The Table

BEING

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

EDITED BY

B. P. KEITH AND MRS J. SHARPE

VOLUME LIV

for 1986

ISBN 0 904979 11 3
ISSN 0264–7133

SOCIETY OF CLERKS-AT-THE-TABLE IN
COMMONWEALTH PARLIAMENTS.
HOUSES OF PARLIAMENT,
LONDON SW1A 0PW

1986

Price £7.00

USUAL PARLIAMENTARY SESSION MONTHS

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

CONTENTS

The Table

BEING

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

I. EDITORIAL

This edition of *The Table* contains articles from the Parliaments of India, Malta and Zambia as well as from our regular contributing Parliaments. The editors very much welcome such contributions and hope that colleagues in other legislatures will submit articles for future editions. The articles in this volume show how busy Parliaments have become. Even legislatures in countries or states with small populations have had a constantly increasing volume of work to transact. As the pace and volume of legislation and debate goes on increasing, it becomes all the more important to have clearly established and well understood rules for the conduct of business. It also becomes more important to be able to learn about and take advantage of the experiences of colleagues in other Parliaments. *The Table* provides a forum for exchanging such parliamentary and procedural information. The editors hope that members of the Society will find the present volume useful and stimulating.

The editors have recently carried out a stocktaking of back issues of *The Table*. A number of back issues is available. Sets are also available (including Volume I (1932) but excluding Volumes II to V). Readers who wish to acquire either a set of volumes or any particular volume or volumes may do so on generous terms. The editors welcome inquiries.

James Rowland Odgers (*Clerk of the Australian Senate 1965–79*) – On 30 July 1985, James Rowland Odgers, Clerk of the Australian Senate from 1965 to 1979, died in his sleep, aged 71. His career and retirement were recorded in Volume XLVIII, where details were given of his long

and distinguished service to the Australian Parliament and to the Senate in particular.

Jim Odgers was widely known and respected, both nationally and internationally, for his dedication to the institution of Parliament. He was its committed servant in the very highest sense of that word as it properly applies to parliamentary officers. His authoritative work, *Australian Senate Practice*, was the first major work of its kind in Australia and was produced and updated entirely by his own effort over 30 years and almost exclusively in his own time. He continued to work on the next (sixth) edition after his retirement and, just prior to his untimely and sudden death, he was greatly delighted to learn that, despite some unhappy and unfortunate events, there was a strong likelihood that the new edition would be produced.

His knowledge and understanding of procedures and Standing Orders was unparalleled, and his flair for the resolution of procedural problems was a continuing source of astonishment to his colleagues and others interested in those matters. He was a great friend and inspirational mentor to all those of us who shared the privilege of serving with him. His passing is a great loss to the store of parliamentary knowledge and experience and his life of parliamentary service is an example to those who follow.

A brief story perhaps best sums up his career and its success. Shortly before he retired he told his colleagues how pleased he was that he had just been accused of being partisan in the political party sense. When asked why this normally unacceptable appellation should so please him, he replied: 'That completes the circle: I have now been accused, over my 42 years of service, of being a supporter of every political party represented in the Senate over that period.'

That is an epitaph of which any parliamentary officer can be proud – and one which parliamentary officers are best able to comprehend, used as we are to giving advice without fear or favour.

His wife Jean and his three children have reason to feel proud of the contribution their late husband and father made to the parliamentary institution in Australia and overseas.

(*Contributed by Alan Cumming Thom, Clerk of the Australian Senate*)

E. C. Briggs, a former Clerk of the Legislative Council of Tasmania died on 11 December 1985, in his 88th year. He was an 'Ex-Clerk-at-the-Table' of the Society.

Thiru G. M. Alagarswamy – On the eve of retirement of Thiru G. M. Alagarswamy, the following Resolution was moved in the Tamil Nadu Legislative Assembly on 28th June 1985 by the Leader of the House, Hon. Thiru V. R. Nedunchezhian, and adopted unanimously:

'That this House resolves to recommend to the Hon. Speaker its wishes to convey its tribute and encomiums to Thiru G. M. Alagarswamy, B.A., B.L., on his retirement on 30.6.1985 for having served both Houses of the Legislature for a long period of 30 years and as Secretary to this august House since 1976, and places on record its deep appreciation of his distinguished and meritorious services which, by his deep and great knowledge of the law and custom of the Legislature and Parliament, he has rendered with unswerving devotion in the conduct of the business of this House and its Committees and for the assistance given to all Members of the House during his long service from 1955 to 1985, all of which have been spent at the Table'.

The Leader of the House, while moving the Resolution, appreciated the valuable services rendered by him. Thiru N. S. V. Chithan, a Member from the main opposition side and Hon. Speaker associated themselves with sentiments expressed by the Hon. Leader of the House.

Thiru G. M. Alagarswamy was enrolled as an Advocate in the Madras High Court in 1949 and in the year 1955 he was recruited directly from the Bar by the State Public Service Commission and joined Legislature Service on 3rd August 1955 as Assistant Secretary. In 1959, he was promoted as Deputy Secretary and in 1964 he was promoted and posted as Secretary, Tamil Nadu Legislative Council. He was again transferred and posted as Secretary, Tamil Nadu Legislative Assembly in 1976 and since then he has been serving as Secretary to the Tamil Nadu Legislative Assembly. All these years, he had served at the Table of either the Tamil Nadu Legislative Assembly or the Legislative Council.

He was deputed to study the working of the Committees of the Australian Parliament and State Legislatures in the year 1979 under the Colombo Plan. He had attended the Annual Conference of the Commonwealth Parliamentary Association at Bahamas in the year 1982.

(*Contributed by the Commissioner and Secretary of the Tamil Nadu Legislative Assembly*)

D. M. Blake, AM, VRD – On 31 July 1985, Douglas Maurice Blake retired as Clerk of the Australian House of Representatives.

After serving with the Royal Australian Navy during World War II and in the Attorney-General's Department, in 1950 'Doug' Blake joined the Department of the House of Representatives. He became Serjeant-at-Arms in 1956, a Clerk at the Table in 1959, Clerk Assistant in 1970, Deputy Clerk in 1977 and Clerk of the House in 1982.

In his 34 years with the House he served under 7 Speakers and during the terms of 8 Prime Ministers. .

He forged close links with the Commonwealth Parliamentary Associ-

ation, becoming Honorary Secretary of the Commonwealth of Australia Branch in 1982 and an honorary member of the branch in 1984. He was also actively involved with the Society of Clerks-at-the-Table in Commonwealth Parliaments and the Association of Secretaries-General of Parliaments and was the first officer of the Australian House of Representatives to be appointed to the executive committee of that Association.

From the 1970's he played a prominent part in developing parliamentary procedures for countries in the South Pacific region which had embraced the parliamentary form of democratic government. In particular he contributed greatly to the formulation of the standing orders for the Parliament of Papua New Guinea. In 1977, in recognition of his work, he was awarded the Papua New Guinea Independence Medal. He had a major role in developing parliamentary procedures for the Legislative Assembly of the Northern Territory as that Territory approached self-government.

Doug Blake took a great interest in the administration of the Department of the House of Representatives and as Clerk was responsible for the implementation of several initiatives designed to improve the operational efficiency and effectiveness of the Department.

In drawing the House's attention to Mr Blake's retirement, the Speaker said in part:

> '. . . I have valued Doug Blake's friendship, advice and guidance. I believe that he and I have developed the rapport which is essential between a Clerk of the House and the Speaker'.

The Prime Minister, the Hon. R. J. L. Hawke, followed, and said, in part:

> '. . . Since Federation this Parliament has been very well served by its Clerks whose professionalism, integrity and application have been absolutely impeccable. Doug Blake has been a worthy successor to all these men. . . . He has always given consistent, loyal and dedicated service to the institutions he knows and loves – his church, the Navy and this Parliament and the parliamentary system. Doug Blake has given us 35 years service in this House, 26 of them at the Table of the House. In that time he has earned and retained the trust and respect of all sides of the House'.

The Leader of the Opposition, the Hon. A. S. Peacock, in supporting the Prime Minister's remarks said, in part, that Doug Blake had served the Parliament

> '. . . with a faithfulness, with a diligence, with an honesty of purpose, with a sincerity and with an objectivity which mark the role of Clerk

– a most demanding role which clearly [he has] . . . occupied, we feel and have noted, with very great distinction'.

Many Members joined in the tribute and on the motion of the Leader of the House, the Hon. M. J. Young, the House agreed to the following resolution:

'. . . That this House places on record its appreciation of the long and meritorious service to the Parliament by the Clerk of the House, Mr Doug Blake, and extends to him and his wife and family every wish for a healthy and happy retirement'.

In recognition of his public service, particularly to the Commonwealth Parliament, Doug Blake was made a Member of the Order of Australia (AM) in the Australia Day Honours in January 1986.
(*Contributed by the Clerk of the Australian House of Representatives*).

John Harold Campbell, D.P.A., J.P. – On 19 September 1985 the Legislative Assembly of Victoria passed the following Resolution to mark the retirement of the Clerk of the House, John Campbell:

'That this House places on record its appreciation of the valuable services rendered to the Parliament and to the State of Victoria by John Harold Campbell, Esquire, as Clerk of the Parliaments and Clerk of the Legislative Assembly, and in the many other important offices held by him during his forty-three years of public service, of which thirty-six years were spent as an Officer of Parliament.'

Leaders of the three Parties, the Speaker, Ministers and a former Speaker were among the many Members who spoke to the motion paying tribute to the long and dedicated service that John Campbell had given to the Parliament.

John entered the Parliamentary Service in 1949 following 7 years in the Public Service. He subsequently served in the Legislative Assembly and was appointed a Chamber Officer in 1961 when he became Serjeant-at-Arms. His appointment as Clerk in 1969 was the start of 16 years service in that position including the duties of Clerk of the Parliaments for the last 2 years, this period of service being the second longest in the history of the House, surpassed only by the first Clerk who was appointed in 1856.

He was actively involved in the Commonwealth Parliamentary Association having served, as Honorary Assistant Secretary from 1967–82 and Honorary Secretary from 1983–84. One of the highlights of his service as Clerk was his period of attachment to the House of Commons in 1973.

In his retirement John will continue his active interest in local

community affairs and proposes to pursue his recreational pastime of fishing and sailing.

(*Contributed by the Clerk of the Legislative Assembly, Victoria*)

Norman James Gleeson – On 21 August 1985, the Legislative Assembly of the Northern Territory passed the following Resolution concerning the retirement of Mr N J Gleeson, Deputy Clerk of the Assembly:

> 'That, on the retirement of Norman James Gleeson from the position of Deputy Clerk of the Legislative Assembly of the Northern Territory, this Assembly places on record its appreciation of the long and valuable service rendered by him to the Northern Territory and conveys to him and his wife good wishes for many happy years of retirement.'

The Chief Minister, the Honourable Ian Tuxworth, referred to Mr Gleeson's service since 1957 in the Northern Territory Public Service and in particular his service as Official Secretary to three Administrators of the Territory and as sub-editor and editor of *Hansard*. After a period in the Commonwealth Public Service in Adelaide, Norman Gleeson returned to the Northern Territory as Serjeant-at-Arms and later served as Clerk Assistant and Deputy Clerk.

In supporting the Chief Minister's remarks, the Leader of the Opposition, Mr Bob Collins, said that Mr Gleeson had given advice promptly and without reservation and had performed his functions in a very distinguished manner.

Many other Members also paid tribute to Mr Gleeson's service to the Assembly and wished him good health and happiness in his retirement.

(*Contributed by the Clerk of the Legislative Assembly of the Northern Territory of Australia*)

Charles Philip Littlejohn, C.B.E. – Charles Littlejohn retired as Clerk of the House of Representatives of New Zealand on 31 July 1985 after 31 years' service to Parliament, the last nine years of them as Clerk.

Charles had entered the public service straight from school during the war years and he went on to serve in the Royal New Zealand Air Force from 1941 to 1945 before returning to the public service. He joined the staff of the then Legislative Department in 1954. He was appointed Second Clerk-Assistant in 1964, Clerk-Assistant in 1971, Deputy Clerk in 1974 and Clerk of the House in January 1976. While working in the office of the Clerk during the 1950s he had qualified as a barrister and solicitor and in 1969 he was awarded the degree of Master of Laws, submitting a thesis on parliamentary privilege. In the New Year's Honours List for 1985 he was made a Commander of the Order of the British Empire (C.B.E.).

On his last day of duty at the Table the Leader of the House, the Hon. Geoffrey Palmer, M.P., moved:

> That on the occasion of his retirement as Clerk of the House the House places on record its appreciation of the long and the distinguished service rendered to the House of Representatives by Charles Philip Littlejohn, C.B.E., and wishes him and his wife many happy years of retirement; and, as a mark of respect, that this House do now adjourn.

In speaking to his motion Mr Palmer said:

> Many of the qualities necessary in a Clerk of the House can be achieved only by a combination of experience on the one hand and considerable flexibility on the other. The demands on the Clerk are very considerable. Dealing with members of Parliament is not a simple matter and as the number of members has increased the work of Parliament has expanded, and as the complexity of the institution has increased so, too, have the demands on the Clerk's office. Charles Littlejohn has brought to his task as Clerk of the House a long tradition of dedicated and long-serving officers known around the Commonwealth as the Clerks at Table. . . .
>
> Clerks of the House in all parliaments are a somewhat mysterious breed. They need to be self-effacing, they must not seek publicity, and they are part of a complicated subculture, because to an extent they are involved in the political environment, but they must not have anything to do with politics; they must be entirely apolitical, and totally professional. Those demands require an extraordinary person to meet them. When one has been in this place for 30 years one is perhaps less often surprised by the vanities and vagaries of politicians than of other people. Dealing with politicians of all political persuasions is not the easiest of tasks.
>
> I want to say to you, Charles, that I have found you to be unfailingly courteous, extremely helpful, and wise. I have no doubt that others who speak in this debate will testify to your approachability and to your tact. You have contributed a great deal to our Parliament, and we are grateful.

Many other members joined with the Leader of the House in paying tribute to the manner in which Charles had carried out his duties for the House, and in thanking his wife Annette (who was present in the gallery) for her unfailing support to Charles during his career. Speaking on behalf of the Leader of the Opposition, the Hon. W. F. Birch said:

> It is my privilege to join the Leader of the House in paying tribute on behalf of the Opposition to the 31 years of parliamentary service given by Mr Charles Littlejohn. In that time Charles has filled every

senior position in the Legislative Department. However, it is in his role as Clerk at the Table that members see him most. I have observed many times that when there has been a storm or a controversy in the House, Mr Littlejohn has remained tranquil, composed, and ever ready to provide the Speaker with his advice and the detailed knowledge he has of the Standing Orders. He has combined with that a thorough and sympathetic understanding of members' needs.

At the conclusion of the debate, Mr Speaker Wall took the opportunity to address a few remarks to the House from the Chair, drawing attention particularly to the many changes which had taken place within Parliament over the last 30 years and to Charles's ability to adapt to them. He then paid particular tribute to the wisdom which Charles had displayed as Clerk:

> It is that particular aspect to which I pay tribute on behalf of myself and my predecessors in office. We can all acquire knowledge with a certain degree of diligence. Expertise we can all achieve by repeated practice. But wisdom is not so easily acquired. At times one wonders whether people can ever acquire wisdom, but when acquired it is, above all, the most valued quality of people in public life, or of those assisting them. It is that essential wisdom for which Speakers have relied so heavily on Clerks in the past, and on this particular Clerk during years of such rapid change. I am deeply grateful for what Charles has done for me, and for his intensely practical wisdom. He has made wise and foreseen provisions, not just for the training of staff for his replacement but also in all other essential key positions in the management of the House and its affairs.

Then, in a most signal demonstration of the esteem and affection in which the House held Charles, Mr Speaker invited Charles to address the House from the Table in reply to the debate. This Charles did with considerable aplomb especially considering that he had not been warned in advance that he would be called to speak in such a way. He thanked all members for their kind words to himself and his wife, remarking in particular on his close and friendly association with Speakers and Deputy Speakers during his term of office. Recalling that one member during the debate had referred to the fact that, arising from changes to the Standing Orders due to take effect in the following week, that day's Friday sitting would be the last one in its own right that the House would ever hold, Charles commented, 'Many things are going out of the window today, and I am quite happy to be one of them'.

Charles's parliamentary contacts have not been entirely broken. He attended the CPA Conference in Saskatchewan as secretary to the New Zealand delegation, and he has been engaged on a part-time basis to advise the General Manager of the Parliamentary Service on the

implementation of the administrative reforms introduced by the Parliamentary Service Act 1985. However, his estwhile colleagues at the Table in New Zealand and overseas will wish him and his wife Annette, a long and fulfilling retirement from his clerkly duties.
(*Contributed by D. G. McGee Clerk of the House of Representatives*)

Maxime Guitard on 20 December 1985, retired from his duties as Clerk-at-the-Table. He joined the Canadian House of Commons in 1963 as a Committee Clerk where he served on a variety of Committees, most notably the Committee which recommended the selection of Canada's national flag. He became Assistant Chief of the Committees and Private Legislation Directorate and then Chief of French Journals. In the mid-1970's he was promoted to Table Officer and became a Clerk-at-the-Table in 1980. Mr. Guitard, although retired from his Table duties, continues to be employed with the House as an adviser in the Committee Directorate. A tribute was paid in the House on 20 December 1985 when the Speaker commented that 'Maxime Guitard has given unbelievably fine service at the Table.' Other members then thanked him publicly for 'his loyal and extraordinary services to the House of Commons'.

We are all pleased that Maxime Guitard has agreed to remain with the House in an advisory capacity.

(*Contributed by the Clerk of the Canadian House of Commons*)

G. Histed – retired as Clerk Assistant and Usher of the Black Rod of the Legislative Council, Tasmania, with effect from 18 October 1985.

W. E. C. Ward – retired as Second Clerk Assistant Legislative Council, Tasmania with effect from 13 September 1985.

Miss Mary Cills – resigned as Clerk-Assistant of the Legislative Council of the British Virgin Islands on 1 October 1985.

II. COMMONWEALTH, COMRADES AND FRIENDS

BY THE RT HON THE LORD BOTTOMLEY P.C., O.B.E.

It was said by a friend that I am a walking history book of the Commonwealth.

My earliest connection with the Commonwealth was when I became associated with the Rev. Reginald Sorensen, MP. He was one of the first Members of Parliament to raise the question of Indian independence in the British Parliament. My wife was an active member of his church and he prevailed upon her to do some part-time secretarial work for a young Indian lawyer, Krishna Menon, who later became the Indian High Commissioner in London and then Defence Minister in the Indian Government. When Mahatma Ghandi came to London to attend the Round Table Conference in 1931 Reginald Sorensen took me to meet him at the Kingsley Hall, Bow. On this occasion I met a young Indian medical student, Seewoosagur Ramgoolam, who later became Prime Minister and then Governor-General of Mauritius. We have been friends ever since and in 1985 my wife and I stayed with him at his residence, Le Reduit, in Mauritius. I am very glad that I was able to see him before he died later in the year.

When I became a Member of Parliament in 1945 I took an active part in Commonwealth affairs and was a member of the first post-war Parliamentary Mission to India.

Later I became Under Secretary of State at the Dominions Office. In 1946, 1947 and 1949 I dealt with Commonwealth affairs at the United Nations meetings in New York. I was active in the Empire Parliamentary Association, as it was then known, and is now the Commonwealth Parliamentary Association. I have held many official positions in the United Kingdom Branch of the Association and have also been the honorary Treasurer of the Commonwealth Parliamentary Association itself.

Many of the leaders of the new Commonwealth countries have attended seminars organised by the C.P.A. in London and it has been my privilege and pleasure to be associated with them over the years.

Of those alive to-day I still keep in touch with Lee Kuan Yew, Kenneth Kaunda, Julius Nyerere and others. Within a day of becoming Secretary of State for Commonwealth Relations in 1964 I attended the Independence Celebrations of the new Commonwealth country of Zambia. The President and his wife, Betty, were charming hosts. Together we settled the one problem which had disturbed the relationship of our two countries – the question of the compensation for the United Kingdom owned copper mines in Zambia. For a year or two before

independence the previous Government had failed to settle the matter. John Dickie of the Daily Mail, an authority on foreign affairs, was kind enough to write a complimentary article about my ability to solve the problem.

