool " (of the police) (*N.S.W. Leg. Ass.*, No. 85, p. 6509)
" Police, using the, as political police and as bounty hunters " (*N.S.W. Leg. Ass.*, No. 85, p. 6493)
" Political Buffoon " (used for a Governor) (*L.S. Deb.*, 11.11.70, col. 341)
" Politically dishonest " (of a Minister) (*Malta*, S.220, 22.5.70)
" Professional blackmailer " (*L.S. Deb.*, 7.5.70, col. 197–8)
" Puppet, little " (*S. Aust. Hans.*, p. 1845)
" Puppets, we become the, of foreigners" (*Malta*, S.205, 10.4.70)
" Racketeer " (*Aust. Sen. H.*, Vol. S.46, p. 1123)
" Rogue " (*L.S. Deb.*, 18.11.70, col. 321)
" Rogue " (*N.Z. Hans.*, Vol. 368, p. 2936)
" Rubbish " (*Malta*, S.192, 25.2.70)
" scum " (*Malta*, S.250, 14.8.70)
" Shut up " (*L.S. Deb.*, 11.11.70, col. 345)
" Shut your mouth " (*Queensland Hans.*, p. 2709)
" Snide " (*Queensland Hans.*, p. 1245)
" Snotty nose " (*Queensland Hans.*, p. 2507)
" Stupid " (*Canada Com. Hans.*, 19.5.70)
" Swine " (*H.C. Deb.*, Vol. 801, col. 1449)

" Tameez Nahin Hai " (Has no manners) (of the Chief Minister) (*Haryana Deb.*, 13.2.70)
" Throttle " (*Tamil Nadu L.A.*, 9.9.70)
" Too much time is wasted " (*St. L. Hans.*, 6.1.70)
" Traitor " (*L.S. Deb.*, 30.3.70, col. 280)
" True, that is not and the Member knows it " (*N.Z. Hans.*, Vol. 369, p. 3726)
" Underlings, having left it to one of your " (meaning another member) (*N.S.W. Leg. Ass.*, No. 46, p. 3348)
" Unethical way " (*Canada Com. Hans.*, 27.2.70)
" Unmitigated hypocrites " (*Aust. Sen. H.*, Vol. S.44, p. 1322)
" Vicious and slimy pit " (*N.Z. Deb.*, Vol. 366, p. 1336)
" What has happened to-day has been inspired by the Opposition Members " (with reference to the act of a young man jumping into the House from the Visitors' Gallery and distributing pamphlets) (*Gujarat Deb.*, 15.6.70)
" Wife basher, adulterer " (*N.S.W. Leg. Ass.*, No. 81, p. 6163)
" Yogita Kai Basis par thoora Rakhai gai hai " (Have not been appointed on the basis of ability) (of a Minister) (*Haryana Deb.*, 17.2.70)
" Yo-yo, if you were not such a " (*N.S.W. Leg. Co.*, Vol. 86, 5758)

Borderline

" black serpent " (*Tamil Nadu L.A.*, 6.3.70)
" Mickey Mouse measure " (*Br. Columbia Deb.*, p. 712)
" This fellow " (of a Minister) (*R.S. Deb.*, 19.11.70)

XIX. REVIEWS

Legislative Drafting. By G. C. Thornton, M.A., LL.B. (Butterworth, £8).

Mr. Thornton writes as a barrister and solicitor of New Zealand, Principal Crown Counsel of Hong Kong, and a past Chief Parliamentary Draftsman of Tanzania. His practical experience as a legislative draftsman has accordingly been gained in Commonwealth countries outside the United Kingdom: but his interest in and knowledge of the subject is passionate and general. There is no separate bibliography, but a first run through the text and the footnotes is enough to establish that the author has drawn on most of the relevant books, reports and articles which have been published in England since Coode's original diatribe on the Poor Law in 1843, and several highly respected Canadian and American sources as well; and his citations of modern statute law include instances from Canada, Australia, the United Kingdom and Northern Ireland, as well as Commonwealth countries nearer to his own field of experience.

The main theme, which appears in the Preface and elsewhere, is the need for draftsmen to re-examine their techniques; to improve them where possible: and to develop an " obsession " to draft so as to be readily understood. The book is accordingly addressed to legislative draftsmen in general and beginners in particular—subject of course to the necessary warning that the soundness of the concept is far more important than the method of expressing it. " It is worse than useless to be able to draft with facility and skill if one's thinking on the task is misconceived."