Whilst in Zambia my wife prevailed upon Kenneth to wear his new Field-Marshall's uniform in which he looked remarkably handsome. She took a picture of him which was widely publicised.

Julius Nyerere is a very good friend. He has had to fight to overcome many economic and social problems with very limited resources. At Commonwealth Conferences he has helped to reconcile conflicting interests. We had problems when I was handling affairs concerning Rhodesia, and our differences led to a breakdown in the relationship of our two countries. One day a letter arrived from Julius at the Commonwealth Office raising matters of common interest. The Permanent Secretary saw me and said that this was most improper. When I read the letter I saw it began 'My dear Arthur, I, Julius Nyerere, a citizen of Tanzania.' I told the Permanent Secretary I would reply similarly as a citizen of the United Kingdom. He did not like the idea, but, in this way, we both overcame the stiffness of diplomatic relations. Just before he decided to give up being the President of Tanzania he came to London to say farewell to the Queen and the Prime Minister. He let Sonny Ramphal know that he would like to meet some of his old friends privately, and we had a most entertaining and interesting evening together.

Lee Kuan Yew I first met when I led a Labour Party mission, which included Reginald Sorensen and Fenner Brockway, to ascertain whether Malaysia was a feasible proposition. The British Government had recommended the unity of Malaya, Singapore, Sarawak, Sabah and Brunei to form a single Commonwealth country. In the event Singapore and Brunei broke away. When I first met Lee Kuan Yew he said that the Tunku Abdul Rahman, the Prime Minister of Malaya, had told him that I had no right to raise matters in the British Parliament concerning Singapore, but I pointed out that the British Parliament still retained responsibility for the way Singapore should be governed. The question had arisen because I had protested about the ill-treatment of political detainees. Lee Kuan Yew then invited Fenner Brockway, Reginald Sorensen and me to see the political detainees in prison.

He acknowledged that nobody liked being locked up, but said the treatment of the detainees and the conditions under which they lived were superior to those provided by the British when they were responsible for running the country. If circumstances had been reversed he knew that the treatment meted out to him and his friends would have been brutal and led finally to death.

There is no doubt that under his leadership his country has provided excellent economic and social conditions for the people.

The last time I met him was when he came to Britain to receive the freedom of the City of London. He kindly asked the City of London to include me amongst his guests. Four ex-Prime Ministers were also present – Harold McMillan, Alec Douglas Home, Edward Heath and Harold Wilson – as well as Prime Minister Mrs. Thatcher. Later he repeated to me what had been the theme of his speech when accepting the freedom of the City. He asked: 'Why don't you British hold your heads high and stick your chests out?' I said I knew he meant well but we had to be realistic. When we ran the Empire we had the economic strength and the military might to dominate the world. This power and influence had now passed to the Russians and the Americans. He turned to me. 'Don't you realise', he said, 'that what the world is seeking is moral leadership. The British are well qualified to give it. Why do you not do so?'

It has been my privilege to know well Field-Marshall Smuts, Abubaka, Archbishop Makarios, Eric Williams, Norman Manley, Nkrumah, Grantley Adams, Mackenzie King, Pundit Nehru, Walter Nash, Bob Menzies, Gough Whitlam and many other Commonwealth leaders.

Perhaps I should conclude with a story about Nehru and Sardar Patel. In 1949 I was sent by the Prime Minister, Clement Attlee, on a special mission to India, which incidentally led to the creation of the Colombo Plan. One evening, having dinner with Prime Minister Nehru and Sardar Patel, I recalled how, after the war when I was a member of the Parliamentary mission, I was told to go back home. Yet here I was on this occasion being entertained by the two great men of India. Sardar Patel replied 'My dear Bottomley, we have always loved you British but we were not free to show it before.'

The personalities I have met and the events in which I have participated are described in my book 'Commonwealth Comrades and Friends'.

(*Lord Bottomley was Parliamentary Under-Secretary of State Dominions, 1946–47; Secretary for Overseas Trade, Board of Trade, 1947–51; Secretary of State for Commonwealth Affairs, 1964–66; and Minister of Overseas Development 1966–67. His book 'Commonwealth, Comrades and Friends' was published in 1985 by Somaiya Publications Prt. Ltd, Bombay*).

III. PARLIAMENTARY QUESTIONS IN RAJYA SABHA

BY B R GOEL

Chief Examiner of Questions
Rajya Sabha Secretariat
India

Under the Rules of Procedure and Conduct of Business in the Rajya Sabha, unless the Chairman, Rajya Sabha otherwise directs, the first hour of every sitting is available for the asking and answering of questions. As the House commences its sitting at 11 a.m., the questions are taken up for answers from 11 a.m. to 12 noon. This hour is known as Question Hour. No business other than questions is transacted during this Hour. Certain business such as oaths or affirmations by members or obituary references may, however, be taken up at 11 a.m. before questions start. But the Question Hour is not extended beyond 12 noon.

There is no provision in the Rules regarding suspension of the Question Hour. This power is vested with the Chairman and has been exercised on occasions. On 25 June 1975 an emergency was proclaimed in India. The Rajya Sabha was summoned to meet in an emergency session on 21 July 1975 to transact certain urgent Government business. The Chairman suspended the Question Hour for the duration of that session. When the House met on the first day of the session, the members raised objection to the suspension of the Question Hour. Thereupon, the Chair observed:

> '. . . I have decided not to have the Question Hour. It has been issued to you in the Bulletin and all of you have got that information. That point is very clear. It is within the authority of the Chairman. He has used it independently of the Government or anybody else. Nobody can question. It is very clear.'

The time for answering questions is allotted by the Chairman on different days in rotation for answering questions relating to the various Ministries/Departments of the Government of India. For that purpose, the Ministries/Departments of the Government of India have been divided into five groups, namely, I, II, III, IV and V and the Ministers concerned answer questions only on one day in a week. On each day, only questions relating to the Ministries/Departments for which time on that day has been allotted are placed on the list of questions for that day. Accordingly, questions for Ministries/Departments included in groups I, II, III, IV and V come up for answers on Mondays,

Tuesdays, Wednesdays, Thursdays and Fridays respectively. If there is no sitting on any of these days, the questions pertaining to the group of Ministries/Departments fixed for that day are not put down for answers during the week.

The grouping of the Ministries/Departments is as follows-

Day	Ministry/Department	Group
Monday	Communications; Energy; Industry; Law and Justice; Petroleum and Natural Gas.	I
Tuesday	Commerce; Finance; Food and Civil Supplies; Labour; Parliamentary Affairs and Tourism; Textiles.	II
Wednesday	Health and Family Welfare; Human Resource Development; Transport.	III
Thursday	Prime Minister; Atomic Energy; Defence; Electronics; Environment and Forests; Ocean Development; Personnel, Public Grievances and Pensions; Planning; Science and Technology; Space; External Affairs; Home Affairs; Programme Implementation.	IV
Friday	Agriculture; Information and Broadcasting; Steel and Mines; Urban Development; Water Resources; Welfare.	V

Members give notice of questions in writing and also specify the official designation of the Minister to whom the question is addressed and the date on which the question is proposed to be placed on the list of questions for answer. Questions addressed to the appropriate Minister but proposed to be asked on a date not allotted to his Ministry are, subject to the provisions of the Rules, put down on the next day allotted for answering questions by that Minister. Notices of Starred and Unstarred Questions are given separately in printed standard forms.

A question may be asked by giving 10 clear days' notice. Notice, however, can be given for all the days allotted for answering questions after the issue of the summons for the session of the Rajya Sabha. A question may be placed on the list of questions for answers on a date later than that specified by the member in his notice, if the Chairman is of the opinion that a longer period is necessary to decide whether the question is or is not admissible. Each question is to be signed separately by the member.

A pamphlet showing 'Questions for which various Ministers are responsible for answering questions in the Rajya Sabha' is compiled by the Rayja Sabha Secretariat from time to time from information obtained from the Ministries and supplied to members, enabling them to address their questions to the Ministers concerned. A Bulletin, together with a chart showing the allotment of days for answering questions by various Ministers in the Rajya Sabha and the last dates of receipt for notices by the Rajya Sabha Secretariat, is supplied to members along with the summons for the session.

With a view to determining the *inter se* priority of members who give notices of questions for oral answers for a particular day, a ballot is held on the last date of receipt of notices for that day. The procedure of ballot was first introduced in 1970 and revised in 1974. Before the introduction of the ballet procedure, questions were placed in the List of Starred Questions in the order in which notices were received in point of time.

Three types of questions, namely, Starred, Unstarred and Short Notice Questions are asked in the Rajya Sabha. A member who desires an oral answer to his question puts an asterisk (*) at the beginning of the notice of Starred Question. A notice of a question given for oral answer may be admitted for written answer also where it is considered by the Chairman that the notice of question is of such a nature that a written answer could be more appropriate. Unstarred Questions are asked for written answers and are not called for oral answer in the House. These questions along with their answers are deemed to be laid on the Table of the House after the Question Hour is over and are printed in the Official Debates of the sitting of the day for which they are put down.

A Short Notice Question is one which a member may ask with shorter notice than 10 clear days on a matter of public importance. Before admitting a Short Notice Question, the consent of the Minister concerned is sought, to ascertain whether he is in a position to answer the question at shorter notice and if so, the date on which it will be convenient for him to do so.

A question may be asked for the purpose of obtaining information on a matter of public importance within the special cognizance of the Minister to whom it is addressed. The right to ask a question is governed by the following conditions –

(i) it shall be clearly and precisely expressed;
(ii) it shall not bring in any name or statement not strictly necessary to make the question intelligible;
(iii) if it contains a statement, the member shall make himself responsible for the accuracy of the statement;
(iv) it shall not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements;
(v) it shall not ask for an expression of opinion or the solution of an abstract legal question or of a hypothetical proposition;
(vi) it shall not ask as to the character or conduct of any person except in his official or public capacity;
(vii) it shall not ordinarily exceed 150 words;
(viii) it shall not relate to a matter which is not primarily the concern of the Government of India;

(ix) it shall not ordinarily ask for information on matters which are under the consideration of a Parliamentary Committee;

(x) it shall not ask about proceedings in a Parliamentary Committee which have not been placed before the House by a report from the Committee;

(xi) it shall not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion;

(xii) it shall not make or imply a charge of a personal character;

(xiii) it shall not raise questions of policy too large to be dealt with within the limits of an answer to a question;

(xiv) it shall not repeat in substance questions already answered or to which an answer has been refused;

(xv) it shall not ask for information on trivial matters;

(xvi) it shall not ordinarily seek information on matters of past history;

(xvii) it shall not require information set forth in accessible documents or in ordinary works of reference;

(xviii) it shall not raise matters under the control of bodies or persons not primarily responsible to the Government of India;

(xix) it shall not ask for information on a matter which is under adjudication by a court of law having jurisdiction in any part of India;

(xx) it shall not relate to a matter with which a Minister is not officially connected;

(xxi) it shall not refer discourteously to a friendly foreign country;

(xxii) it shall not seek information about matters which are in their nature secret.

Not more than three Starred Questions (*) by the same member can be placed on the list of questions for oral answers on any one day. Admitted Starred Questions in excess of three by the same member are placed in the list of questions for written answers for that day. As per the orders of the Chairman, not more than five questions both Starred and Unstarred combined, by one member, are placed on the list of questions for one day; and out of these not more than three questions are placed on the list of questions for oral answer. There is no limit on the number of notices of questions which a member may give for a day.

Questions in excess of five given notice of by a member for any one day are put down in the list of questions on a subsequent day allotted to that Group of Ministries. Notices of questions in excess of five which cannot be included in the list for any day, lapse on the prorogation of the session and are returned to the members who had given the notices.

Not more than twenty questions are placed on the list of questions

for oral answers on any one day. The order of preference in which a member desires to ask his questions for oral answer on a day are indicated by him in the notices.

Notices of questions are arranged in order of priority obtained by a member in the ballot held for every sitting and after taking into consideration the order of preference, if any, given by a member in respect of all his notices of questions for the day. In the absence of any order of preference, questions are arranged in the order of their receipt in the Rajya Sabha Secretariat in point of time.

Not more than two members' names are clubbed to a Starred Question for a day. Besides the first name which is in accordance with the result of the draw of lot, the name of the other Member clubbed is in the order in which his notice was received in point of time. When notice of a starred question is signed by more than one Member, such notice is deemed to have been given by the first signatory for the purpose of draw of lot. There is no such limit of clubbing of names to an unstarred question provided a member is not having more than five questions, both starred and unstarred, including the question to which his name is clubbed.

In the case of a question which has been disallowed, the member who has given notice of that question may make a representation for the decision to be reconsidered; such a representation is considered on its merits and the question, if admitted after reconsideration, is put down for answer on the next available date during the session. A question seeking information on matters relating to more than one Ministry/Department is split up wherever possible into separate questions and admitted for answers by the Ministers concerned.

Members address their questions invariably to the Ministers concerned. If a question is wrongly addressed to another Minister, it is transferred to the appropriate Minister and its transfer is not normally effected by the Secretariat unless written intimation is received from the Ministry accepting the transfer of the question. When a question is addressed by the member to a Minister not responsible for the subject matter of the question, and where both the appropriate Minister and the Minister addressed answer question the same day, the question is answered by the appropriate Minister on the day on which it appears in the list of admitted questions. In case the two Ministers concerned answer questions on different days, a question is put down for answer on a subsequent day by the appropriate Minister. A copy of corrigendum is issued and circulated to the members showing the transfer. To illustrate this point, the Ministers of Finance and Commerce answer questions on Tuesdays. In case the question is wrongly addressed to the Minister of Commerce, and is transferred and accepted by the Minister of Finance, the question will be answered on that Tuesday itself; but if it

is accepted by the Minister of Industry, that will be answered on the following Monday, the date allotted to the Ministry of Industry.

Copies of printed lists of admitted questions are circulated to members and Ministers at least five days in advance of the dates on which questions are due for answer. Lists of questions for oral answer are printed on pink paper and those for written answer on yellow paper.

A member may, by notice given at any time before the commencement of the sitting for which the question has been placed on the list of questions, withdraw his question or postpone it to a later date to be specified in the notice. The postponed question is placed at the end of the list on such later date. A starred question which is postponed by the member at the request of the Minister concerned made through the Secretariat has the same position in the subsequent list of questions for oral answer as it was having in the earlier list from which it has been postponed.

When the time for asking questions arrives, the Chairman calls successively each member in whose name a question appears in the list of questions. If on a question being called it is not put by the member in whose name it stands, even though the member is present in the House, and if he states that it is not his intention to put the question, he question is treated as withdrawn and is not printed in the Official ebates.

When all the starred questions on the list for which oral answers are esired have been called once and should Question Hour not be over, the Chairman may call again any question which has not been asked by reason of absence of that member in whose name the question stands. In such a situation, the Chairman may permit another member, if so authorised in writing by the absent member, to ask the question standing in the name of the absent member. Otherwise, the answer to that question is included in the Official Debates.

Any member when called by the Chairman may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given; but no discussion is permitted during the Question Hour in respect of any question or any answer given to a question.

When a question is disallowed by the Chairman, an intimation to this effect is given to the member concerned.

Arrangements are made to supply to members one hour before the Question Hour copies of statements, if any, to be laid on the Table of the House by Ministers in answer to questions where the answers are long. At times, there are long answers to questions and if these are read out on the Floor of the House, most of the time of the House would be taken up in listening to these answers being read out. To avoid this, a statement is laid on the Table of the House giving the

details of the answer. This arrangement helps members to put supplementaries when the question comes for oral answer.

Two sets of answers to starred questions for the day are placed in the Rajya Sabha Notice Office at 10 a.m. for perusal by the members. Statements and answers to questions are treated as confidential until the questions are answered on the Floor of the House.

The Minister may answer the question in the manner in which he likes. The Chair does not compel him to answer a question in a particular manner. The Minister can refuse to answer a question on the Floor of the House if it is not in the public interest that the question be answered. In case the information is not readily available in the possession of the Minister, he may give an assurance to the effect that the information will be collected and laid on the Table of the House in due course. When such an assurance is given, its fulfilment is looked after by the Committee on Government Assurances. The Minister may also ask for notice.

The Minister while answering the question can also state that the information desired would be quite difficult to collect from all over the country within a reasonable time or he can answer that the information is not available and will have to be collected from all the Ministries/ Departments of the Government of India. He may also state that collection of the information may involve considerable time and labour and that the result to be achieved will not be commensurate with the time and labour involved in collecting the information. But once a question is admitted and put on the order paper, it is to be answered notwithstanding the manner in which the Minister answers the question.

In the Rajya Sabha, on average 300 notices of questions are received for a sitting and about 200 questions are admitted per sitting. Six or seven questions on average are orally answered during the Question Hour and the answers to the remaining starred questions which are not reached for oral answer, along with those of unstarred questions for the day, are deemed to be laid on the Table of the House after the Question Hour is over.

Questions have been asked in Parliament on the cost of a Parliamentary Question. A question was asked in the Rajya Sabha on the 28 April 1981 regarding the overall average expenditure being incurred on collecting information for answering a question. The Minister of State in the Ministry of Finance stated as follows –

> 'There are at present no standing arrangements for compilation of data regarding the expenditure incurred by Government in answering Questions in Parliament. It is also not feasible to collect relevant particulars in this regard.'

There is no Question Hour on the date when the President of India addresses both Houses of Parliament assembled together.

When the House is adjourned without transacting any business or a sitting of the House already notified is cancelled, the questions, both starred and unstarred, entered in the list of questions for that day are laid on the Table of the House the next sitting day together with their answers and are printed in the Official Debates of that day. When the Question Hour of a sitting is dispensed with but the sitting itself is not cancelled, all starred and unstarred questions together with their answers entered in the list of questions for that day are laid on the Table of the House and are printed in the Official Debates of that day. In case a sitting of the House is cancelled and there are no other sittings during the session, questions put down for that sitting lapse on the prorogation of the House.

Short Notice Questions – With the consent of the Chairman and of the Minister concerned, a member may ask a question relating to a matter of public importance with shorter notice than 10 clear days. A member desiring an oral answer to a question at shorter notice briefly states the reasons for asking the question at short notice.

Short Notice Questions are orally answered in the House after the Question Hour is over or, if there is no Question Hour, immediately at the commencement of the sitting of the Rajya Sabha. The member asks the question when called by the Chairman and the Minister concerned gives a reply immediately. The reply may be followed by supplementaries.

On receipt of the notice, an enquiry is made to the Minister concerned asking whether he is in a position to answer the question at shorter notice and, if so, the date on which it will be convenient for him to answer the question. In the case where the Minister agrees to answer the question, a date is given by him for the answer. In the case where the Minister regrets his inability to answer the question at shorter notice, an intimation to this effect is sent to the member concerned.

There is, however, a provision in the Rules of Procedure and Conduct of Business in the Rajya Sabha that if the Minister is not in a position to answer the question at shorter notice and the Chairman is of opinion that the question is of sufficient public importance to be orally answered in the Rajya Sabha, he may direct that the question be placed as the first question on the list of Starred Questions for the day on which it would be due for answer. Under the Rules, only one such question is accorded first priority on the list of questions for the day on which the Minister concerned answers questions for his Ministry.

Half-an-Hour Discussion – When a member is not satisfied with the answer given to a starred, unstarred or short notice question or if he thinks that the answer is incomplete and does not give full information or needs further elucidation on a matter of fact, he may give notice to

raise Half-an-Hour Discussion on a matter arising out of the answer to that question.

A member wishing to raise discussion should give notice in writing three days in advance of the day on which the matter is desired to be raised and should mention the number of the question and the date of its answer and briefly specify the point or points that he wishes to raise during the discussion. The notice to raise discussion should be accompanied by an explanatory note stating the reasons for raising the discussion and should be supported by at least two other members.

After the receipt of the notice, the Chairman decides whether the matter is of sufficient public importance which could be admitted for discussion. The time for the discussion is generally fixed at from 5 p.m. to 5.30 p.m. on any day. In case the other business set down for the day is concluded before 5 p.m., the period of Half-an-Hour Discussion commences from the time such other business is concluded. The timings of the discussion may, however, be varied by the Chairman.

Normally, only one Half-an-Hour Discussion is put down for a sitting, but there have been occasions in Rajya Sabha where two discussions were put down on one sitting.

The member in whose name the discussion is admitted is informed to that effect as soon as the decision is taken. The member when called by the Chairman makes a short statement and the Minister replies thereafter. Any member who has intimated his intention previously to the Chairman is permitted to put a question for the purpose of further elucidating any matter of fact. If the member who has given notice is absent, any member who has supported the notice may, with the permission of the Chairman, initiate the discussion. There is no formal motion before the House nor voting on the discussion.

IV. TELEVISING THE HOUSE OF LORDS: RECENT DEVELOPMENTS

BY J. M. DAVIES

Clerk of Private Bills

Volume LIII of The Table included an article about the television experiment conducted in the House of Lords during the first half of 1985. That article concluded by saying that the story of televising the Lords would have to be continued in a future Volume of The Table. This article, while not being the final story, completes the account of the 1985–86 experiment in the public televising of the proceedings of the House of Lords and sets out the arrangements which have been agreed for the foreseeable future.

The article in Volume LIII of The Table was written only a few weeks before the experiment, which had been authorised by the House in November 1984, was due to end, approximately six months after it had begun on 23rd January 1985. However, as the experimental period was drawing to its end, the Select Committee on Televising the Proceedings of the House received letters from the British Broadcasting Corporation (BBC) and Independent Television News (ITN) asking that the experiment should be extended beyond the summer recess until such time as the Committee had made their report on the experiment. The Committee knew that they had no time in the few remaining weeks of the experiment to make a full and detailed report to the House. They also agreed that it would be wrong for them to rule one way or the other on the requests received from the broadcasting authorities. They therefore decided to draw the letters to the attention of the House by means of a short Report (H.L. (1984–85) 213) so as to allow the House to decide.

On 22nd July 1985, Lord Soames, a former Leader of the House and the peer who had moved the motion of 8th December 1983 in favour of televising the House, moved the following motion:

> 'That this House takes note of the First Report by the Select Committee on Televising the Proceedings of the House and approves the continuation of the televising of the proceedings of the House on the basis of the current experiment until such time as the House takes a decision on whether or not to permit the permanent televising of its proceedings.' [H.L. Official Report, Vol 466, cols 991-1046]

This motion was debated under the full scrutiny of the television cameras, which were of course entitled to remain in the House until

the summer recess whatever the outcome of the vote on Lord Soames' motion. Over twenty Lords, including Lord Whitelaw, the Leader of the House, spoke in the debate. Lord Peyton of Yeovil, a former Conservative Minister, moved an amendment to the motion which opposed the extension of the experiment and instead urged the Committee to make their report on the outcome of the experiment before the Christmas recess. He argued that if the House had an early opportunity, based on a full report, to decide on the future televising of its proceedings, it would then be unnecesssary for the experiment to be continued beyond its original expiry date.

On a division on Lord Peyton's amendment, the House voted convincingly against it. Lord Soames' motion was then agreed to, thus extending the television experiment for, as it turned out, a further nine months.

When the House resumed after the long summer recess for the tail-end of the 1984–85 session, the Select Committee on Televising the Proceedings of the House immediately set about their task of reviewing the experiment and making recommendations for the future. They met weekly to hear evidence and were reappointed as soon as possible in the new session, which began in November, so as to ensure that their work was not unnecessarily delayed. The Committee began the task of evaluating the experiment by taking oral evidence in two consecutive weeks from the BBC, the Independent Broadcasting Authority (IBA) and representatives of independent television companies. These were the witnesses with the most detailed experience and knowledge of the experiment. The first session of evidence was devoted to general policy matters; the second concentrated on more technical matters, such as lighting and cameras. The Committee then took oral evidence in successive weeks from the Cable Authority and a company working in the cable television industry; from the Property Services Agency, who are responsible for the fabric of the Palace of Westminister and for such matters as lighting and accommodation; from the Clerk of the Records; and from Lord Aldington, who had chaired the Select Committee on Overseas Trade, the proceedings of which had been televised several times. Oral evidence was also heard from representatives of an indepedent television production company, one of a number of 'facilities companies', as they are known, who can provide television coverage on a contractual basis for all types of events.

As the Committee were reaching the end of taking evidence, the House of Commons debated the question of whether it also should embark on an experiment in the public televising of its proceedings. The Lords' Committee had for some months been aware that the Commons were to have a debate on this subject in the new Session and were conscious of the effect the debate and vote might have on their own deliberations. The Commons debated the issue on 20th

November 1985 and eventually decided by a narrow majority not to admit television cameras to their Chamber. It is not the purpose of this article to describe the Commons debate nor to comment on the outcome, except in so far as the latter inevitably had consequences for the House of Lords.

Because the House of Lords experiment had been regarded as generally successful (as shown by the viewing figures, if nothing else), it was thought that the Commons would probably vote for an experiment. It was therefore somewhat of a surprise and certainly a very great disappointment to the broadcasting authorities when the Commons voted against. The BBC and independent television had been expecting to devote considerable resources to televising the Commons and this would have inevitably meant that they would have had fewer resources available for the Lords.

The Committee were uncertain as to the consequences of the Commons decision for the House of Lords. On the one hand, it appeared to mean that the Lords would continue to enjoy unrivalled coverage of its proceedings on television and would not suffer a reduction of interest by the broadcasters who would at once have become more interested in the elected House. On the other hand, it could have resulted in a complete withdrawal of interest by the broadcasters in parliamentary television. There were some members of the House who had suspected from the outset that the broadcasting authorities were not really interested in the Lords but were using it to obtain a 'television foot in the parliamentary door', i.e., to persuade the House of Commons to be televised. If these suspicions were true, the broadcasters would show no further interest in televising the Lords, because their objective of gaining access to the Commons had been thwarted. Indeed, in the next few weeks these suspicions were somewhat supported by events.

The Committee therefore immediately asked the broadcasting authorities to come and give further evidence to them on the consequences of the Commons decision. At the meeting held on 17th December 1985 both the BBC and IBA while expressing their disappointment with the Commons decision, made it clear that they very much wished to continue to televise the House of Lords. Independent Television representatives made a very attractive offer to the Committee, namely that they would provide broadcasting time on one of their two channels (Channel 4) for up to thirty weeks of the year, and produce a 15 minute edited programme of Lords proceedings four days a week. The only stumbling block to the Committee agreeing that this was an offer which they should recommend the House to accept was that it was made on the basis that the actual production of a television signal from the Chamber should be paid for by the House itself. The Committee made it clear to the broadcasters that the House of Lords was not in a position

to find the very substantial amounts of money needed to create a television signal. Money for all House of Lords services was voted by the Commons who were unlikely to provide public money to allow the second chamber to be televised when they themselves is voted against an experiment.

Some ten weeks later the broadcasting authorities returned to the Committee with a new offer, namely that the independent television companies had agreed to underwrite the cost of creating a regular television signal from the House for a period of four months. The cameras would remain permanently in the Chamber for this period and would be operated on a four-day-a-week basis. Channel 4 renewed their commitment to provide broadcasting time. ITN would make the programmes for them, to be broadcast four days a week, late at night and repeated the following afternoon.

At the same meeting, the BBC undertook to broadcast a weekly summary of proceedings in the House over the same period of time. They would be dependent on the independent television cameras to provide them with the signal. They indicated however that occasionally they would wish to do live broadcasting, in which case they would use their own cameras, removing ITN cameras on those occasions.

These proposals were made very late in the day so far as the Committee's own programme of work for producing a Report was concerned. Indeed the new evidence caused some delay in the finalisation of the Report. The Committee were not prepared to endorse the proposals too enthusiastically, principally because of uncertainty about future coverage after the four-month period of intensive coverage was over. The Committee had been disappointed at the reduction in the amount of coverage House of Lords proceedings had received in the weeks after the Commons decision. Several important debates had been ignored by the television authorities and there had also been some unease about the type of debate which was of interest to the broadcasters. In the period between the end of November 1985 and the beginning of April 1986 there were no special programmes about House of Lords proceedings. What coverage there was, appeared to be of matters which were of popular interest or entertainment value only.

The Committee reported to the House on 12th March 1986 (H. L. (1985–86) 102). Their report was divided into three parts, (i) an evaluation of the experiment, (ii) ideas for the way in which permanent television facilities might be installed and (iii) proposals on what was possible in the immediate future. Their assessment of the experiment was that it had been 'useful'. They had agreed that they would present their Report to the House in as neutral a way as would be consistent with a proper evaluation of the experiment. They therefore made no recommendation as to whether television should be allowed to

continue; they presented the facts and left it to the House to make a decision. They went on to say:

"In the Committee's view the experiment in the televising of House of Lords proceedings has been useful. In the first place, it has shown to the House the nature of working conditions in the Chamber under additional levels of lighting and with the presence of cameras. Secondly, it has provided the broadcasters with valuable experience in televising a legislative assembly and in exploring ways of presenting the House of Lords through various types of programme and getting audience reaction to those programmes. Finally, the experiment has provided the general public with the opportunity to see one of the Houses of Parliament at its day-to-day work and has increased public awareness and knowledge of the role of the House of Lords. Daily attendance in the Strangers Gallery varies between 200 and 900 persons depending largely on how long the House sits, whereas the viewing figures for any of the special late night programmes, let alone those for news bulletins, indicate that many times that number of people have been able in the last year to see the House at work.

The Committee would like to take this opportunity of paying tribute to those responsible for the production of House of Lords television and for their cooperation during the experimental period. The agreement under which the experiment in public televising of the Lords took place was that the broadcasters should be able to come to the House on a 'drive-in' basis. This meant that they could decide on which days to bring television cameras to the House and which items of business to televise. They could then edit and use televised material as they themselves wished. The Committee have received few complaints from members of the House as to the balance of material transmitted on the various programmes. In the Committee's view some important speeches which have been valuable to a particular debate have been overlooked by programme editors. But this is now a feature of selective reporting of Parliament in newspapers and on radio. An interim report on the television experiment by the Hansard Society for Parliamentary Government suggests that the 'Alliance' parties and the Cross-Benchers might have had cause for complaint but concludes: 'What editorial staff have succeeded in doing in most programmes is to allocate time in such a way as to strike a rough balance between those who argue for a Motion or Amendment and those who argue against.'.

The Committee are of the opinion that over the full period of the experimental public televising of the proceedings of the House, there can be little dissatisfaction at the standard of editing and the balance achieved within specific programmes by those responsible. On one or two occasions, complaints have been made about the treatment of a particular debate but no consistent evidence of lack of balance is available to the Committee. The longer reports of Lords proceedings, such as in Newsnight, 'Their Lordships' House' or 'The Lords Today', have, in the Committee's opinion, been more successful than brief reports in news bulletins where it has not been possible to do justice to an argument. In the Committee's view the broadcasters have carried out their editorial duties very commendably.

There have, however, been complaints that the coverage of Wednesday debates, allocated to one of the political parties or to the Cross-Benchers has not been equitable. It has been pointed out, for example, that of three consecutive Wednesday debates in late January and early February this session television cameras were present for those initiated by the Labour Party and the Cross-Benchers but were not present for one initiated by a Conservative peer. The Committee noted however that only one speech out of all the material filmed on the two occasions was actually transmitted. It should also be noted that much television coverage during the experiment has been of Government legislation.

In some other televised parliaments, the cameras must focus on the head and shoulders of the speaker; no general pictures of the chamber nor reaction shots of those listening to a speech are allowed. No such restrictions were imposed by the House on the broadcasters during the experiment and the resulting production, in the Committee's view, provided better viewing than it would have done if restricted, as in some other parliaments."

The Committee also commented on certain practical problems which had concerned them during the experiment, for instance lighting and the distribution of televised material to regional programmes. On this latter point their Report reads as follows:

"The Committee enquired of the broadcasters what use had been made of material in the regions, since many debates in the House are concerned with regional issues which would not normally be of interest on national news programmes. The Committee were informed that problems had been encountered in distributing parliamentary material to the regions but that both the BBC and ITN had made efforts to achieve a wide regional use. The main difficulty is that regional news programmes are generally broadcast in the early evening and the producers require the televised material at a time of day when the House has reached only the early stages of debates. During the Local Government Bill of last session a considerable amount of material was, however, distributed regionally, particularly to those areas affected by the provisions of the Bill. London regional programmes naturally made most use of it.

ITN told the Committee that during this period they had provided a special facility for distribution to the regions but were aware that more could be done in this respect. Further attempts to improve the distribution would be made.

It was with regional programmes in mind that the Committee agreed, at a late stage in the experiment, to a request from the broadcasting authorities that on certain occasions the House might be televised under less costly arrangements than with a full outside broadcast unit, which employs four or five cameras. From time to time there are items of business in the House which are of interest only to certain parts of the United Kingdom or to specialist programme makers. Such items have been missed by the broadcasting authorities either because a full outside broadcast unit was not avail-

able or because in their opinion the business was not of such national interest as to justify the considerable cost. More limited coverage at lesser cost by means of mobile cameras operated from the Galleries was considered worthy of trial."

In Part II of their Report, the Committee made a number of proposals for televising the House if public finance had been available for this purpose. They were well aware that the decision of the House of Commons not to be televised ruled out the likelihood of any finance being availble. Nevertheless, they made the following suggestions for the long term:

"The cost of producing the 'clean feed' independently of the broadcasting organisations would be considerable and would entail the setting up of a Parliamentary Unit to perform the role carried out during the experiment by the BBC and ITN. Such units have been established, for instance, in the Canadian Federal Parliament and the Saskatchewan Provincial Legislature. This would be, however, a very large undertaking and one for which the House is not well equipped. The capital and associated costs are currently estimated to amount to approximately £1.5m to establish a Unit, including cameras, production facilities etc., and the annual operating costs are estimated to be £530,000. Moreover the House would have to employ specialist staff with all the associated problems of recruitment, retention and career development. In the course of their enquiry the Committee have come across an alternative which seems to them to offer many advantages.

Evidence from Mr T G Emanuel on behalf of Television News Team Limited brought to the attention of the Committee the existence of 'facilities companies' with considerable technical resources, on which the major broadcasting organisations and independent companies draw to supplement their own resources in special circumstances. These 'facilities companies' would be very well suited to the production of a 'clean feed' under contract to the House. Such a contract could ensure parliamentary control of the 'clean feed', while avoiding the need to set up a Parliamentary Unit.

Such an arrangement might also prove financially beneficial. The Committee were informed that the likely cost of such a service would be £3,300 a day (exclusive of tape) or approximately £4/500,000 per annum, depending on how many days the House were to sit. The 'facilities company' would expect to recover and return to the House most of this charge by selling televised material to the two principal broadcasting authorities, to satellite and cable television and to other clients at home and overseas. The actual financial arrangements between the House and such a 'facilities company' would, of course, depend on contractual negotiations, but an attractive plan would seem to be to offer a franchise to such a company to provide the 'clean feed', to recover its costs by the sale of the product and to share some percentage of any profit with the House.

The House would have full control over the production of the 'clean feed' through the terms of their contract with a 'facilities company', who would

act as the agent of the House. Copyright in the 'clean feed' would be assigned to the House which could terminate the contract if not satisfied with the company concerned and allot a new one.

Details obviously need further discussion; for instance a 'facilities company' would at first naturally lack the experience which the BBC and ITN have in televising and reporting political and parliamentary occasions. Nevertheless, in principle the Committee believe that an arrangement with a 'facilities company' on these lines would offer the best prospect for the future televising of the House of Lords.

The Committee also heard evidence from the Cable Authority and from the Westminster Cable Company, since they thought it was important to explore the possibility of the proceedings of the House being transmitted on cable unedited and for longer periods than is possible if parliamentary proceedings are competing with other programmes on the four television channels currently available.

Cable television is a relatively new business within the United Kingdom but it has been widely used in Europe and in North America for many years. The proceedings of the United States House of Representatives receive continuous coverage on a cable system known as C-SPAN. In Canada, the Federal Parliament and those provincial Parliaments which are televised, are also broadcast by means of cable systems. The Committee were informed that broadcasting through cable did not necessarily mean that there had to be continuous televising, although the advantage of a cable transmission system is that one channel (out of up to 30 channels available on modern wide band cable systems) could be entirely devoted to the coverage of the House of Lords, without any editing save in the choice of camera in the Chamber itself.

Evidence given on behalf of the Cable Authority and the Westminster Cable Company made it clear that cable operators are not in the business of producing a programme. They are merely the distributors.

This would lend itself ideally to the concept of a 'clean feed' produced by a 'facilities company' under contract to the House of Lords. The availability of cable transmission would provide a further opportunity for the 'facilities company' to sell its product, thereby reducing the cost to the House. While distribution through the Westminster franchise area would not be expensive, any national distribution, which the Committee would regard as desirable, could only be achieved by satellite transmission. The Committee were informed that the cost of rental of a 'transponder' on a satellite would currently amount to £1,000,000 per annum.

Cameras

Earlier in their Report the Committee referred to demonstrations which they had seen of a low-light camera and of remote-controlled equipment for directing cameras. These are developments which would have to be considered seriously if the House were to decide on the permanent installation of television equipment. A low-light camera could operate in levels of

light considerably below those now needed for televising the House, although still higher than those currently used in the House when the cameras are not present. The Committee learnt in evidence that since the experiment with a low-light camera last summer the only manufacturer known to be experimenting in low-light camera technology has unfortunately decided to abandon the manufacture of television equipment. This inevitably has delayed the development of a low-light camera which may not now become available in the United Kingdom market for three or four years.

The Committee were told that although camera technology is continuing to develop, the broadcasting organisations did not believe that the size of cameras would be much reduced over the next few years. The cameras are already much smaller than those used in the House during the television closed-circuit experiment of the 1960s, but they are still large. If remote-controlled equipment were to be added to them, they would be even larger. The Committee have not explored in detail how a fully automated system might be installed in the Chamber. Much technical study would have to be given to this question but one possibility might be to suspend cameras from the ceiling or underneath the galleries of the House; alternatively, they could be placed on pedestals in much the same positions as they now are, but without the bulky podiums on which they stand.

The broadcasters estimate that a fully automated system would require more cameras than are currently used when manually operated. The House of Lords, unlike a number of televised Parliaments, does not have fixed seating positions for its members and therefore cameras cannot be programmed to pick up the speaker when the right microphone is switched on. The operator of the remote-controlled cameras would have to have an overall view of the Chamber so as to pick up the particular speaker. The Committee were told by the broadcasters that, at a rough estimate, the installation of remote-controlled cameras, together with their associated switching equipment, would cost about £750,000. Low-light cameras would be even more expensive because of the newness of the technology but witnesses thought that their introduction would make economic sense because of the saving on additional light.

Archives

During the experimental period, the House of Lords Record Office was responsible for receiving from the broadcasting authorities televised material on VHS cassettes and retaining these as archives. The majority of the material lodged in the Record Office had been broadcast and is in programme form; a small proportion estimated as between 15 per cent and 20 per cent is of 'clean feed', that is film material of proceedings in the Chamber not used in broadcasts. The amount of video recordings accumulated up to the present time occupies approximately fourteen feet of shelving.

The Committee were told by the Clerk of the Records that VHS cassettes are not a suitable medium for archival purposes. So far as the experimental period was concerned, it is clear that a more expensive medium was not justified. But if the House were to decide that its proceedings should be televised on the basis of the proposals made by the Committee in this part

of the Report, the Committee recommend that ¾" high band U-Matic tape should be used for archival purposes.

The Committee were told in evidence that the preservation of television material is a very expensive business. The Committee believe that, if a permanent system of televising the proceedings of the House were to result in the production of a continuous signal from the Chamber of the House, together with occasional televising of Committee proceedings, a rigorous policy of selection of tapes should be adopted at the appropriate time. The ¾" high band U-Matic tapes are estimated to occupy 45 per cent more space than the sound tapes, therefore, in addition to the continuous cost of £15 per hour for tapes which would arise, the bulk also would increase at a great rate. It is important that future archival policy towards televised material should be developed in conjunction with policy on the sound tapes.