From this Preface the author proceeds to a short and entertaining chapter on language in general and words in particular. The Parliamentary Counsel have long deplored the necessity to use words for the drafting of Bills, and here Mr. Thornton is on hand with an apposite quotation from Plato. The proposition that words are gregarious and influence each other by the company they keep is admirably illustrated by a pair of judicial pronouncements, one from the judgment of Stamp, J., in *Bourne* v. *Norwich Crematorium*, 1967 1 W.L.R. 691, 695–6, and the other (previously unknown to the reviewer) from Justice Holmes in *Towne* v. *Eisner*, 245 U.S. 418, 425.

There follows a chapter on Syntax which contains some fairly repellent diagrams. Passing from these, the reader is reminded of the risks of ambiguity or absurdity inherent in the " dangling modifier "—a phenomenon which has several aliases but is exemplified by the advertisement " For Sale: mahogany gentleman's wardrobe ". This is not among Mr. Thornton's examples, for although he writes with quiet wit he is not given to frivolity. But his description is itself a specimen

piece of drafting: " A modifier may be said to dangle when it may be construed as modifying some other element in the sentence in addition to or as an alternative to the element intended to be modified." All this is no doubt elementary. We think we know it, but it is easy to be caught unawares, as witness the following (from the reviewer's pen) in the Wills Act 1968: " This section applies to the will of any person dying after the passing of this Act, whether executed before or after the passing of this Act."

In the following chapter dealing with Style there is more gold. " It is unrealistic to believe that laws should be drafted in language and in a style which is familiar and instantly intelligible to the man in the street." On the other hand " drafting techniques are so patently inadequate that draftsmen must remain permanently dissatisfied with their products". Intelligibility, which Mr. Thornton so ardently pursues, is described as the product of simplicity and precision, and " simplicity " (itself an elusive concept) as made up of economy, directness, familiarity of language and orderliness. All the advice in this chapter is good, and some of it very good. At page 51 he sets out the two rules which every draftsman knows to lie at the heart of the matter: (1) Ascertain exactly what it is you want to say; and (2) say it.

There follows a discussion of particular words and expressions to be avoided or used with care. At this point the author moves into more debatable territory, but the advice is always objective and well worth a second look even if one has long since adopted a different conclusion.

After a short and relatively uninteresting chapter about interpretation Acts, Mr. Thornton gets down to the mechanics of drafting a Bill. It is impossible in a short review to follow him throughout and selection is necessary. Those interested in the subject of " legislation by reference " (that much-abused expression) will find a balanced if not very profound discussion of the problem at pages 110 to 115. Whatever one thinks of the practice in general, it is difficult to dissent from Mr. Thornton's proposition that " Referential legislation must not degenerate into a game of hide and seek ". In this connection he cites S.51 (2) of the Criminal Appeal Act 1968, which is just one instance of a technique fairly regularly used in the United Kingdom as a substitute for the vague direction that this Act is to be " construed as one " with an earlier enactment. A more startling instance of hide and seek is to be found in S.26 (4) of the Finance Act 1965–" any provision in the enactments relating to estate duty which has no corresponding provision in this Part of this Act ". Chapters 10 and 11 include, in addition to an apparently rather haphazard selection of statutory precedents, several " check lists " for a draftsman faced with certain more or less familiar legislative proposals. A specific check list is no doubt a most useful administrative device, though one may have reservations about the validity of a list which deals simultaneously with two such different systems of official interference as licensing and registration and treats those two impostors just the same (pages 184 to 186).

Finally, chapter 15 contains a topical discussion of the question how to draft a clause amending existing legislation. In the United Kingdom both methods are used with discrimination—the express, by which the alteration to be made in the existing law is enacted as such by the new Act, with or without consequential verbal amendments; and the mechanical, in which the alteration is left to be deduced from verbal amendments standing alone. For historical reasons, the mechanical method has largely ousted the express in other Commonwealth countries, and there is now some agitation for its general adoption in the United Kingdom. It is not surprising that Mr. Thornton favours the mechanical method (which he calls " direct "). But unlike some of its advocates he appreciates that there are two sides to the argument, and is at least consistent in his demand for consistency (see pages 64 and 298).

Granville Ram, who was First Parliamentary Counsel to the Treasury from 1937 to 1948, used to remark that if there is anything more difficult than drafting Bills intelligibly it is writing intelligibly about the drafting of Bills. Mr. Thornton has undoubtedly brought it off.

(*Contributed by Sir Noel Hutton, G.C.B., Q.C., formerly First Parliamentary Counsel to the Treasury, United Kingdom.*)

A Parliamentary Dictionary. Third Edition by S. C. Hawtrey and H. M. Barclay. (Butterworth, 1970.)

Clerks-at-the-Table and other persons interested in parliamentary procedure will be familiar with the earlier editions (1956 and 1964) of this work.