Finally in Part III of their Report, the Committee turned to the immediate future and the possibilities for television coverage without the need for public finance. On these matters their Report reads as follows:

It is clear from the speech of the Leader of the House in the debate on 22 July 1985 that no public money is available for televising the House of Lords. The implication is that most of the arrangements which the Committee have suggested in Part II of their Report will only be possible in the long-term. Effectively the House will have to accept the continuation for several years of the present arrangements on a 'drive-in' basis, at minimal cost to the House, as the only means of securing a continuation of television in the short term. This would entail acceptance of the fact that the choice of days and times on which the proceedings of the House were televised and the use made of the televised material would rest entirely with the broadcasting authorities, subject always to their long established policies to preserve due impartiality.

At the Committee's meeting with the broadcasting authorities on 17 December last, the IBA, and more particularly Channel 4, made a proposal to broadcast a 15-minute late night summary, four nights a week for up to 30 weeks of the year, which would be repeated the following afternoon. Including the repeated programmes, it would amount to some 60 hours of television a year and Channel 4 estimated that the costs of making such programmes, from the point of receiving the recorded 'clean feed' to transmission, would be in the region of £270,000 a year. Their offer was then dependent on the provision of a 'clean feed' at public expense. Although the Committee have made proposals in Part II of their Report for the production in the long term of a 'clean feed' under the control of the House, they see no prospect in present circumstances of the necessary funds (approximately £500,000 per annum) being available and they made this clear to the broadcasting authorities.

As a consequence, the IBA modified their proposal in order to include the provision of the 'clean feed' at their expense. Channel 4 repeated their

commitment to providing programme time for up to 30 weeks of the year. Indeed, they will start broadcasting a regular late night summary of each day's proceedings in the House from immediately after the Easter recess for some 15 weeks until the beginning of the summer recess, with repeated programmes normally at 2.15 p.m. the following day. For this period the ITV programme companies have agreed to underwrite the costs of ITN in covering the proceedings in the Chamber or in a Committee Room, and Channel 4 will meet the programme production costs.

For this same 15-week period, the BBC propose to draw on ITV's 'clean feed' to produce a 40-minute weekly summary of proceedings in the House which will be broadcast one evening at the end of each week. They will also continue from time to time to make 'live' broadcasts.

The Committee recognise the considerable efforts made by the broadcasters to continue to cover Lords proceedings. They have offered coverage which will be much more comprehensive than anything carried out during the experiment. The main uncertainty, if the House were now to agree to allow continued access, will arise at the end of the summer recess for the indefinite future. The crucial factor is the cost of providing the 'clean feed' and the willingness of the ITV companies to continue to underwrite it. Their decision in turn will depend on the success of the programmes and the audience reaction to them, which only time will tell; but the broadcasting authorities were optimistic. If the planned programmes after Easter prove to be a success, the Committee believe that both the BBC and IBA would wish to continue them in some form. On the other hand, if the programmes are not sufficiently successful to persuade the ITV companies to continue to underwrite the costs of regular coverage, both organisations have nevertheless expressed a wish to have continued access to the House. In that case, however, there might be a danger that limited coverage would concentrate not on the day-to-day work of the House but rather on matters which are of popular interest or entertainment value only.

One advantage of the present proposals is that the regular availability of a 'clean feed' from the House would make it easier for the producers of regional programmes and documentaries to make use of Lords proceedings. Until now, if a regional programme producer wanted coverage of a particular debate which was not otherwise being televised, he would have had to find the resources to pay not only for producing the programme but also for the 'clean feed', and such resources are not available to the regions.

If the House were to decide to allow continued 'drive in' access to the television authorities on the lines set out above, the following paragraphs contain recommendations on how it should be arranged and on the conditions that should be imposed.

Future means of control by the House

The Committee have considered how future arrangements for televising the House in the circumstances where the House is not responsible for the production of the 'clean feed' signal might be controlled and supervised. There would continue to be administrative problems to solve and permissions

for new developments to be given. Furthermore, questions are likely to arise on such matters as the balance and usage of televised material. The Committee believe that, as for sound broadcasting, there should be a Select Committee appointed with appropriate terms of reference to supervise the arrangements for, and to deal with any problems or complaints which might arise out of, the televising of the House and its Committees. The Committee recommend that responsibility for supervising both television broadcasting and sound broadcasting should be entrusted to one Committee with new terms of reference. The Committee are advised that new terms of reference might entail discussions with the House of Commons since the Sound Broadcasting Committee are empowered to join with a similar Committee of that House to take decision on sound broadcasting matters. Nevertheless, this Committee believe that it would be unnecessary and inefficient to have separate House of Lords Committees for television and for sound broadcasting.

The Committee have also considered the need for a resolution of the House to govern the future televising of its proceedings. The television experiment has been conducted on the basis of the recommendations of the Sound Broadcasting Committee and by reference to the resolution of the House of 27 July 1977 governing the sound broadcasting of proceedings. This was adequate for an experimental period and the Committee recommend that any future televising of Lords proceedings should be governed by, and be subject to, the terms of a new resolution in much the same form as that governing sound broadcasting.

Lighting

It is essential in the Committee's view that better arrangements are made for the provision of the necessary lighting. The present temporary arrangement is most unsatisfactory and out of keeping with the dignity of the Chamber. Some initial progress has been made by the PSA in conjunction with the broadcasters towards a system that would make use of the existing light fittings but with considerable modification. The Committee are grateful to the PSA for their agreement to press ahead with designs for an experiment which might lead to this desirable objective. The Committee understand that the cost of this experiment can be met within the PSA's existing budget, but that the conversion of the lighting eventually might be of the order of £70,000. The BBC and ITN have indicated that they would not rule out the possibility of contributing towards such costs, particularly since they are presently meeting the hire charges for the temporary lights which amounted to some £22,000 in the last year.

Statements

The Committee recommend that Ministerial Statements when repeated in the House of Lords should continue to be excluded from television coverage for the reasons given in the report of the Sound Broadcasting Committee which governed the experiment. The Committee have already referred to the views of the broadcasting organisations on this restriction but they do not feel able at the present time to recommend any alleviation.

Televising of Committee Proceedings

The Committee have referred earlier to the successful televising of the Select Committee on Overseas Trade. The Committee recommend that the broadcasting authorities should have access to Select Committees of the House on the same basis and conditions as during the experiment. This would mean that the Appellate and Appeal Committees and Committees considering private legislation would not be televised; nor would House Committees which meet in private. Joint Committees must continue to be excluded because the House of Commons have not agreed to their proceedings being televised. All other Select Committees, when meeting in public, should be open to the broadcasters.

The Committee would like to see one Committee Room of the House equipped with lighting which could meet the standards required for television broadcasting. This would eliminate the need for imported temporary lights and thus greatly reduce the sense of intrusion which was experienced during the televised sittings of the Overseas Trade Committee. This would also avoid, or at least substantially reduce, the problems faced by the shorthand writers. The Committee recommend that, as a first step, the Department of the Environment might be invited to consider how one Committee Room might be so equipped. In the meantime, whenever a Committee is televised those responsible for the lighting must have in mind the working conditions of all those involved.

Because a documentary film was made about the work of the Overseas Trade Committee, that Committee agreed to a request by the broadcasters that they should be filmed, apparently deliberating. Although care was taken to make it clear in a number of ways that the proceedings which were filmed were not a formal deliberative meeting of the Committee, nonetheless the arrangements made were a concession to the television cameras. This Committee would regard as undesirable any general development of Select Committees 'acting' for the television authorities in order that deliberative sessions can apparently be shown on television. This would be an abuse of normal Committee procedures and there is no reason why the television authorities should be granted concessions which would not be granted to newspaper reporters nor to the general public.

Accommodation

During the experimental period the broadcasters have had no proper accommodation from which to conduct their operations either for producing a television signal from the House or for editing material for news bulletins or specific programmes. Even in the short term, if television continues in much the same way as during the experiment, new accommodation should be found for these purposes, although the broadcasters are willing to continue as at present. It is not right that Black Rod's Garden should be permanently used for the stationing of vans and 'portacabins' for the purpose of televising the House, nor to ask the staff of both broadcasting organisations involved to use these temporary facilities on a semi-permanent basis. In evidence from the Parliamentary Works Officer, the Committee were told that there is at present no spare accommodation available either in the Palace of

Westminister or in the Parliamentary precinct. It is envisaged that by about 1994 accommodation for a broadcasting centre for the BBC and ITV will become available in Palace Chambers (in Bridge Street) which is now due for redevelopment. The Committee do not consider it feasible for the current interim arrangements to continue until that accommodation becomes available. The Committee, therefore, recommend that the Administration Sub-Committee should consider whether accommodation suitable for the televising of the House's proceedings and at a reasonable distance from the House can be found. It should be possible to provide accommodation at not too great cost particularly since the broadcasters would have to provide the necessary equipment and cabling.

Archives

The Committee have referred in Part II of their Report to the desirability of preserving archive tapes of televised proceedings of the House on ¾" high band U-Matic tape. Since this would be a very expensive proposal the Committee do not feel able to ask the broadcasting authorities to supply the House with archive tapes in this format. In the Committee's view the only option available, if the televising of the House were to continue on the present basis, is for the BBC and ITN to be asked to continue to supply the Record Office with VHS cassettes. They hope, however, that the quality of these will be as high as possible since they would become the records of the early years of televising the House. The Committee also hope that the broadcasting authorities would be willing to continue to supply members of the House with recordings of their own speeches for their own personal use. During the experiment these copies were provided at a concessionary rate but the Committee recognise that this may not be possible in the future.

The problem of lighting the Chamber for television purposes has been one of the more difficult to solve. The broadcasters wish to have a high level of light, shone horizontally across the Chamber from both sides, so that the back benches are lit as adequately as the front benches. This meant that from the beginning of the experiment large screen lights were fitted on scaffolding to the sides of the Chamber, half way up the window arches. Not only were these temporary lights very ugly, but for members of the House who had to sit facing them, they were extremely tiring.

Considerable efforts were made during the experimental period to find ways of adequately lighting the Chamber for television purposes, while at the same time preserving the beauty and character of the Chamber. One experiment was carried out to lower the existing chandeliers so that the light was distributed more horizontally; but the chandeliers were neither powerful enough nor did they provide the right sort of light to replace the temporary wall mounted lights.

It should be said here that the ordinary lighting levels in the Chamber are very low (125 lux), that the level required by the television engineers is about 330 lux and that the standard applied by the Property Services

Agency to Government Offices and Conference Rooms is 350 lux. There was therefore, in any event, a good case for improving the lighting of the Chamber whether or not television cameras were to be there indefinitely.

Shortly before the debate on the Committee's report, the Property Services Agency designed and hung in place two converted chandeliers with much more powerful bulbs and which could provide the right sort of light for television purposes. On the day of the debate, these new chandeliers were used and some of the temporary lights switched off. It is hoped that most of the other chandeliers will be redesigned shortly but whether side lighting of some sort will be required, and if so, how it will be provided, is not yet known. In the opinion of some members of the House, the broadcasters are demanding 'studio' perfection in lighting, something which they will not be able to have. Some compromise will almost certainly be needed if the appearance of the Chamber is not to be permanently spoilt.

The House debated the Report of the Select Committee on 12th May 1986 (H.L. Official Report Vol. 474 [Cols 963–977]) on the following motion:

> 'That this House takes note of the report of the Select Committee on Televising the Proceedings of the House and resolves that the public televising of its proceedings should continue on the basis outlined in Part III of that report until the House otherwise orders.'

No amendment was tabled to the motion, in marked contrast to the two previous motions on televising the House. Lord Boyd-Carpenter, a former Conservative Cabinet Minister, in moving the motion, urged the House not to bring to an end something which had developed over the past eighteen months and which the public had grown to expect. He was followed in the debate by speakers from all sides of the House who supported the motion. There was only one dissenting speech, made by a known opponent of televising the House; and he said that he would only vote against the motion if someone else forced a division.

The Leader of the House, speaking at the end of the debate, said that if the motion were carried, as he hoped it would be, he would in due course move a resolution to govern the televising of the House and its Committees and to seek the appointment of a new Committee to supervise both sound and television broadcasting. He referred briefly to the costs involved in televising the House and estimated that the costs to public funds might amount to £100,000 for such matters as lighting and accommodation. The major costs, which the Government were not prepared to finance, would fall on the broadcasting authorities.

At the end of a three hour debate the House agreed, without a division, to the motion before it. On 15th May, the Leader of the House fulfilled his undertaking to the House to move a resolution to

govern the televising of proceedings by the BBC and IBA, who would be entitled to televise the House as and when they wish. A motion was also agreed to appointing a Committee to supervise television and sound broadcasting.

And so after nearly eighteen months experimentation and with the benefit of two reports on the subject, the House of Lords agreed to the public televising of its proceedings on a 'drive-in' basis for the foreseeable future. There will undoubtedly be changes in the way television coverage of the House is carried out, both because new technology will become available and because the House of Commons is likely to be televised one day. But 12th May 1986 will be remembered as the date when one House of the Westminster Parliament finally agreed to the permanent introduction of television coverage of its proceedings.

V. THE ZAMBIA POLICE (AMENDMENT) BILL, 1985

BY N. M. CHIBESAKUNDA

Clerk of National Assembly

On Tuesday 26 November 1985 the Minister of Home Affairs presented a Bill in Parliament entitled the Zambia Police (Amendment) Bill, 1985. The Bill was passed by the House on Friday 13 December 1985 and received the President's assent on Tuesday 24 December 1985.

The object of the Bill was to amend the Zambia Police Act by repealing the provisions relating to special constables and replacing them with 'vigilantes'. The vigilantes were to be a voluntary group of youths augmenting the functions of the regular Police Force. During the Second Reading of the Bill, the Hon. Minister of Home Affairs informed the House that if passed, the Act would offer a positive measure in combating the various types of crime which were prevalent in the country and in reinforcing the over-stretched resources of the regular Police Force.

The Bill was, therefore, aimed at drawing the support of the general public through a well organized, voluntary and legalized group. The Bill also made provision for the actual powers and duties which the vigilantes would perform. It further laid down the qualifications which were to be pre-requisites before acceptance into the group.

The Minister of Home Affairs, mindful of the undesirable connotations which the word 'vigilante' invoked, cautioned the House to view the Bill from the vantage of the purpose for which the vigilantes were intended and the results which the Bill could achieve, if given full support by the House. The House was further cautioned to divorce these ideals from the milieu in which the word 'vigilante' had emerged through history.

The Zambian vigilantes were to be drawn from the sections and branches in which they lived. They were required to be at least sixteen years of age, of good moral character, physically fit and without previous criminal convictions. The vigilantes were also to be equipped with police batons, handcuffs, whistles, identity cards, instruction manuals and other requisites for their functions.

The powers of arrest given to the vigilantes in the Bill were not very different from those granted to an ordinary citizen under the Criminal Procedure Code. Thus, vigilantes were empowered to arrest, without warrant, persons committing cognizable offences, or performing acts capable of being reasonably construed as felonies, provided the persons

so arrested were handed over to a police officer or the nearest police station without delay.

The vigilantes fell under the supervision of the Inspector-General of Police and were to be subject to a disciplinary Code drawn up by him. Their services could terminate by a month's notice being tendered by either party or be withdrawn by the Inspector-General of Police.

During the Second Reading of the Bill, vigorous objections were raised and diverse lines of argument were advanced. In particular, a number of members felt very strongly about the use of the word 'vigilante'. Emphasis was laid on the fact that throughout history vigilantes have been defined as a non-legal means of control and a disorganized mob using violence and intimidation to maintain law and order. This being the case, it was observed that a Commonwealth Parliament, like that in Zambia, upholding the ideals of the principles of the rule of law, could not possibly enact such a law.

Other members argued that the money which was to be spent on equipping the vigilantes could have been put to better use by improving the facilities of the already existing Police Force. It was further argued that as the Bill required each section in Zambia to have a minimum of five vigilantes operating in every section, this meant that in Lusaka alone, there would be at least twenty thousand vigilantes augmenting the services of the regular Police Force, a situation which was clearly not palatable.

Objections were also raised by members of Parliament representin rural constituencies. They contended that the vigilante's powers c arrest would be difficult to monitor in remote parts of Zambia wher police stations were few and far apart. It was felt that it would be difficult for a vigilante to hand-over his suspects to a policeman or a police station in such circumstances, and this would inevitably lead to abuse of power. Members of Parliament advocated that if the Bill were to be passed, the prevailing practice in the rural areas, where apprehended persons are handed over to the village Chief who is seen as the custodian of the law, should not be by-passed.

Clause two of the Bill provided that the minimum age of a vigilante should be sixteen years. Members of Parliament vigorously protested against this clause which they felt was giving power to teenagers. They argued that the vigilantes should be composed of mature and more seasoned people, as teenagers might prove difficult to control. In line with this argument, a notice of amendment was moved by the Minister of Home Affairs to raise the minimum age from sixteen to eighteen years, which in Zambia is the age at which one attains the right to vote.

Members also raised queries regarding the compensation, if any, that would accrue to the vigilante's family in case of his death. They further argued that the vigilantes who were lacking in formal training could not possibly perform better than the already existing Police Force. It

was felt that a large cross-section of the vigilantes would be drawn from the already existing party militants who were practising a rudimentary form of policing but lacking in the courtesy and discipline of the regular Police Force.

However, a number of arguments were also put forward in support of the Bill and in the end it was the Government which carried the day. Members supporting the Bill argued that the vigilantes would go a long way in detecting the presence of aliens and other illegal immigrants who had become part of the community.

In the same vein, the Chairman of the Social and Cultural Sub-Committee of the Central Committee informed the House that the Copperbelt Province was swarming with aliens and that this accounted for 42 per cent of the offences committed in the country. This, therefore, prompted the Government to introduce the recognized strategy of community policing to assist them in the combat and prevention of crime. The House further heard that crime which was rampant in the urban areas had now spread to the rural areas, and that the party and Government could not allow Zambia to degenerate into a den of thieves. Zambia had earned itself a bad name abroad because of the rising crime rate. As a result, tourists and would-be investors were afraid of coming to Zambia. In order, therefore, to maintain peace and tranquility, and restore the country's integrity, the party and Government had decided to use the human resources available to it.

The Chairman of the Social and Cultural Sub-Committee of the Central Committee further drew the attention of the House to the procedure for appointing vigilantes which made it difficult for undesirable characters to be admitted. This procedure required the ward security committee to make recommendations to the Inspector-General of Police who would in turn appoint suitable persons to be vigilantes for a specific section in a ward. The powers of the vigilantes were to be limited to their own ward sections in the Districts and were not general powers to be used in any section. A vigilante was, therefore, required to reside within his area of operation.

The Chairman also emphasized that participation in vigilante activities would be considered as a great mark of patriotism as it would demonstrate a great sense of commitment to national ideals and give citizens an opportunity to render meritorious service to the country. He went on further to say that Zambia was facing great economic hardships and Zambia's way of life should reflect the crisis that the country was undergoing.

Members who supported the Bill were generally agreed that the objectives for which the Bill was intended were indeed noble. They however maintained that supervision and a rigid standard of discipline would be necessary to guard against abuse of the powers vested in the vigilantes. To this end, the Government was urged to re-examine the

administrative details of the Bill and the methods of control which were to be exercised over the vigilantes in order to seal all loopholes which would undermine the success of the Bill.

Other members from rural constituencies supported the Bill because some of them had no police stations in their areas and the presence of vigilante forces would assist the community in the detection of criminals and illegal immigrants living amongst them.

The Secretary of State for Defence and Security also rose to give support to the Bill. In his address, he informed the House that since the attainment of independence, the crime rate in Zambia had been rising at an average rate of approximately 6.1 per cent per annum and the value of property stolen in 1983 was approximately K81 million, and this rose in 1984 to K90 million. He argued that even in developed countries civilian support was vital in fighting crime, although the strategy and terminology applicable might differ from country to country.

In winding up the debate, the Prime Minister conceded that 40,000 vigilantes for Lusaka alone might prove to be more than required. However, he assured the House that a more palatable compromise would be worked out to accommodate the issue and many others which members had raised. He informed members that some loopholes in the Bill would be dealt with administratively to ensure the success of the vigilantes and that he was pleased with the support which members had given to this very important Bill.

In view of the cogent opposition which the Bill initially received in the House, the fact that it was actually passed at the close of the day, was a remarkable feat of achievement for the Government. This achievement should be ascribed to the eloquence of those Members who supported the Bill and succeeded in swaying the hostile mood of the House.

VI. THE JOINT SELECT COMMITTEE ON PARLIAMENTARY PRIVILEGE (NEW SOUTH WALES)

BY G. H. COOKSLEY

Clerk of the Legislative Assembly
of
New South Wales

Appointment of Committee

The Committee was first appointed in November 1982 when the Legislative Council concurred in a resolution of the Legislative Assembly –

> (1) That a Joint Select Committee be appointed to review and report whether any changes are desirable in respect of:
>
> (a) The law and practice of parliamentary privilege as they affect the Legislative Council and the Legislative Assembly, the Members and Committees of either or both Houses and other persons;
>
> (b) The powers and procedures by which cases of alleged breaches of parliamentary privilege may be raised, investigated and determined . . .'

The Committee consisted of three Members of the Legislative Council and five Members of the Legislative Assembly. Mr R. M. Cavalier, M.P., was elected Chairman.

Background to the Inquiry

The Legislative Assembly of New South Wales enjoys, for better or for worse, the reputation of being the 'bearpit' of Australian parliamentary life. The Assembly, which succeeded the old Legislative Council in 1856 upon the attaining of responsible government, has a long history of vigorous debate reminiscent of the 18th century House of Commons.

At the beginning of this decade, however, it was thought in certain quarters that some Members of the Legislative Assembly were abusing the privilege of freedom of speech. A degree of cynicism, nevertheless, greeted the announcement by the Government in late 1982 that it intended to establish a Joint Select Committee to inquire into all aspects of parliamentary privilege: some observers believed that the purpose of the Committee was to inhibit freedom of speech.

The then Attorney-General of New South Wales, at the time of

moving for the establishment of the Committee, observed that some of the significant issues the Committee could deliberate upon included:

* whether the powers, privileges and immunities of the House should be spelt out or codified in legislative form?
* should limits be imposed on a Member's freedom of speech to protect persons from an offensive or injurious statement?
* should privileges committees be established in the Houses?
* should the parliament obtain a contempt power, and if so, what safeguards would be necessary for this exercise?
* should the courts have a role in hearing prosecutions for breach of parliamentary privilege, and the application of the law of defamation to the publication of extracts from Hansard?
* the adequacy of the provisions of the Parliamentary Evidence Act.

The Committee deliberated for a period of just under three years. During that time the course of politics affected both its membership and the individual capacities of Members to devote time to the affairs of the Committee. One Member stood down in anticipation of a general election and another retired at the election. The Chairman became a Minister of the Crown, one Member became the Leader of a party, another become Opposition Whip. The clerk to the Committee became Clerk of the Legislative Assembly. Towards the end, even the scheduling of meetings became difficult.

The Committee was remarkable for the spirit of harmony prevailing amongst its membership.

The Committee visited the Parliaments of all States of Australia and the Northern Territory. A delegation from the Committee also visited the Parliaments of the Federal Republic of Germany, North Rhine-Westphalia, the United Kingdom, the United States of America, the Commonwealth of Massachusetts, Canada and the Province of Ontario. This latter journey was invaluable, as it revealed to the delegation the multifarious aspects of parliamentary privilege which had to be considered in the context of the Parliament of New South Wales.

The Parliament of the Commonwealth of Australia, by virtue of Section 49 of the Commonwealth Constitution, possesses such powers, privileges and immunities as are declared by the Parliament, and until so declared, the powers, privileges and immunities of the House of Commons, as at the establishment of the Commonwealth of Australia (1901).

The Parliament of New South Wales, unlike the Commonwealth Parliament and most of the other State Parliaments, has not asserted its privileges by express enactment. The privileges of this Parliament are to be found in the whole body of the common law and a few statutes.

The Solicitor-General of New South Wales, in an opinion to the

Committee, said that the Parliament of New South Wales enjoyed privileges under four headings:

(1) Such powers and privileges as are implied by reason of necessity. [*Armstrong v Budd* (1969) 71 SR (NSW) 386.]
(2) Such privileges as were imported by the adoption of the Bill of Rights, 1689.
(3) Such privilege as is conferred by the Defamation Act, 1974.
(4) Such privilege as is conferred by other legislation, e.g., Parliamentary Evidence Act, 1901 and the Public Works Act, 1912.

It is within the first heading – the privileges applied by the doctrine of necessity – that the principal problems arose in determining the privileges that this Parliament enjoys.

The Judicial Committee of the Privy Council ruled in *Kielley v Carson* (1841–42 4 Moo.P.C. 63) that the powers of a colonial or dominion legislature were limited to such privileges as were reasonably necessary for the legislature to carry out its legislative functions, until and unless asserted otherwise by express enactment. In 145 years since, the Parliament of New South Wales has failed to enact such legislation, as the five major attempts at such legislation failed to pass both Houses.

The situation is now complicated by the fact that some constitutional authorities believe that a referendum will be necessary under a subsequent amendment to the State Constitution, Section 7A, to alter the powers of the Legislative Council. (Section 7A exists to protect the Legislative Council against an infringement or an expansion of its 'powers'.)

The Committee believed that a declaration by express enactment of the privileges and immunities which have always existed and which continue to exist would not alter the powers of the Legislative Council.

The critical tests that a court is likely to apply are –

(1) the legal meaning of the word 'powers' in the terms of Section 7A; and

(2) the intention of the Legislature when it attempted to establish rigid manner and form requirements to protect the powers of the Legislative Council from alteration by any means other than a referendum.

While the Committee believes that the decision in *Kielley v Carson* is of arguable validity in the prevailing constitutional circumstances and that only a ruling in the High Court of Australia could put this challenge beyond doubt, the Committee recommended that the Parliament should not be inhibited from amending the Constitution Act to place beyond doubt that the powers, privileges and immunities of the Houses of the New South Wales Parliament are those of the House of Commons as at 1856. The Committee is of the further view from evidence given that such an amendment to the Constitution Act would not involve an

alteration to the powers of the Legislative Council as comprehended in Section 7A.

Alleged Paramountcy of Commonwealth Law

Among the many recommendations of the Committee in its Report, a copy of which was sent by resolution to all financial members of the Commonwealth Parliamentary Association, was the noting of the reaffirmation by the two Houses of their undoubted rights and privileges against the powers of the Federal Government. (The question of States' rights is a constant constitutional question in federations.)

On 17 August 1983, the former Attorney-General of South Australia made a speech in the Parliament of that State upon the activities of the then Royal Commission on Australian Security and Intelligence Agencies.

On 18 August 1983, the Royal Commissioner referred to the then Federal Attorney-General questions relating to the inter-action of federal legislation with the parliamentary privileges of State Parliaments.

On 23 August 1983, the Attorney-General wrote to the Secretary of the Royal Commission, on behalf of the Commonwealth Solicitor-General and himself. The Attorney-General wrote that their conclusions could be briefly stated as follows:

(1) While Commonwealth law may in some circumstances be capable of overriding claims of parliamentary privilege in both Commonwealth and State Parliaments, neither Section 6D or Section 60 of the *Royal Commissions Act*, nor Section 92 of the *ASIO Act*, have that effect.
(2) Mr Duncan could not, accordingly, be prosecuted under these provisions even if they were otherwise applicable to him.
(3) Media reports, however, even if constituting no more than fair reports of what is said in Parliament, may as a matter of strict law be capable of prosecution under those sections to the extent that they involve:
    * wilful contravention of a Commissioner's suppression order;
    * a wilful prejudgement or prejudicial treatment of issues being dealt with by the Commission; or
    * identification of an officer (other than the Director-General), employee or agent of ASIO.

In the Legislative Assembly of New South Wales, following upon the release of the Joint Opinion, the Speaker vigorously defended the freedom of the press and the freedom of speech in State Parliaments and denounced any attempt to make a Parliament subservient to a judicial authority or a federal statute.

The Chairman of the Committee was granted leave by the House to move the following motion:

> That the Legislative Assembly expresses profound concern at recent statements reflecting upon the privileges of Members of Parliament and, as a constituent House of the Legislature of the sovereign State of New South Wales –
>
> (1) reaffirms its undoubted rights and privileges including the fundamental right of every member to freedom of speech in Parliament; and
> (2) asserts that, in the public interest, the media should be untrammelled in their reporting of the proceedings of Parliament.

The motion was carried unanimously. A similar debate took place in the Legislative Council.

Following the reaffirmation by the two Houses of their undoubted rights and privileges, the Committee referred the matter to the Solicitor-General of New South Wales. The advice of the Solicitor-General, which is contained in the Report, disagreed with the conclusions of the Attorney-General and the Solicitor-General of the Commonwealth. The Solicitor-General of New South Wales concluded by saying that 'in his publicly released letter to the Secretary of the Royal Commission, the Attorney-General indicated that only in the most exceptional circumstances would the sanctions of the criminal law be applied to the reporting of the proceedings of a state Parliament. Should those exceptional circumstances ever arise, the Attorney-General of New South Wales should intervene to argue the matters raised herein. I so advise.'

The Committee was fortified in its view that Commonwealth laws cannot override the parliamentary privilege of the sovereign State Parliaments by the majority report of the Senate Standing Committee on Constitutional and Legal Affairs on this subject. This report, which was tabled in the Senate on 13 May 1985, decided that the Joint Opinion of the federal Attorney-General and Solicitor-General was wrong.

The Committee recommended, accordingly, that in the unlikely event that such a conflict is forced to litigation, the Parliament of New South Wales should seek to intervene to advance the views that no Commonwealth power exists to override the parliamentary privilege of the State Parliaments.

The Committee made many recommendations on such diverse topics as –

- the attraction of parliamentary privilege both to Hansard and to Members' correspondence with the Executive Government;
- the punishment of contempt;
- the explusion of Members;

- the rights of reply by citizens traduced in Parliament; and
- the precincts of Parliament and the role of the media within those precincts.

(*An airmailed copy of the Report to anywhere in the world may be obtained for $A25.00 from the Clerk of the Legislative Assembly, Macquarie Street, Sydney, 2000, New South Wales, Australia.*)

VII. THE VICTORIA TOWER AND THE RECORDS OF PARLIAMENT, 1864–1986

BY H. S. COBB

Clerk of the Records, House of Lords

The recent Report of the Trend Committee on Library and Record Office Storage Accommodation drew attention to the fact that the space remaining in the Victoria Tower would accommodate only a further eight years' accessions of records from both Houses.[1] In contrast, in the 1840s whilst the Victoria Tower was under construction, the Government thought that it would be large enough to house not only the House of Lords records but also all the central legal records – an idea which was, however, soon found to be impracticable.[2]

Following the fire of 1834 which had gutted the greater part of the Old Palace of Westminster, the House of Lords specified that the New Houses of Parliament should include two 'fire-proof repositories for papers and documents' each measuring not less than 100 feet by 40 feet.[3] To meet this requirement Charles Barry designed a 'King's or Record Tower' at the south end of the building, which was also to serve as the royal entrance to the Palace. When completed in 1860, the Victoria Tower was said to be the 'largest and highest square tower in the world'. The archway of the Sovereign's Entrance rose to groined vaulting some 60 feet above ground. In the crown of the vault was an access hole 6 feet 6 ins in diameter through which building materials consignments of records etc., could be hoisted and this hole was closed by a sliding iron trap door. Eight feet above the vault was the first floor of the tower with eight record floors above it, each 51 feet 7 ins square, and two smaller floors in the roof-space. The lowest floor, the 'sorting room' was an open space with slate benches fixed against the walls and around the railed centre above the access hole. The eight floors above were each divided into eight small rooms with stone floors, brick walls and cast-iron doors. The lowest two record floors had galleries which could also be used for storage. Access to the floors from the 'sorting room' was by a dramatic central spiral staircase, 'one of the earliest and most remarkable instances of the cast-iron stair worker's art ever to be built'. This staircase had 416 steps and there were a further 53 steps in a turret before the roof was reached about 275 feet above ground.[4] Barry's Tower was certainly constructed of fire-proof materials but it later proved to have marked disadvantages as a record store. It and the Clock Tower were also used as upcast shafts through which spent air was expelled from the Palace, so that it was later described

as 'at one and the same time, the great record-house of the Senate and its ventilating shaft'.[5]

By 1864 the Victoria Tower was ready to receive records and the Clerk of the Parliaments, Sir John George Shaw Lefevre[6], reported to the House of Lords Offices Committee that the original Acts of Parliament which 'have hitherto been kept in a singularly inconvenient repository – an old Tower behind nos. 6 and 7 Old Palace Yard' (the Jewel Tower) had been removed from there and deposited, in their correct order, on the first floor and gallery and second floor of the Victoria Tower. Some years prior to the move Shaw Lefevre had given instructions for the Acts to be rearranged and checked under the superintendence of the Chief Clerk, Henry Stone Smith, because (he said) 'I had always much difficulty in finding any Act which was applied for, and I had no means of ascertaining by periodical inspections whether any of them were missing'. Now, he claimed (perhaps optimistically) 'any Act which is required may be found instantly'. Shaw Lefevre reported that a number of Acts were missing but hoped that some might be found 'amongst the numerous records of the House which are about to be removed into the Great Tower from the subterranean vaults below the House'.[7] These records were presumably 'the large mass of books, papers and documents' which had been transferred in 1857 from temporary accommodation to the permanent rooms allocated to the Parliament Office in the New Houses of Parliament.[8]

The records were not, however, moved immediately into the Tower. In 1867 John Bruce[9], whilst searching for certain documents in the House of Lords, discovered 'some extremely valuable Historical Papers, which were not known to be in the House of Lords Repositories'.[10] Bruce and the Assistant Librarian, W. J. Thoms, persuaded Shaw Lefevre that amongst the early records of the House there might be many of 'real historical importance'. The latter informed the Offices Committee that the records were tied in bundles which had originally been in chronological order but had become disarranged in frequent and sudden removals during the rebuilding of the Palace. As a preliminary to their removal to the Victoria Tower, Shaw Lefevre ordered that some of the early bundles should be carefully examined and the papers unfolded, flattened, properly arranged for final deposit and stamped, a precaution (as he wisely remarked) 'obviously necessary in respect of documents which might be of great pecuniary value in the Archaeological Market'.[11] Bruce was asked to make a preliminary inspection of the papers and found them to consist principally of petitions, letters, orders, minutes of evidence and papers relating to communications between the Sovereign, the House of Commons and House of Lords (he pointed out that most were noted in the Lords Journals). Amongst the items to which Bruce drew attention were letters of Charles I captured at the battle of Naseby, petitions from

Archbishop Laud and letters of Oliver Cromwell and Elizabeth of Bohemia. Shaw Lefevre asked the Offices Committee to consider whether the process of arrangement should continue and, if so, to what date. Also, whether a catalogue should be drawn up of the documents which were not printed in the Journals and, if so, who should prepare it.[12]

By a fortunate coincidence, the following year (1869) witnessed the establishment of the Royal Commission on Historical Manuscripts whose task was to locate, catalogue and publish privately-owned documents (those not covered by the Public Records Acts). The Clerk of the Parliaments gave permission for three of the Commissioners, Thomas Duffus Hardy (Deputy Keeper of the Public Records), Sir George Dasent and Lord Edmond Petty-Fitzmaurice M.P., to inspect the Lords records. They found them in 12 'perfectly dry' basement rooms running parallel with the River Front Terrace. In the previous 13 months two officers of the House, assisted by a transcriber from the Public Record Office, had examined, arranged and stamped the remarkable total of 29,507 documents (including 387 parchment rolls) but these had occupied only a very small part of one room. The remaining records, apart from the Lords Journals, were said to be in no sort of arrangement whatsoever and might include documents equally valuable to any yet discovered. The Commissioners pointed out that the Declaration of Breda and its accompanying letter addressed to the House of Lords, which had often been searched for unsuccessfully in the past, had 'just been untombed from this mausoleum of historical remains'. In their report they printed some of the Naseby letters (with their cyphers) and a letter from Charles I pleading for Strafford's life to be spared. They strongly recommended to Shaw Lefevre that the sorting and arrangement of the papers should be continued and even accelerated by the employment of additional labour and that a skeleton catalogue of the papers should be prepared.[13]

The Commissioners recommendations were accepted and the Treasury agreed in 1871 to provide £500 per annum to the Historical Manuscripts Commissioners for the payment of two House of Lords Clerks to sort, arrange and calendar the documents with the assistance of a copyist and a messenger. The Clerks were each to receive two guineas per day for not more than 80 days a year when Parliament was not sitting and when their services were not otherwise required in the Parliament Office.[14] The arrangement continued until 1896 when the Treasury decreed that the Lords records did not come properly within the scope of the Commission since they were 'not belonging to private persons' and that the payments for calendaring should be transferred to the House of Lords Vote.[15] This was eventually agreed and the House assumed responsibility for the publication of the *Calendars* in place of the Historical Manuscripts Commission.

From 1871 onwards a succession of scholarly House of Lords Clerks worked on calendaring the 'Papers laid on the Table of House of Lords' and by 1922 had covered the period from 1498 to 1710.[16] Work was suspended in 1922 on economy grounds and was not to be resumed until after the Second World War.[17] The work of sorting and arranging the records had also continued and by 1884, covered the papers to 1828.[18] The Clerks who undertook the calendaring were also responsible for the general care of the records in the Tower and for assisting students who wished to consult documents for literary purposes (for which no fee was charged).

In 1903 Robert Monro, the Chief Clerk, drew the attention of the Clerk of the Parliaments to the 'perilous position' (from fire risk) of the Acts and other papers stored in the Tower. Below them on the 'sorting floor' piles of old printed Journals of the Lords and Commons had accumulated and more than 100 copies of each new Lords Journal were still being deposited there. The upper part of the Tower, which was in the care of the Office of Works, was being used for the storage of wooden doors, panels and carvings which had been removed from other parts of the House in the course of alterations.[19] Although some reduction was made in the stocks of Journals a considerable amount remained in the Tower until 1953, whilst the Office of Works resisted until 1915 the removal of all the wood.