Although Mr. L. A. Abraham, one of the former co-authors, has retired as author, the book has on its dust jacket and title-page been given the new title of *Abraham and Hawtrey's Parliamentary Dictionary* which quite appropriately commemorates the founding authors' association with the launching of this most useful glossary of parliamentary terms.

Mr. Barclay, as the new co-author with Mr. Hawtrey, joins a long line of distinguished authors from the staff of the House of Commons who have contributed so much to the continuing record of precedent and knowledge of the House of Commons which is constantly drawn upon by Clerks, in particular, and other persons wherever the British system of parliamentary government operates. It may not be inappropriate to take the opportunity of paying a justly-deserved tribute to this talented group of authors.

The general format of the new edition of this book follows that which was adopted so successfully in the production of its predecessors.

A substantial part of the text for the new edition required little or no revision, but the six years which have elapsed since the publication of the second edition were notably productive of many varied procedural and other changes in the House of Commons. These have

involved the authors in a major review task in respect of amendments of the text, additions and consequential alterations. The amount of re-writing is an interesting reflection of the extent and nature of the changes which have occurred. A glance at such terms as " Adjournment of the House, Motion for ", " Amendment ", " Bill, Public ", " Committee, Second Reading ", " Committee, Specialist select ", " Committee to consider a Bill on report ", " Finance ", " House of Commons (Services), Select Committee on ", " Overseas Office ", " Parliamentary Commissioner for Administration ", " Royal Assent ", " Supply " and " Ways and Means " will instance some of the more important changes. The fact that it has been possible for the space devoted to the business of " Supply " to be reduced from five pages to a little more than one page in the new edition is an indication of the extent to which some simplification of the former involved procedure has been achieved.

With its alphabetical arrangement of material, its index, and its comparative absence of footnotes, it is easy for the reader to locate quickly in this book the information to which he wishes to refer. It is difficult to bring to mind any significant parliamentary term which has been omitted, while those terms which are included are explained succinctly but, at the same time, comprehensively.

Those who have had the benefit of the earlier editions of this work will appreciate the opportunity to place on their shelves this up-to-date version on Commons' procedure and parliamentary terms. To others it offers excellent value as an authoritative description of terms within the parliamentary vocabulary.

(*Contributed by N. J. Parkes, Deputy Clerk, Australian House of Representatives.*)

Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament (18th Edition), Sir Barnett Cocks (Editor). (Butterworth, £8.8o.)

The distinguished biographer who light-heartedly reviewed the seventeenth edition of this book in this *Journal* in 1964 said it was like making an attempt to review the Bible. As he was at one time a Senior Clerk in the House of Commons, this was understandable, for *Erskine May* certainly is a bible—and has been ever since its first appearance in 1844—for anyone who needs to master the intricacies of parliamentary procedure at Westminster.

If a former Clerk in the House of Commons could infer that *Erskine May* is an almost impossible work to review, it will be obvious how completely so it is for the Librarian of " another place ", for a Librarian is usually more familiar with the index of a reference book than with its text! The present reviewer, incidentally, does not feel disposed to follow his predecessor and condemn the index of the new edition which appears to be a more than adequate guide to the meticulous scholarship of the text.

The last edition appeared just prior to the General Election of 1964. The need for Parliamentary Reform then expressed by all parties prompted the appointment of a Select Committee on Procedure, many of the recommendations of which were adopted by the House of Commons. The new pages dealing with the changes have merely taken the place of the old, and thus the length of the book has not been increased. Indeed, the new edition has forty pages less than its predecessor—a matter for congratulation to the editor, Sir Barnett Cocks, and his team of seven Clerks drawn from both Houses.

The abolition in session 1966–67 by the House of Commons of the Committees of Supply and of Ways and Means, which meant the abandonment of the rule that financial charges must originate in a Committee of the Whole House, is reflected in the extensive revision of the financial chapters of the work. Many other changes and developments in the work of the House of Commons since 1964 are fully described, notably, the new provisions for emergency debates proposed by Private Members under S.O. No. 9; the method of proposing the question on amendments; modification of the Select Committee system; the experiment of specialist Committees of Inquiry; the introduction of Second Reading Committees and Committees on Report; and the new form of signifying the Royal Assent to Bills, which has already saved much Parliamentary time since its introduction by the Act of 1967.

Since October 1964 over 150 Life Peerages have been created. The consequential increase in attendances and activity in the House of Lords has not unnaturally fostered interest in procedure. A number of changes recommended by the Procedure Committee, for instance in the Committee stage of Public Bills, and the provision for Committees off the floor of the House, has duly been recorded. All the sections of the work referring to the House of Lords have indeed been extensively revised.