A significant step was taken in 1904 towards the development of the Victoria Tower as a parliamentary record repository. In that year the Clerk of the House of Commons (Sir Courtenay Ilbert) wrote to the Clerk of the Parliaments (Sir Henry Graham) suggesting that the Commons collection of Private Bills (with annexed plans and books of reference) which were being kept in one of the towers at the end of Westminster Hall (with an overflow in the cellars) should be transferred to the Victoria Tower. Ilbert pointed out that two overlapping series of Lords and Commons Private Bill records were being kept in different parts of the Palace, an inconvenient arrangement with its duplication of custody and responsibility. In his opinion 'the obvious remedy is that the Victoria Tower should be treated as the Record Office for all Parliamentary documents which need preservation, whether they belong to the House of Lords or to the House of Commons'. Ilbert mentioned that the Speaker fully approved his suggestion. Graham was in complete agreement and asked the Board of Works to prepare the floor above that occupied by Lords papers for the reception of Commons material.[20] In the following year Graham agreed to the deposit in the Tower of some 600 of the 2,500 volumes of evidence taken before Commons Private Bill Committees which had been accumulating since 1835 and it was suggested that the remainder should be transferred in instalments at 10 yearly intervals.[21]

Both Houses made returns in response to a questionnaire from the

Royal Commission on Public Records in 1912. Cuthbert Headlam, the Clerk in charge of Lords records, listed the various classes of documents preserved, their arrangement on four record floors in the Tower and the available calendars, lists and indexes. In his opinion the muniment rooms were 'airy and free from damp' and the records, considering their age, 'in a wonderfully good state of preservation'. He pointed out that the Clerk of the Parliaments was empowered to destroy certain classes of papers, such as public petitions, unless they appeared to be of historical interest. Austin Smyth, the Librarian of the Commons, referred to the Election Return Books, Test Rolls, Minute Books and House Bills preserved in the Commons Journal Office and the original Journals (from 1547) and 'deposited' and 'unprinted' papers which were preserved in the Library, other records (except those in current use) being transferred to the Victoria Tower.[22] Members of the Commission who inspected the Tower returned a much less favourable verdict on it than Headlam's. The interior was exceeedingly dark and dirty and at times the attendants had to use 'paraffin lanterns' when producing or arranging documents. The records were stored in wooden presses and these, together with wood stored by the Office of Works, increased the risk of fire. They agreed, however, that the Journals, Acts (from Henry VII) and other documents which they were shown were carefully kept and in good condition.[23]

A fifth record floor was required in 1918 when it was agreed that, in future, Ballot Papers returned to the Crown Office in Chancery after each General Election should be stored in the Victoria Tower for the statutory period of a year and a day before destruction. The introduction of universal male suffrage in 1918 meant that the Ballot Papers were becoming too numerous to be stored in the Crown Office itself. A further extension of the franchise in 1928 to all women over the age of 21 created the need for yet another floor to be allocated for Ballot Papers.[24] In 1944 the Clerk of the Crown estimated that about 3,000 sacks of Ballot Papers weighing over one cwt. each were received after each General Election. They had to be raised from ground level to the fifth and sixth floors on a hoist powered by a motor-driven gear at the top of the Tower.[25]

Concern about the state of the records in the Tower led to the setting up in 1924 of a Sub-Committee of the Offices Committee to investigate the matter. The Sub-Committee found that although in general the records were well looked after some of the bound volumes were suffering from attacks of the fungus *aspergillus* which could only be completely prevented by warming the storage rooms (this, however, was considered too costly). In addition there was the old problem of dust and dirt created by the accumulation of printed Journals and Rolls of Parliament. The latter, it was suggested, should be distributed to public libraries and other institutions. The Sub-Committee

recommended that, in the light of growing research interest in the records as well as their legal importance, further steps should be taken for their preservation and for making them properly available to the public. As a result, a regular programme of cleaning the storage rooms and records during the summer recess was inaugurated and this practice continued until the 1950s. A proposal to resume the calendaring of the manuscripts was not, however, implemented.[26]

The next detailed investigation of the records in the Victoria Tower took place in 1937 on the intiative of the Clerk of Parliaments, Sir Henry Badeley, who took a keen interest in the parliamentary archive. The resulting report by V.M.R. (later Sir Victor) Goodman was the most comprehensive to that date detailing each class of Lords and Commons records with its date range and number of volumes or individual documents and the extent to which it was listed or indexed. It is noticeable that some classes, such as the Papers Laid, were now being transferred to the Tower at the end of each Session. Goodman drew attention to the urgent need for the listing of various classes (especially committee records) to be completed to facilitate access to them. He also suggested that the papers should be boxed instead of being stored (as they were) tied between mill-boards. Parchment documents with their seals needed to be repaired and properly stored, and many fragile paper documents required backing (it was suggested that this could be done at the remarkably low cost of £20 per 1,000 documents!). The number of searchers of documents was said to average two or three per month and there were also postal enquiries. The Offices Committee approved expenditure on the repair of some of the records but the outbreak of war in 1939 prevented the carrying out of the other recommendations.[27]

Thanks to Badeley's foresight, four tin boxes of the most valuable documents, including the Death Warrant of Charles I and the Naseby letters, were sent for safety to the Bodleian Library in July 1939. In May 1940 about 9 tons of documents were moved from the Victoria Tower firstly to Elstree in Hertfordshire and then, in 1941, to Laverstoke House, Hampshire, the home of Viscount Portal. There they were joined by further consignments from the Tower so that eventually at Laverstoke were deposited the Original Acts from 1497 to 1757, the Manuscript Journals from 1510 to 1803 and the Main Papers to 1805 – the first occasion on which the earliest documents had left Westminster in over four hundred years.[28] The remainder of the Lords and the Commons records remained in the Tower or elsewhere in the Palace apart from the Manuscript Commons Journals, 1547 to 1800, which had been sent into the country for safety.

Wartime dangers from bombing and salvage drives enhanced appreciation of the value of parliamentary records as they did of archives generally throughout the country. In 1942 a Commons Select

Committee was appointed 'to examine all documents and records in the custody or control of any officer of the House; to report which of these may be destroyed and which are of sufficient historical interest to justify their preservation; and to recommend methods for securing the safe custody of any classes of documents which ought to be preserved'. In their first Report the Committee identified documents which it considered might be immediately sent for salvage such as committee copies of Public and Private Bills and sheets of signatures to public petitions. The recommendation that the transcripts of proceedings before Private Bill Committees, 1835–1903 (not printed) and transcripts of proceedings in the Courts on Election Petitions should be made available for pulping if the national need for paper became increasingly urgent (since the case for preserving them was 'probably only based on their possible interest to historians') was, very fortunately, subsequently reversed after representations from the Public Record Office and protests in the House.[29]

Members of the Select Committee, accompanied by the Deputy Keeper of the Public Records (C. T. Flower) inspected the Victoria Tower and concluded that it was eminently suitable for the storage of Commons documents. They recommended the regular cleaning of Commons as well as Lords Records and the replacement of the wooden racking with non-inflammable metal shelves. Particular emphasis was placed on the repair of the bound volumes (mostly of evidence) and the Commons collection of deposited maps and plans relating to Private Bills. Flower had emphasised the 'very high value' of the latter since (in his prophetic words) 'the economic, industrial and urban developments of the 19th century will be the subject of increasingly close study by historians and others'.

The final Report of the Committee noted a considerable improvement since the previous year in the conditions under which Commons documents were stored. Additional precautions had been taken against fire, windows repaired, and many of the wooden racks had been replaced by metal: some 1,000 volumes of evidence on Private Bills were in course of being rebound by the Stationery Office and the repair of the deposited plans from 1797 onwards was to be undertaken by the Public Record Office. The Committee also drew attention to the possible historical interest of the unreported evidence, papers and correspondence of Select Committees, records which had not been systematically kept before the war but were to be increasingly so afterwards.[30]

The approach of the end of the war turned thoughts even more towards the future care of the records. In 1944 Sir Henry Badeley obtained approval for the appointment of a qualified Clerk to be employed whole-time on the care, arrangement and clerical work in connection with the documents.[31] He described to a Joint Select Committee on Accommodation in the Palace how, in normal times, the

first four floor were used for the storage of Lords and Commons records but that, except for the Ballet Papers, the floors above were empty. Badeley said that when the records were brought back, he intended to reorganise the storage rooms. Also, in the light of a 'very strong demand from authorities of every kind' he hoped to restart the calendaring of manuscripts from 1710 onwards 'a very interesting part of the period of Queen Anne'. J. V. Kitto, the House of Commons Librarian, said that although the Commons archives were sent to the Victoria Tower 'I would not send anything else up there, because it's a day's journey'. Members of the Committee questioned the need for surplus Journals and Ballot Papers to be kept in the Tower but, of the latter, it was said that they had to be kept secure and near to the Clerk of the Crown. The Resident Engineer of the Palace said that the Tower could be made into excellent storage accommodation by putting in a lift, proper lighting and a certain amount of heat to keep the documents in good condition and the Ministry of Works supported these proposals. The Committee recommended that the work should be undertaken in due course.[32]

The first Clerk of the Records, F. R. D. Needham, was appointed in February 1946.[33] His immediate task was to supervise the return of the records from Laverstoke House to the Victoria Tower and this had been safely carried out by May of that year.[34] The Clerk of the Records was entrusted with the care of both Lords and Commons records in the Victoria Tower. Needham resigned in November 1946 and was succeeded by Maurice Bond,[35] who was to serve as Clerk of the Records for the next 35 years. A House of Lords Bindery had been set up in 1946 by the Stationery Office at the suggestion of the Librarian, Charles Clay. Bond arranged for a proportion of the bindery's time to be devoted to the repair of manuscripts and deposited plans and thus began a systematic programme of document repair which has continued to the present day. A public Search Room was opened to serve the steadily increasing number of students who wished to consult the records for historical or legal purposes.[36] Calendaring of the manuscripts was resumed and, since 1948, four volumes have been published with, in addition, a general *Guide to the Records of Parliament*.[37]

The discovery in 1947 of a severe outbreak of mould growth on the documents led, in the following year, to the setting up of an expert technical committee consisting of a mycologist, a chemist, an expert in conservation and engineers to consider what steps should be taken. The damp, dirty and unheated condition of the Tower, made worse by war damage to the windows and ceilings, had created conditions in which mould growth flourished. The movement of records during the war may also have accelerated the deterioration in their physical condition. The technical committee advised that it was necessary to control the temperature and humidity within the Tower in order to safeguard the

records properly. As a first step, by 1951 the lowest 'sorting floor' had been fitted up as an air-conditioned repository for the original Acts of Parliament. The intention was gradually to extend the air-conditioning system to the upper floors and to install a lift but, before this could be carried out, Ministry of Works engineers discovered that the structure of the Tower was seriously overloaded and, in fact, had been so even at the time of the Tower's completion. In 1953, therefore, the Tower above Floor 5 was gutted, the old floors and central staircase being removed. The large stock of printed Journals and Rolls of Parliament was removed to an out-repository, firstly at Richmond and then at Kew. Recently it was decided to dispose of these and other printed parliamentary material rather than store them indefinitely. Some eighty consignments of Journals and other papers have been distributed to United Kingdom universities and libraries, and to Commonwealth and other overseas parliaments and universities, and the whole has now been cleared. After about 1950, also, the Ballot Papers ceased to be sent to the Victoria Tower and since that time have been sent to Hayes in Middlesex.[38]

Between 1958 and 1961, seven new light-weight floors were inserted into the upper part of the Tower and their weight, and that of the 276-ton roof, was carried out to the walls thus leaving the original iron girders to carry only half their former load. The lower five floors were modernised so that by 1963, when the reconstructed repository was officially opened, it consisted of 12 floors with air-conditioning, new lighting, metal racking and other services, with a small lift rising to the twelfth floor.[39]

In 1963 it was estimated that additional accommodation had been provided for about 60 years' accessions of parliamentary records. The Lords and Commons Libraries were given the use of two floors until such time as they were required for record storage.

The increasing volume of Commons records (particularly Committee records) and the intake of some political papers have reduced the estimated spare space to some 45 years' accessions (from 1963), given that both Libraries are able to start removing their reserve books within the next few years. After about 2008, it has been proposed that new accessions should be stored in an additional Public Record Office building at Kew.[40] The Victoria Tower seems likely, however, to remain the principal parliamentary record repository well into the twenty-first century.

---

1. *Report from the Informal Joint Committee on Library and Record Office Storage Accommodation*, chaired by Lord Trend (1984–5, HL 130, HC 309) p.x.
2. M. H. Port (ed.), *The Houses of Parliament* (Yale University Press, 1976), p. 109.
3. *Report from the Select Committee on Plans for the Permanent Accommodation of Parliament* (1835, HL 73), p. 5.
4. Henry T. Ryde, *Illustrations of the New Palace of Westminster*, 2nd series (1865), pp. 3–10; Port, *op.cit.*, pp. 203–6.
5. A. Wright and P. Smith, *Parliament Past and Present*, p. 236; Port, *op.cit.*, p. 226.

6 Clerk Assistant 1848–55, Clerk of the Parliaments, 1855–75. He was in a sense the founding father of the modern parliamentary archive and has been described as 'one of the most distinguished public servants of his time and . . . a polymath with a remarkable range of knowledge' (M. F. Bond, 'The Office of Clerk of the Parliaments', *Parlimentary Affairs*, xii (1959), pp. 308–9).
7 House of Lords Record Office (hereafter cited as H.L.R.O.), Committee Book, H.L. vol. 214, pp. 842–4. A contemporary register lists 33 Acts as missing, some of which were subsequently found. Stone Smith had been responsible for removing the Lords records to places of safety after the 1834 fire.
8 H.L.R.O. Committee Book, H.L. vol. 193, p. 77. For the earlier history of the records *see M. F. Bond*, 'The Formation of the Archives of Parliament, 1497–1691', *Journal of the Society of Archivists*, vol. I, no. 6 (1957), pp. 151–8 and David J. Johnson, 'The House of Lords and Its Records, 1660–1864' in H. S. Cobb (ed.), *Parliamentary History, Libraries and Records* (H.L.R.O. 1981), pp. 25–32.
9 Antiquary and editor of the *Calendars of State Papers, Domestic 1625–39* (D.N.B).
10 Certain of the records (especially failed Bills) had been used earlier by Macaulay in his *History of England*, chapter xi (published in 1855). He had been introduced to them by Shaw Lefevre and Thoms.
11 Unfortunately, the stamp was used too conspicuously on some of the most important documents, e.g. on the face of the Draft Declaration of Rights, 1689.
12 Printed 'Memorandum No. 2' by Sir John Shaw Lefevre, 7 May 1868 (H.L.R.O. Parliament Office Papers 54/5).
13. *Historical Manuscripts Commission*, 1st Report (c 55 of 1870), Appendix, pp. 1–10.
14. H.L.R.O. Record Office File no. 4, correspondence between the Treasury, Historical Manuscripts Commission and Clerk of the Parliaments, 1871–85.
15. *Lords Journals*, vol. 128 (1896), pp. 76, 409–10.
16. 1498–1693 in 1st to 14th *Reports of the Historical Manuscripts Commission*, 1693–1710 in the *Manuscripts of the House of Lords* (New Series), vols. I–VIII. From 1678 onwards the Calendars have lengthy historical introductions.
17. *Lords Journals*, vol. 154 (1922), p. 39.
18. *Ibid.*, vol. 116 (1884), p. 322.
19. H.L.R.O. Parliament Office Papers 544, Letter Book 1902–13, pp. 40, 45.
20. *Ibid.* p. 94.
21. *Ibid.* p. 102.
22. *Second Report of the Royal Commission on Public Records* (1914, Cd. 7544), vol. II, pt. II, pp. 47–9. The Report contains a 'Memorandum on the Records of Parliament' by the historian Sir Charles Firth (*ibid.* pp. 104–7).
23. *Ibid.* p. 174.
24. H.L.R.O. Record Office File no. 4; Parliament Office Papers 399/2.
25. *Reports of the Joint Select Committee on Accommodation in the Palace of Westminster*, 1943–4, HC 116–1, pp. 16–17; 1944–5, HC 64–1, pp. 60–1.
26. *Lords Journals*, vol. 156 (1924), p. 302; *Second Report of the Offices Committee, 1925* (HL 125). The fungus problem was not cured until the installation of air-conditioning after the Second World War.
27. H.L.R.O. Record Office File no. 516/23; *Lords Journals*, vol. 170 (1937), p. 46.
28. H.L.R.O. Record Office File, no. 19.
29. Edmund Harvey M.P. remarked that this was the equivalent of someone having said to the citizens of Alexandria when the great classical library there was destroyed 'that a large part of that Library was only of value because of its possible interest to historians' (*Commons Hansard*, 5th series, vol. 383, cols. 2155–60).
30. *First and Second Reports of the Select Committee on the Disposal and Custody of Documents*, 1942 (1941–2, HC 64, 113), 1943 (1942–3), HC 93).
31. *Lords Journals*, vol. 177 (1944–5), p. 17.
32. *Reports of the Joint Select Committee on Accommodation*, 1943–4, HC 116–1, pp. 10–13; HC 116, pp. 11–12, 60–1, 1944–5, HC 64, pp. 6, 12. Part of the intention was to provide some office accommodation but this was later rejected.
33. *Lords Journals*, vol. 178 (1945–6), p. 169.
34. H.L.R.O. Record Office File no. 19.
35. *Lords Journals*, vol. 179 (1946–7), p. 38.
36. These developments are described in the Record Office Annual Reports, 1950 onwards (H.L.R.O. *Memoranda*, nos. 1–72).
37. *The Manuscripts of the House of Lords* (New Series), vols. IX–XII, covering 1710–18, with an addenda volume, 1514–1714; M. F. Bond, *Guide to the Records of Parliament* (H.M.S.O. 1971).
38. H.L.R.O. Parliament Office Papers 399.
39. The work of reconstruction is described in detail by Maurice Bond, 'The New Record Repository at the Houses of Parliament', *Archives*, vol. VI, no. 30 (1963), pp. 85–94; Port, *op.cit.*, 203–5.
40. *Trend Committee*, *op.cit.*, pp. x, xxix–xxx, xxxiv.

VIII. THE AUSTRALIA ACT 1986 – SEVERANCE OF REMAINING CONSTITUTIONAL LINKS

BY I. C. HARRIS

First Clerk Assistant,
House of Representatives, Australia

Legislation has recently passed the Parliaments of the United Kingdom, the Commonwealth of Australia and all Australian States to sever the majority of remaining constitutional links between Australia and the United Kingdom Parliament, Government and judicial system. In order to examine the implications of the legislation, it is proposed to discuss briefly the position of received British law in Australia and the provisions of the Statute of Westminster in relation to the Australian Commonwealth and the Australian States.

Local legislation and repugnancy to Imperial law

'[L]et an Englishman go where he will, he carries so much of the law and liberty with him as the nature of things will bear'; when a colony was settled, all Statutes in affirmance of the common law passed in England before settlement applied to a colony, unless there was a private Act to the contrary. This expression of the principle of common law given in an opinion by Counsel to the Board in the Plantations Case in 1740[1] – that English settlers take into new countries as much of English common law and statute law at the time of settlement as is suitable to their condition – had an interesting application to the original Australian colonies. New South Wales was a penal colony, the ocean and the harsh bush providing effective jail walls. Most of the inhabitants did not 'will' to come to the colony at all; it has been estimated that at the time of 4 Geo. IV, C.96 (1823), which recognised N.S.W. as a 'normal' colony, at least two thirds of the colony's residents were convicts or former convicts[2]. Under this Act of the Imperial Parliament, the *New South Wales Act 1823*, a Legislative Council comprising the Governor and Crown appointees was empowered to make laws and ordinances consistent with the laws of England so far as the circumstances of the colony would permit. The Chief Justice was to provide certification to this effect. The Act had a sunset provision, and its replacement, 9 Geo. IV, C83 (later known as the *Australian Courts Act 1828*) set an arbitrary date, that of enactment (25 July 1828), as to Statute and common law in force in the colony in relation to the question of legislative power and repugnancy to English law. A local law found by the judiciary to contain an element of repugnancy could

be declared to have force pending Imperial decision. 'The unquestioned assumption of these and other constitutional instruments was that the sovereign for New South Wales, whose general commands directed to the colony were law, was the British Parliament'.[3] This concept was repeated in succeeding constitutional instruments including the (Imperial) Constitution Statute, 1855, the schedule of which, when assented to, became the New South Wales Constitution Act, containing an enabling provision for the NSW Parliament to alter or repeal any of its provisions (subject to certain conditions) as was done in 1902 when the *Constitution Act 1902* (NSW) replaced earlier provisions.

The *Colonial Laws Validity Act 1865* (Imp.) settled problems of the right of the local legislature to amend or repeal Imperial Acts in force in 1828. Local Acts were only void on the ground of repugnancy to British Acts, regulations or orders under an Act, where the Imperial legislation extended to the colony and then, only to the extent of the repugnancy (section 2). No colonial law was or was deemed to be void or inoperative on the ground of repugnancy to the law of England unless repugnant to the provisions of an Imperial Act etc. extending to the colony (section 3). Of particular relevance to the provisions of the Australia Act discussed below, section 5 gave representative legislatures full power to make laws respecting their constitution, powers and proceedings, provided they were passed in the manner and form required by any Act, letters patent etc. in force.

When the Bill to which the Australian Constitution was a schedule was sent to England, doubt was raised by the Imperial law officers as to the application of the Colonial Laws Validity Act to Australian Commonwealth laws. The Bill as introduced in the House of Commons contained a declaration that the Act applied, but this was omitted during consideration in committee of the whole. 'It may be assumed therefore that the Crown Law Officers were satisfied that the Colonial Laws Validity Act is applicable [in 1901] to the Constitution as it stands.'[4].

The Statute of Westminster

However, following Imperial Conferences in London in 1926, and 1930, the *Statute of Westminister 1931* (Imp.) was enacted. The preamble stated that it was in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the dominions as part of its law otherwise than at the request and with the consent of the dominion. The Commonwealth of Australia was included in the definition of dominion, the Australian States were not. Sub-section 2(1) provided for the non-application of the Colonial Laws Validity Act to laws of a dominion parliament. Sub-section 2(2) provided that no dominion law made after the commencement of the Statute shall be void or inoperative on the

ground of repugnancy to English law, Imperial Statute or delegated legislation, and a dominion was empowered to amend or repeal any such legislation so far as it extended to the dominion. Section 4 provided that no UK Act passed after the commencement of the Statute extended or was deemed to extend to a dominion as part of a dominion's law unless the Act declared that the dominion had requested and consented to the enactment. The request and consent referred to in section 4 in the Statute's application to Australia was defined in sub-section 9(3) as being that of the Commonwealth of Australia.

Other provisions of the Statute related only to dominion parliaments. Section 3 granted a dominion full power to make laws with extraterritorial operation. (The Australian States possess some such powers, but not deriving from the Statute of Westminister, and then the rule is that the application or effect will only be valid if they bear a substantial relationship to the peace, order and good government of the territory concerned.[5]) Sections 735 and 736 of the *Merchant Shipping Act 1894* (Imp.) related to the requirement that local regulatory laws contain a provision suspending operation pending Imperial consideration. Section 5 of the Statute provides that those sections be construed so as not to include reference to a dominion. Sections 4 and 7 of the Colonial Courts of Admiralty Act required certain local legislation or delegated legislation to be reserved for royal assent or to contain a suspending provision. Section 6 of the Statute provided that those sections shall cease to have effect in any dominion from the commencement of the Statute.

While the Statute of Westminister was substantially directed at the dominions, as defined, some of its provisions related to the Australian States. The Commonwealth Constitution was a schedule to an Imperial enabling Act (the Commonwealth of Australia Constitution Act, 63 and 64 Vic., C.12). Section 8 of the Statute contained a saving provision for this Act, (otherwise section 2 of the Statute may have authorised alteration of the Constitution by Commonwealth law alone), which was not to be altered or repealed except as in accordance with the law existing before the commencement of the Statute. Section 9 contained a saving provision (a) for laws on any matter within the authority of the States, not being matters within the authority of the parliament or the government of the Commonwealth (sub-section (1)); and (b) for Imperial laws without Commonwealth concurrence with respect to any matter within the authority of the States not being matters within the authority of the parliament or the government of Australia, in any case where it would have been in accordance with constitutional practice before the commencement of the Statute that the UK Parliament should make such laws without such concurrence (sub-section (2)). The States were also included within the sphere of operation of section 11 of the Statute, relating to the meaning of 'colony' in future Imperial Acts; the

expression was not to include a dominion or any Province or State forming part of a dominion.

Section 10 of the Statute provided that none of sections 2 to 6 (the 'operative' provisions) extended to a dominion as part of its law unless adopted by the dominion. Provision was also made for the adopting Act to be related to any section of the Statute, to have effect from the commencement date of the Statute or a specified later commencing date (sub-section (1)) and for adoption to be revocable at any time (sub-section (2)). However, other sections (such as section 11 – definition of colony) did not rely on dominion adoption, and had immediate effect.

Australia adopted sections 2 to 6 of the Statute by the *Statute of Westminister Adoption Act 1942* (Com.)[6] (a similar bill had been introduced in December 1936 but was not further proceeded with). The adoption had effect from 3 September 1939, the date of the outbreak of war with Germany. (Interestingly, there was no independent declaration of war by Australia in 1939 – nor had there been in 1914. As other nations subsequently joined the conflict, the Australian Governor-General made separate declarations of war, but pursuant to special powers conferred under section 2 of the Constitution enabling him to receive assigned powers and functions). The passage of the adopting Act has been described in a previous issue of *The Table*.

As previously indicated, the Statute of Westminister did not extend to the Australian States. They did not obtain the non-application of the Colonial Laws Validity Act as did the Canadian Provinces. At the time of enactment of the adopting Act, there was unanimity among the States in their desire to retain links with the United Kingdom. The then attitude of the States has been discussed in previous issues of *The Table*.[8] During the intervening years, however, attitudes have changed as expressed by one of Australia's leading legal academics:

> 'It is clear that the time is ripe for the repeal of the Colonial Laws Validity Act in respect of the Australian States and for the extension to them of the 'autonomy' provisions of the Statute of Westminister, so as to give them full legislative power commensurate with their responsibilities as component parts of the Commonwealth of Australia.'[9]

There is of course a convention that the United Kingdom Parliament does not enact unilaterally legislation affecting the Australian States. Halsbury's Laws of England states that it would constitute a grave breach of constitutional convention to neglect to obtain the relevant requests and consent in these circumstances[10]. Notwithstanding the convention, the legal possibility, however remote, remained.

Australia Act 1986[11]

Legislation was enacted by the Commonwealth Parliament during the 1985 Budget sittings to sever all remaining constitutional links between Australia and the United Kingdom. The provisions of the legislation had been agreed to by Her Majesty the Queen, the governments of the Commonwealth and the States of Australia and the United Kingdom government, following extensive consultations extending over many years.

The Australia Act bears a 1986 citation date because of the desirability for the Act to have the same title as the corresponding legislation enacted by the United Kingdom Parliament. For the same reason, the Act departs from the normal Australian drafting style by having the definition section and the short title and commencement section at the end of the Act rather than, in normal Australian style, at the beginning.

The significance of the legislation lies essentially in that it supersedes the Statute of Westminister in its Australian application in certain respects, it extends the concepts of the Statute of Westminister to the States in certain respects, it nullifies provisions for reservation of assent in a way that appears to enhance the position of the States in comparison to that of the Commonwealth, and it terminates appeals from State courts to the Privy Council. Also of interest is the provision for future repeal or amendment of the Australia Act and the Statute of Westminster.

Supersession of Statute of Westminster in certain respects

Section 4 of the Statute of Westminster provides that no UK Act passed after the commencement of the Statute extended or was deemed to extend to a dominion as part of a dominion's law unless the Act declared that the dominion had requested and consented to the enactment. The request and consent referred to in section 4 in the Statute's application to Australia was defined in sub-section 9(3) as being that of the Parliament and Government of the Commonwealth of Australia. Sub-section 9(2) relates to the exception of State matters not requiring Commonwealth concurrence and sub-section 10(2) provides for the revoking of adoption by a dominion.

Section 1 of the Australia Act affirms the Statute of Westminister for the Commonwealth and extends the effect of its provisions to the States in terminating the power of the United Kingdom Parliament to legislate for Australia. No UK Act passed after the commencement of the Act shall extend, or be deemed to extend, to the Commonwealth or a State or Territory of the Commonwealth, as part of its law. Section 12 of the Australia Act supplements section 1 by repealing section 4 and, as they 'will become otiose upon the repeal of section 4'[12], sub-sections 9(2), 9(3) and 10(2) of the Statute of Westminster insofaras they are part of the law of the Commonwealth, or a State or Territory.

Extension of certain provisions of Statute of Westminster to the States

The Statute of Westminster did not extend to the Australian States. At the time of enactment of the adopting Act, there was unanimity among the States in their desire to retain links with the United Kingdom.

The applicability to the Commonwealth of the Colonial Laws Validity Act was severed by sub-section 2(1) of the Statute of Westminster, sub-section 2(2) providing that no dominion statute law was void or inoperative on the ground of repugnancy to the law of England or an existing or future United Kingdom Act, order, rule or regulation.

Section 3 of the Australia Act is modelled upon section 2 of the Statute of Westminster. Sub-section 3(1) provides that the Colonial Laws Validity Act shall not apply to any law of a State Parliament made after the commencement of the Act. Sub-section 3(2) operates subject to sections 5 and 6, and provides that no State law or provision of any law made after the commencement of the Act shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of the Parliament of the United Kingdom, or delegated legislation under such an Act. State Parliaments' powers are declared by the Act to include the power to repeal or amend any such Act, regulation etc. insofar as it is part of the law of the State.

Section 2 of the Australia Act relates to the legislative powers of the State Parliaments, and also operates subject to sections 5 and 6. Sub-section 2(1) is modelled on section 3 of the Statute of Westminster, and provides that State Parliaments have full power to make laws having extra-territorial operation. Sub-section 2(2) removes limitations on the legislative powers of the States that might exist by reason of their former colonial status – they are to have all the legislative powers that the UK Parliament might have exercised before the commencement of the Act for the peace, order and good government of the State. However, any capacity to engage in relations outside Australia before the commencement of the Act is not conferred. Accordingly the Act does not confer upon the States the right to establish diplomatic relations, or relations of such a nature, with other countries.

Sections 5 and 6 of the Australia Act qualify section 2 and sub-section 3(2), section 5 in providing a saving provision for the Australian Constitution and the UK Act to which it is a schedule, and the Statute of Westminster, as amended and in force from time to time. Accordingly the powers conferred by the Australia Act do not operate so as to enable State legislation to repeal, amend or be repugnant to that Act, the Constitution and its enabling Act or the Statute of Westminster, so as, for example, to free the States from restrictions and limitations under the Commonwealth Constitution. Section 6 provides a saving provision for laws respecting the constitution, powers or procedures of

a State Parliament. This section replaces section 5 of the Colonial Law Validity Act concerning the manner and form of such laws and ensures that, section 2 and sub-section 3(2) notwithstanding, a law on this subject shall be of no force or effect unless as required by a law of the State Parliament.

Reservation for assent

Section 4 expressly repeals sections 735 and 736 of the *Merchant Shipping Act 1894* (Imp.) so far as they are part of the law of a State (as was provided in effect for dominions, as defined, in section 5 of the Statute of Westminster), thus making it unnecessary for the States to enact special legislation to free themselves from the restrictions attendant upon State laws relating to merchant shipping requiring confirmation of the Queen acting on advice of British Ministers.

Section 8 of the Australia Act provides that after the commencement of the Act, no State law assented to by the Governor will be subject to disallowance by the Queen or have its operation suspended pending signification of the Queen's pleasure. Section 9 nullifies any law or instrument purporting to require withholding of assent or reservation pending signification of Her Majesty's pleasure with respect to any State law passed by its Parliament in the required manner and form. In this regard, the States appear to be in an enhanced position comparable to that of the Commonwealth in the terms of removal of remaining constitutional links.

In the Commonwealth sphere, section 74 of the Constitution requires bills containing any limitation of the prerogative of the Crown to grant special leave to appeal to the Privy Council to be reserved for royal assent but with the 1975 abolition of such appeals – discussed below – it appears unlikely that bills in the future will come within this ground of reservation. One of the proposals of the Constitution Alteration (Removal of Outmoded and Expended Provisions) Bill 1983 was to remove from section 74 the reference to reservation. The proposal passed both Houses but was not submitted to the electors at a referendum. The power of disallowance has been described as a dead letter. and the section as inoperative.[13] Yet, however remote the possibility of its exercise, this constitutional link remains. Other bills, may, under section 58 of the Constitution, be reserved for the Queen's pleasure. Such bills, in the lack of any legal requirement, have been reserved on the basis of the appropriateness of either the nature of the bill (eg *Flags Act 1953*) or the nature and occasion (eg the *Royal Style and Titles Act 1973* when the Queen was in Canberra). Section 59 of the Constitution empowers the Queen to disallow within a year any bill assented to by the Governor-General in her name. This was apparently a compromise to vest in the Queen's representative a manifestation of trust while conserving Imperial interests by the royal veto.[14] The veto has never

been exercised, and the removal of the section was also included in the Constitution Alteration (Removal of Outmoded and Expended Provisions) Bill 1983 as being no longer appropriate to Australia's status as a sovereign nation, but, not being submitted to electors at referendum, remains as a constitutional link, however inoperative. Again, while the likelihood of its use is extremely improbable, the constitutional link remains.

Executive independence

Complete executive independence of Australia from the United Kingdom Government is achieved in sections 7 and 10 of the Australia Act. Section 7 contains provisions relating to the powers and functions of State Governors. It provides that Her Majesty's representative in each State shall be the Governor, and that all the Queen's powers and functions in respect of a State shall be exercisable only by the Governor except (a) the power to appoint and terminate appointments of Governors and (b) when the Queen is personally present in the State. Subsection 7(5) provides for the advice to the Queen on State matters to be tendered directly to the Queen by the Premier when the Queen is present in the State, and only in accordance with mutual and prior agreement between the Queen and the Premier. Section 10 provides for the termination of responsibility of the United Kingdom Government in State matters, thus ending the position whereby the Queen is advised by UK Ministers following recommendation by a State Premier to the UK Foreign and Commonwealth Office.

The Privy Council

Section 11 provides for the termination of appeals to the Judicial Committee of the Privy Council (empowered from 1833 to deal with appeals to the Privy Council from overseas dominions of the Crown) from Australian courts, which are defined in the legislation as all Australian courts other than the High Court. Appeals to the Privy Council from the High Court, other federal courts (currently two, the Federal Court of Australia and the Family Court of Australia) and Territory courts have been to all practical purposes abolished following the passage of the *Privy Council (Limitation of Appeals) Act 1968* and the *Privy Council (Appeals from the High Court) Act 1975* (see vols XXXVII pp. 136–7 and XLIV pp. 162–3 respectively). The exception, which has no practical operation, is the possibility under section 74 of the Constitution of the High Court's granting of a certificate to refer *inter se* matters (disputes between States or the Commonwealth and a State or States over constitutional powers) to the Privy Council.

Amendment of the Statute of Westminster or Australia Act

Section 15 deals with the method of repeal or amendment of the Australia Act or the Statute of Westminster. This can only be achieved by an Act of the Commonwealth Parliament passed at the request or with the concurrence of *all* State Parliaments with the exception of legislative powers conferred on the Commonwealth Parliament by alteration to the Constitution pursuant to section 128 of the Constitution after the commencement of the Australia Act. This may prove to be a process no less rigid and difficult than amendment of the Commonwealth Constitution.

Commencement of Australia Act

The Bill has passed both Houses of the United Kingdom Parliament and was assented to on 17 February 1986. Both the United Kingdom and the Commonwealth Act came into operation on 3 March 1986 following an Imperial commencement order and proclamation by the Queen during her visit to Australia.

Notes

1. Quoted in *The Constitutions of the Australian States*, R. D. Lumb. 4th ed., University of Queensland Press. p. 6.
2. *Early Constitutional Development in Australia*, A. C. V. Melbourne. University of Queensland Press. 1963. p. 10.
3. *The System of Law and Courts Governing New South Wales*. 2nd edition. Butterworths Sydney, etc., 1984 para. 1.06 (page 6).
4. *The Annotated Constitution of the Australian Commonwealth*. J. Quick and R. R. Garran. Angus & Robertson. 1901. p. 352.
5. *Halsbury Laws of England*. 4th ed., London. 1975. vol. 6 para 1075.
6. Act No. 56 of 1942.
7. Vols XI and XII. for 1942 and 1943. pp. 201–9.
8. Vol. V for 1936 pp. 106–9. vol. VI for 1937. pp. 206–8.
9. Lumb, Op. cit., p. 114.
10. Op cit.
11. Act No. 142 of 1985.
12. HR Deb. (13.11.85) 2693.
13. *The Constitution of the Commonwealth of Australia Annotated*. R. D. Lumb & K. W. Ryan. 3rd ed., Butterworths, Sydney etc. 1981 p. 246.
14. Quick and Garran. Op. cit., p. 693.

IX. THE MALTA PARLIAMENT IN 1985

BY C. MIFSUD

Clerk of the House of Representatives

Fifth Parliament: Composition and Sittings

The Fifth Parliament was inaugurated on 15 February 1982 after the General Election of 12 December 1981 gave 34 seats to the Labour Party and 31 seats to the Nationalist Party. Parliament consists of the President of the Republic and the House of Representatives with its 65 Members.

The Speaker of the House of Representatives is the Hon Daniel Micallef elected from among its members; while the Deputy Speaker is the Hon J Buttigieg.

The Prime Minister is the Hon Karmenu Mifsud Bonnici who is also the Minister of the Interior and the Minister for Education. The Senior Deputy Prime Minister and Minister of Justice and Parliamentary Affairs is the Hon J Cassar; while the Deputy Prime Minister and Minister of Finance and Customs is the Hon W Abela. The other nine Ministers are: the Hon L Sant for Works and Housing; the Hon F Micallef for Labour and Social Services; the Hon V Moran for Health; the Hon Ph Muscat for Parastatal and People's Investments; the Hon J Grima for Tourism; the Hon K Vella for Industry; the Hon A Sceberras Trigona for Foreign Affairs; the Hon L Spiteri for Trade and Economic Planning; and the Hon J Debono Grech for Agriculture and Fisheries. Besides the Speaker, the Prime Minister and the Ministers, there are 21 other Government Members in the House. The Speaker, however, does not have an original vote on any question before the House.

The Leader of the Opposition is the Hon Edward Fenech Adami and his Deputy is the Hon G DeMarco. The Opposition Members who spoke on the votes of the various ministries in Committee of Supply (December 1985) on the General Estimates for 1986 were: the Leader of the Opposition on the votes of the Prime Minister; the Hon U Mifsud Bonnici on Education; the Hon G DeMarco on Justice and Parliamentary Affairs; the Hon G Bonello du Puis on Finance and Customs; the Hon C L Spiteri on Works and Housing; the Hon V Tabone on Foreign Affairs; the Hon L Galea on Labour and Social Welfare; the Hon G Hyzler on Health; the Hon P Muscat on Parastatal and People's Investments; the Hon M Refalo on Tourism; the Hon M Falzon on Industry; the Hon E Bonnici on Trade and Economic Planning; and the Hon L Gatt on Agriculture and Fisheries.

The Government Whip is the Hon A Portelli; and Opposition Whip the Hon C L Spiteri.

As a rule the House meets weekly on Mondays, Tuesdays and Wednesdays, except when in recess for Easter, Summer or Christmas. In 1985 the House held 91 sittings during which, owing mainly to duties abroad or sickness, there were 160 absences on the Government side and 432 absences on the Opposition side, including those of Sitting 276 of 2 October 1985 when all the Opposition was absent following the suspension of the Leader of the Opposition from that sitting by the Deputy Speaker at the close of the previous sitting. There were also 24 other suspensions of Members by the Chair during the year, mostly for periods of 5 or 10 minutes. Adjournment time, which is the last half hour of each sitting, was taken on 36 sitting days (24 Government and 12 Opposition). The Deputy Speaker presided in the House as Acting Speaker at 17 sittings when the Speaker was on official duties abroad.

House of Representatives (Privileges and Powers) Ordinance

At Sitting 274 of 30 September 1985 the Hon M Falzon raised as a breach of privilege the remarks allegedly made by a stranger in the Public Gallery. The Acting Speaker, the Hon J Buttigieg, suspended the Sitting and when it resumed eight minutes later he informed the House that a stranger had made a short intervention and had immediately been ordered out of the Gallery by one of the marshals of the House.

Statements, Papers and Questions

Mr Speaker made a statement at sitting 268 of 9 September 1985 on a letter addressed to him on 7 September 1985 by the Leader of the Opposition regarding the Prime Minister's motion for that day's sitting to appoint the Speaker as the Representative of Parliament in the Parliamentary Assembly of the Council of Europe.

The Prime Minister, Minister of the Interior and Minister for Education made 17 oral statements in the House on the following subjects: the arrest of Mr Gorla, President of the European Young Christian Democrats, to answer charges under the Foreign Interference Act (S 233/25.2.85); the selection of student workers for university courses (S 233/25.2.85); the visit of Mr Roberto Formigoni, President of the Political Affairs Committee of the European Parliament (S 236/ 11.3.85); the publication of letters by the Parents/Teachers Association of Private Schools (S 241/27.3.85); the Students Selection Board for University Courses (S 242/15.4.85); the April 1985 Agreement between Government and Vatican on Church Schools and Negotiations for a Concordat (S 248/6.5.85); the Committee to Evaluate the Worker-Student Scheme (S 250/8.5.85); the speech of the Leader of the Opposition at the University on 16.5.85 (S 251/20.5.85); the Opposition's reaction in articles and speeches outside Parliament, following the Prime Minister's declaration in Parliament on 20.5.85 that he had never

committed himself with the Leader of the Opposition to changes in Electoral Laws (S 254/3.6.85); the relations between Malta and Europe (S 257/17.6.85); the speech of the Leader of the Opposition in the General Council of the Nationalist Party on 5.7.85 (S 265/8.7.85); the Report of the Enquiry Board on the Students Selection Board 1985 for University Courses (S 268/9.9.85); the meeting in Malta of the Political Bureau of the European Union of Demo Christian Parties and the activities in Floriana on 20.9.85 (S 271/23.9.85); the Council of Europe and Mr Speaker as the Representative of Parliament in its Parliamentary Assembly (S 274/30.9.85); the short suspension of work on the Marsaxlokk Project on 24.10.85 (S 286/28.10.85); the allegation of Hon L Galea in Parliament on 25.10.85 regarding a man's illegal arrest (S 286/28.10.85); and the aircraft of Egyptair which landed hijacked in Luqa Airport on 23.11.85 (S 298/25.11.85).