If this reviewer can be forgiven a personal observation, he is gratified to find his Office mentioned in *Erskine May* for the first time since its creation in 1826!

(*Contributed by C. S. A. Dobson, the Librarian of the House of Lords.*)

Chronicle of Parliamentary Elections, July 1, 1969–June 30, 1970, (International Centre for Parliamentary Documentation.)

The International Centre for Parliamentary Documentation was created in 1965 within the framework of the I.P.U. to assemble information on Parliaments throughout the world. This *Chronicle of Parliamentary Elections* is the fourth in the series published by the Centre and covers the period 1st July, 1969, to 30th June, 1970.

The book is divided into two distinct sections. The first, entitled " Parliamentary Developments in the World " surveys the constitutional changes that have taken place over the period in countries from which the Centre has been notified by its national correspondents.

A brief account is given of new legislative provisions and certain political events, and summarises their effect on the organisation, operation and powers of thirty-two Parliaments.

The second section analyses the twenty-nine elections that have taken place during the period. Information is compiled under several headings: the characteristics of each Parliament are summarised, the constitutional provisions governing the date of each election, how many Members each Parliament has and in how many Houses they sit; the electoral system is described by defining who can vote and who is eligible to be voted a Member, whether voting is compulsory, how seats are proportionally distributed; a summary is given of the political considerations and of the recent history surrounding the election, how the election was conducted. Finally a table shows the overall election result, and where possible, tables show the distribution of political groups within each Parliament, Members' professions and their age.

It is a credit to the skill of the staff at the Centre that so much information under the foregoing headings has been assembled and analysed, for the scope of the *Chronicle* is ambitious. If the sieve of these headings be too coarse then the pile of information though large will be quite useless. If the sieve be too fine or constructed with oddly shaped holes then the information though rigorously definite will be sparse. Also the same sieve must be used throughout the survey. In this task the compilers have had some success. Inevitably the information provided in some cases falls short of their aims. Every type of statistic is readily available from some countries while from others not only is there very little but even that may be of little value.

The *Chronicle* is indispensable equipment for all those who are interested in the development of representative institutions and provides a working basis for research specialists carrying out comparative studies. The accounts of the elections have been printed on easily detachable stiff paper pages for use as standard-format index cards that can be added to those included in previous issues. However, both sections of the *Chronicle* would be improved by the addition of more background information. It would be useful to know which countries of the world do and which do not possess the parliamentary institutions whose developments are noted here. An index to each issue could list those countries from which the Centre has received and hopes to receive electoral data. Election dates could be listed alongside. This sort of information would help to complete the context in which these parliamentary developments are placed.

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.

Objects

3. (*a*) The objects of the Society are:

(i) To provide a means by which the Parliamentary practice of the various Legislative Chambers of the Commonwealth may be made more accessible to Clerks-at-the-Table, or those having similar duties, in any such Legislature in the exercise of their professional duties;

(ii) to foster among Officers of Parliament a mutual interest in their duties, rights and privileges;

(iii) to publish annually a JOURNAL containing articles (supplied by or through the Clerk or Secretary of any such Legislature to the Officials) upon Parliamentary procedure, privilege and constitutional law in its relation to Parliament.

(iv) to hold such meetings as may prove possible from time to time.

(*b*) It shall not, however, be an object of the Society, either through its JOURNAL or otherwise, to lay down any particular principle of parliamentary procedure or constitutional law for general application; but rather to give, in the JOURNAL, information upon these subjects which any Member may make use of, or not, as he may think fit.

Subscription

4. (*a*) There shall be one subscription payable to the Society in respect of each House of each Legislature which has one or more Members of the Society.

(*b*) The minimum subscription of each House shall be £10, payable not later than 1st January each year.

(*c*) Failure to make such payment shall make all Members in that House liable to forfeit membership.

(*d*) The annual subscription of a Member who has retired from parliamentary service shall be £1·25 payable not later than 1st January each year.

List of Members

5. A list of Members (with official designation and address) shall be published in each issue of the JOURNAL.

Records of Service

6. In order better to acquaint the Members with one another and in view of the difficulty in calling a full meeting of the Society on account of the great distances which separate Members, there shall be published in the JOURNAL from time to time, as space permits, a short biographical record of every Member. Details of changes or additions should be sent as soon as possible to the Officials.

Journal

7. One copy of every publication of the JOURNAL shall be issued free to each Member. The cost of any additional copies supplied to him or any other person shall be £1·75 a copy, post free.

Administration

8. (*a*) The Society shall have its office at the Palace of Westminster and its management shall be the responsibility of the Clerk of the Overseas Office, House of Commons, under the directions of the Clerks of the two Houses.

(*b*) There shall be two Officials of the Society, one appointed by the Clerk of the Parliaments, House of Lords, and one by the Clerk of the House of Commons, London; each Official shall be paid an annual salary, the amount of which shall be determined by the two Clerks. One of these Officials shall be primarily responsible for the editing of the JOURNAL.

Account

9. Authority is hereby given to the Clerk of the Overseas Office and the Officials of the Society to open a banking account in the name of the Society and to operate upon it, under their signature; and a statement of account, duly audited, and countersigned by the Clerks of the two Houses of Parliament at Westminster shall be circulated annually to the Members.

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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.

Ballantine, Joseph Louis.—Clerk to the House of Assembly, Gibraltar; *b.* 19th March, 1932, Gibraltar; *m.*, 1 *s.*, 4 *d.*; *ed.* Gibraltar Grammar School, Gibraltar; entered the public service in 1948, served in various departments; appointed Housing Manager, 1967; Principal Officer, Government Secretariat, 1968; appointed to present position in November 1970.

Blain, Douglas J., CD.—Clerk Assistant, Council of the Northwest Territories, Canada; *b.* 22nd December, 1917; *ed.* St. Matthew's Rugby, England, and High Schools in Toronto, Ont. and Vancouver, B.C.; *m.*, 2 *d.*; member of Royal Canadian Air Force 1940–70, Canadian Forces Decoration; Appointed Clerk Assistant of the Council of the Northwest Territories, July 1971.

S. P. Ganguly, B.Sc.—Deputy Secretary, Rajya Sabha Secretariat, Parliament of India; *b.* 1st February, 1920; in service of the Government of Burma from 1939–48; Office of the Comptroller and Auditor-General of India, 1948–58; Under Secretary, Rajya Sabha Secretariat, 1958–65; Deputy Secretary, Rajya Sabha Secretariat, since 1965.

Sayers, Colonel Charles Lorne, C.B.E.—Yeoman Usher of the Black Rod and Deputy Serjeant-at-Arms, House of Lords; *b.* 10.6.14, *ed.* Wellington College and R.M.C. Sandhurst; commissioned Second Lieutenant The Duke of Cornwall's Light Infantry, 1.2.34; passed Staff College and Joint Services Defence College; Gibraltar and India, 1935–9; war in Europe; Instructor, Staff College, Haifa; regimental and staff appointments U.K., Germany and Far East; Chairman Supreme Allied Commander Europe's Shapex Staff, 1959–62; Ministry of Defence, 1962–5; NATO Military Committee International Staff Washington D.C., 1965–7; Ministry of Defence, 1967–9; retired 1969. Appeals Secretary British Epilepsy Association, 1969–70; Yeoman Usher of the Black Rod and Deputy Serjeant-at-Arms, January 1971.

K. Sundaram, B.A., B.L.—Deputy Secretary, Maharashtra Legislature Secretariat; *b.* 3rd January, 1934; joined service in the Indian Audit and Accounts Service in 1961 after qualifying in the Competitive Examination conducted by the Union Public Service Commission; worked as Assistant Accountant, General and Deputy Accountant-General in the Indian Audit and Accounts Department: appointed Deputy Secretary in Maharashtra Legislature Secretariat from September 1970.

Twiss, Admiral Sir Frank, K.C.B., D.S.C.—Gentleman Usher of the Black Rod and Serjeant-at-Arms, House of Lords; Secretary to the Lord Great Chamberlain; *b.* 7.7.10; *ed.* Royal Naval College, Dartmouth, 1924–7; passed Staff College and Imperial Defence College; served Royal Navy, and various appointments, including Naval Secretary to First Lord of Admiralty, 1960; Flag Officer Flotillas Home Fleet, 1962; Second Sea Lord, 1967; retired, 1970; Member of Commonwealth War Graves Commission, 1970; Gentleman Usher of the Black Rod, September 1970; Serjeant-at-Arms and Secretary to the Lord Great Chamberlain, January 1971.

Weerasinghe, Palitha.—Clerk of the Senate, Ceylon; *b.* 28th September, 1924; graduate in Arts of the University of London; admitted as an Advocate of the Supreme Court of Ceylon on 20th August, 1951; Crown Counsel in the Department of the Attorney-General of Ceylon from 1955 to 1964, and acted as a District Judge and Magistrate during this period; appointed Clerk Assistant of the Senate on 1st October, 1964; appointed Clerk of the Senate on 3rd March, 1970.

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ABBREVIATIONS

(Art.) = Article in which information relating to several Territories is collated.
(Com.) = House of Commons.

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