The Minister of Justice and Parliamentary Affairs made an oral statement giving the name of the Government Nominee on the Board of Harry Stanger (Malta) Ltd (S 267/10.7.85); the Minister of Finance and Customs made the Financial Statement or Budget Speech (S 301/29.11.85); the Minister for Foreign Affairs made a statement on the Maltese held in Libya (S 228/29.1.85); the Minister of Works and Housing made three statements on the following subjects: the Ghadira By-Pass (S 245/22.4.85); the allegations in 'In-Taghna' regarding the giving of gifts in connection with the allocation of dwelling houses (S 262/1.7.85); and the publication in 'Il-Mument' of 29.9.85 and in 'In-Taghna' of 4.10.85 of a letter from the Minister to his constituents (S 277/7.10.85); the Minister of Tourism made an oral statement on an article of Hon M Refalo in 'Il-Mument' of 19.5.85 (S 252/21.5.85); and the Minister of Health made a written statement on the Eighth Anniversary of the Doctors' Strike (S 255/4.6.85) and an oral statement on an article in 'In-Taghna' of 17.12.85 on the health of the alleged air pirate of the hijack of 23.11.85 (S 312/18.12.85).

Two hundred and forty five Papers were laid on the Table of the House, of which 52 which Legal Notices consisting of subsidiary legislation in accordance with parent laws giving the Minister these enabling powers. A number of other papers followed in the wake of statements made in the House, or formed the subject of a statement. Some of the other papers consisted in Annual Reports of Government Boards and Parastatal Bodies; in agreements between Malta and other countries; and in copies of contracts regarding the rent or lease of government-owned land or premises.

3776 questions were put to Ministers and five questions were put to Mr Speaker. 2701 of these questions, including four to Mr Speaker, were put by Members of the Opposition. As question time lapses at 6 pm and as the sittings of the House commenced after this hour, all questions were given a written reply, except for seven which were

answered orally by leave of House, as in their replies the Ministers concerned stated that they were laying papers on the table of the House. There was only one sitting (S 225/15.1.85) on which no questions appeared on the agenda.

Motions

Sixty five Government Motions were passed. 41 of these were for the first reading of Bills and 6 were procedure motions regulating the business of the House. The remaining 18 motions dealt with: the renewal up to 31.5.87 of government policy regarding the transfer of government land as per article 3 of the Disposal of Government Land Act 1976 (S 252/21.5.85); the transfer, lease or hire of government land (5 motions: S 252/21.5.85, S 253/25.5.85, S 266/9.7.85); areas for building development (S 256/5.6.85); the appointment of a Select Committee to examine certain laws with a view to strengthening the democratic system (S 267/10.7.85); the appointment of Mr Speaker as the representative of Parliament on the Parliamentary Assembly of the Council of Europe (S 268/9.8.85); the Estimates of Enemalta (S 277/7.10.85), of Telemalta (S 274/30.9.85), of the Housing Authority (S 299/26.11.85) and of the University (S 295/18.11.85); the approval of Government steps in accordance with the Foreign Interference Act in the case of three foreigners (S 282/16.10.85); the going into Committee to approve the General Estimates for 1986 i.e. Budget Day (S 301/29.11.85); the Supplementary Estimates for 1985 (S 312/18.12.85); the retention of the Immovable Property Act and of certain dispositions of the Conditions of Employment Regulation Act for another year, up to 31.12.86 (2 motions: S 303/3.12.85).

The Leader of the Opposition gave notice of a motion for the appointment of a commission by the Minister of Justice and Parliamentary Affairs to examine what amendments should be made to existing legislation to remove all sex discrimination (27.2.85). This motion is still pending as it was regularly renewed every month as required by Standing Order 34(2). The Leader of the Opposition and 11 other Opposition Members gave notice of a motion of no confidence in the Deputy Speaker on the 19.6.85 following his decision at that day's sitting regarding the time allotted for the adjournment. At the Sitting of 24.6.85, the Senior Deputy Prime Minister and Minister for Justice and Parliamentary Affairs spoke on the misunderstanding which had arisen in the House on the 19.6.85 regarding the time allotted for the adjournment of that day and the Deputy Leader of the Opposition stated that in view of this, the Opposition was not insisting on its motion. The Leader of the Opposition gave notice also of a Bill entitled the Foreign Interference (Amendment) Act (20.5.85), and of a motion of no confidence in the Deputy Speaker (2.10.85) following his decision at the Sitting of 1.10.85 to suspend the Leader of the Opposition

from the remainder of that sitting four minutes before the time of adjournment and from the following sitting, for refusing to withdraw or substantiate an allegation against the Minister for Parastatal and People's Investments. Both these notices are still pending as they were regularly renewed every month.

The Hon J Brincat, a Government Member, gave notice of a Bill further to amend the Criminal Code to make provisions to safeguard the national interest (26.2.85); and of a Bill entitled the Off-Shore Broadcasting Offences Act (1.3.85). Both notices lapsed in April 1985 when they were no longer renewed.

Two of the three motions submitted by Private Members in 1984 and described briefly in the Report for that year, lapsed in 1985 when they were no longer renewed. The remaining motion (4.6.84) is that of Hon G DeMarco regarding the right of individual petition as per the European convention on Human Rights, which has been regularly renewed in 1985.

Legislation

Parliament enacted 26 Acts of which the following four were Principal Acts i.e. laws other than amending legislation: the Dogs Act (XXI/85); the Second (1985) Appropriation Act (XXIII/85); the Milk Marketing Undertaking (Appropriation) (Repeal) Act (XXIV/85); and the Appropriation (1986) Act (XXVI/85).

The 22 Amending Acts passed by Parliament were: The Commissioners of Justice (Amendment) Act I/85; the Import Duties (Amendment) Act II/85 and Act X/85; the Motor Vehicles Insurance (Third Party Risks) (Amendment) Act III/85; the Land Registration (Amendment) Act IV/85; the Medical and Kindred Professions (Amendment) Act V/85; the Building (Price Control) (Amendment) Act VI/85; the Civil Code (Amendment) Act VII/85; the Statute Law Revision (Amendment) Act VIII/85; the Duty on Documents (Amendment) Act IX/85 and Act XXII/85; the Code of Organisation and Civil Procedure (Amendment) Act XII/85, Act XIII/85 and Act XX/85 to amend Act XII/85; the Notarial Profession and Notarial Archives (Amendment) Act XIV/85; the Code of Police Laws (Amendment) Act XV/85; the Wine (Amendment) Act XVI/85; the Ports (Amendment) Act XVII/85; the Beer (Excise Duty) (Amendment) Act XVIII/85; the Customs (Amendment) Act XIX/85; and the Bearer Accounts Levy (Amendment) Act XXV/85.

Divisions

Twenty divisions were taken in the House, or in the Committees thereof, in 1985. All Divisions were taken in the last four months of the year and 14 of them were in connection with the passage of the General Estimates for 1986. The remaining 6 divisions were on: the

motion for the appointment of Mr Speaker as the representative of Parliament on the Parliamentary Assembly of the Council of Europe, and an amendment to it which was negatived, followed by the motion being carried (S 270/11.9.85); the Enemalta Estimates (S 278/8.10.85); the motion for the approval of Government steps in accordance with the Foreign Interference Act in the case of three foreigners, and an amendment to it which was negatived, followed by the motion being carried (S 282/16.10.85); and the Resolution in Committee of Supply regarding the Supplementary Estimates 1985 (s 312/18.12.85).

Select Committee of the House

A Select Committee was appointed by the House, following its resolution of 10.7.85 (S 267), to examine certain laws with a view to strengthening the democratic system. The Chairman is the Senior Deputy Prime Minister and Minister for Justice and Parliamentary Affairs, and its other Members are the Minister for Foreign Affairs and the Hon J Brincat for the Government side, and the Deputy Leader of the Opposition and the Hon U Mifsud Bonnici for the Opposition.

Parliamentary Committee on Gozo Affairs

The Parliamentary Committee on Gozo Affairs appointed on 13.11.83 by Resolution of the House (S 139) consists of the Minister responsible for Gozo Affairs (i.e. the Minister of Education, who is also the Prime Minister); another Minister in rotation to be chairman when his departments are discussed in Committee, in so far as they affect Gozo; and the five Members of Parliament representing Gozo. During 1985 this Committee held 5 sittings and discussed the work of the departments under the Ministry of the Parastatal and People's Investments (23.1.85), the Ministry of Industry (26.2.85), the Ministry of Works and Sports (21.3.85), the Ministry of Tourism (24.5.85) and the Ministry of Health (9.10.85). The meetings of 26.2.85 and of 9.10.85 were held in the Parliament Chamber, while the other three were held in Gozo. The Secretary to the Committee for 1985 was the Hon L Debono. The Committee has met 8 times since its appointment. The 3 Members of the Opposition from Gozo have never attended any of its meetings.

Officials in the House and in its Committees

As per motions of procedure, officials as indicated by Ministers, were present in the House during the debates on the Estimates of Telemalta (S 274/30.9.85 and S 275/1.10.85), of Enemalta (S 277/7.10.85) and S 278/8.10.85) and of the Housing Authority (S 299/26.11.85). They also attended all 7 Committees of Supply in connection with the passage of the General Estimates for 1986. Officials were likewise present, as stipulated in the Education Act, during the debate on the Estimates of

the University (Sittings 295, 296 and 297 of 18, 19 and 20 November 1985). Questions were put to one of these officials during the debate on the Telemalta Estimates (S 276/2.10.85).

Visit to the Socialist People's Libyan Arab Jamaheria

A Parliamentary Delegation led by Mr Speaker visited the Socialist People's Libyan Arab Jamaheria from the 25th to the 27th February 1985, at the invitation of its General People's Congress, to attend the First Session of the Congress for 1985. The other Members of the delegation were the Hon A Bartolo and the Hon A Portelli for the Government side; and the Hon H Farrugia and the Hon J Rizzo Naudi for the Opposition. The Secretary to the delegation was the Second Clerk Assistant, Mr Philip Attard.

The Parliamentary Assembly of the Council of Europe

Following his appointment as representative of Parliament on the Parliamentary Assembly of the Council of Europe, by resolution of the House of 11.9.85, Mr Speaker attended the second part of the 37th Ordinary Session of the Assembly in Strasbourg (24.9.85/3.10.85). Mr Speaker attended also the Conference on Medicine and Human Rights held in Trieste under the auspices of the Council of Europe (14.10.8[illegible] – 18.10.85); the Legal Affairs Committee of the Assembly (Naple 12.11.85/13.11.85 and Paris 9.12.85/10.12.85); and its Political Affair[illegible] Committee (Strasbourg 19.11.85). The Clerk Assistant, Mr P Muscat Terribile was secretary to Mr Speaker on these occasions.

In 1985 there were 12 debates given live on Television and Cable Radio. These dealt with: the motion for the approval of Government steps in accordance with the Foreign Interference Act, regarding three foreigners (S 282/16.10.85); the Budget Speech (S 301/29.11.85) and the two days general debate on it (S 305/306 of 6.12.85 and 9.12.85) and all the 7 Supply Committees in connection with the General Estimates, as well as the Appropriation Bill for 1986 and all debate on the Supplementary Estimates 1985 (S 307/10.12.85 to S 314/20.12.85).

Commemorations

The following personages were commemorated in the House: Mr Konstantin Chernenko, President of the Soviet Union (S 236/11.3.85); Mr Salvu Privitiera, ex-Member (S 239/25.3.85); Mr Carmelo Catania, ex-Member (S 279/9.10.85). The victims of the aircraft of Egyptair, hijacked at Luqa Airport, were commemorated at the commencement of Sitting 298 of 25.11.85 and the House then adjourned for the following day as a sign of respect for those who lost their lives in this hijack.

X. THE HISTORY OF PARLIAMENT

BY ALAN SANDALL

A Deputy Principal Clerk in the House of Commons, Westminster

The *History of Parliament* is a multi-volume history of the membership of the House of Commons at Westminster and of the constituencies there represented, which, when completed, will span the period from Richard II to the Reform Act (1386–1832). The purpose of this article is to give an account of its origins and development.

It is many years since the House of Commons first took an interest in its past membership. In May 1876 the Hon. Gerard Noel moved for a return of the names and constituencies of Members who had sat in the Commons since 1696, the date of the 'Act to prevent False and Double Returns of Members to serve in Parliament' which required the Clerk of the Crown to maintain an authoritative book of returns. In March 1877 Sir William Fraser moved for a complementary return, from the earliest times to 1696 and including the members of the Scottish and Irish, as well as English, lower Houses. It is not known why Noel was interested in this information; Fraser became aware of the lack of it while editing the records of the Society of Dilettante. The preparation of the return was not accomplished without considerable difficulty. The record offices were reluctant to undertake it, perceiving how time-consuming it would prove; the Scots attempted to get out if altogether by arguing that 'there never was a Scottish lower house of Parliament and during the whole period of its parliamentary history the three estates sat and voted as one legislative assembly,' but were persuaded to supply 'the names of the elected Members of that legislative assembly, that information being . . . what is sought by the order in question.' The return was eventually published in two volumes in 1879 and 1880, and was not well received. One critic produced eleven columns of additions and corrections resulting from 'just one week's work in the British Museum'; another thought it 'a scandalous waste of public money to issue a document like this, which should be complete, accurate, and trustworthy, but is neither one nor the other.' Further returns were subsequently moved for, bringing the list of Members down to 1929[1].

The gulf between the mere list of names provided by the returns and a serious prosopographical work like the *History of Parliament* is, of course, immense. The history of the *History* must begin half a century later with Josiah Wedgwood[2], who entered the House of Commons in 1906 as Member for Newcastle under Lyme in Staffordshire, which he

represented first as a Liberal and after the First World War as a member of the Labour Party. He held ministerial office as Chancellor of the Duchy of Lancaster in the short-lived minority Labour government of Ramsay MacDonald in 1924, and was raised to the peerage as Lord Wedgwood in 1942, the year before his death.

Wedgwood was a keen local historian and for many years an active member of the Staffordshire Record Society. As soon as he was elected to the House he began investigating and recording the lives and work of the Staffordshire Members from the earliest times to the Parliaments following the Reform Act, a labour which eventually resulted in three volumes of *Staffordshire Parliamentary History, 1213–1832*. In his introduction to that work he proclaimed, in characteristically exuberant tones, his devotion to the institution of Parliament and his romantic view of the fundamental importance of Parliament in the history of the nation:

> To me, personally, Parliament is everything: the members are the staunchest friends a man ever had; the life combines the mental gymnastics of college with the fresh wind of the outer world; only the recesses are interval of stagnation. There is no other Parliament like the English. For the ordinar man elected to any senate, from Persia to Peru, there may be a certai satisfaction in being elected. He is to be at least among the rulers; the plaudits of supporters are in his ears; he has the envious admiration of his old associates; perhaps even nobler aspirations may be gratified. But the man who steps into the English Parliament takes his place in a pageant that has ever been filing by since the birth of English history. Men with long swords and short daggers were his predecessors, as they rode to Westminster over Dunsmore Heath, drinking ale in the taverns of Coventry and Towcester. Men with spiked shoon disputed loudly, in the terms he still uses, about the insolence of York and the profusion of Warwick. In slashed breeches and ruffled collars they denounced the Bishop of Rome and clamoured for the internment of all recusants. 'The country was going to the dogs' under Cromwell just as it was under Gladstone, as the members walked two and two into a Palace Yard that was 'new' in 1600, or called for torches or 'who goes home?' York or Lancaster, Protestant or Catholic, Court or Country, Roundhead or Cavalier, Whig or Tory, Liberal or Conservative, Labour or Unionist, they all fit into that long pageant that no other country in the world can show. And they one and all pass on the same inextinguishable torch – burning brightly or flickering – to the next man in the race, while freedom and experience ever grow. These men who have gone by, who have had the glimmer of the torch on them for a little time, are those whose memories I want to rescue, and in so doing reincarnate a small section of the Parliaments which made us.[3]

Given such views, and with the practical experience gained through his research on Staffordshire, it was natural that his mind should conceive a much more ambitious project: a national dictionary of parlia-

mentary biography, recording and identifying the 75,000 Members who had sat in all Parliaments down to 1918. He outlined the enterprise in a letter to *The Times* in May 1928, and presented a petition signed by 200 Members to the Prime Minster, Stanley Baldwin, asking for the appointment of a committee to consider the feasibility and preparation of the work.

In March 1929 a departmental committee, under Wedgwood's chairmanship, was accordingly appointed 'to report on the materials available for a record of the personnel and politics of past Members of the House of Commons from 1264 to 1832, and on the cost and desirability of publication, while safeguarding Public Funds against any large charge for collecting, editing, or publishing the materials.' The Committee consisted of half a dozen Members and about as many historians, prominent among them Namier of Manchester, Neale of London, Notestein of Yale and Pollard, author of *The Evolution of Parliament*. Wedgwood tells us that, with one exception, 'the M.P.s rarely attended, the historians did not care for any non-professional element; and Dr. Pollard ought to have been in the chair. It was a terrible business. We got an agreed Report at last (7 October 1931); but I had to whip up and rush in my M.P. cohorts to vote against the professionals, a very bad start for co-operative enterprise.'[4]

The Committee's report envisaged 'the compilation of a list as complete as possible of the Members, and . . . the collection of political and biographical details about the Members, particular regard being paid to facts bearing on their standing, their election or selection, their political and economic affiliations and activities, their service in the House of Commons, and their official positions'[5], the whole being divided into sections, each covering a distinct historical period, and each section being subdivided into a record of the representatives of each constituency in each Parliament, a biographical dictionary of the Members, and an introduction in which the factual material would be analysed and correlated. The bulk of the report consisted of surveys of the work which had already been done on the subject, and of the source material on which an authoritative study would be based; appended to it was a list of Parliaments from 1258 to 1832, which had not previously been published, and much of which was Wedgwood's own work.

When the Committee came to justify the desirability of embarking on this work, it did so in terms which were unmistakeably Wedgwoodian, despite their more sober apparel:

> The importance of Parliament itself is a measure of the importance of its history. It is not necessary for us to stress that importance either now or for the last 670 years. We were the first people to govern ourselves through responsible representatives. We may be the last. The institution is so peculiarly English, has been so envied by other nations, and has been so widely

copied and discarded and fought over, that the world has come to accept parliamentary government as a symbol of freedom. Parliament has acquired a sentimental value altogether distinct from its real utility or power. There is now a pride in it as a visible national emblem.

Nor is Parliament a cold and remote abstraction. It must always be to us a long series of assemblies of men who were our ancestors. There are histories of the institution. There are also histories of its actions. But of the meb who gave the institution life, who shaped it and in so doing shaped our history and even our minds, no record has ever been attempted. The reason is that the task has been too great for any private historian to attempt. This Report itself will indicate how great the task must be, and show the necessary research as being far beyond one man's powers.

An institution has its foundations in the past, and at any moment in its history can only be understood through a knowledge of the past. The causes of its weaknesses, no less than of its strength, can only be diagnosed with sureness in the light of diagnoses of the past; and knowledge of the way in which various forces have modified its character and utility in former times will open our eyes to the operation of forces to-day, to which otherwise we would amost certainly be blind.

Moreover, there is some danger of Parliament losing its dignity and prestige, even in our own country. A wider franchise has tended to exclude from public life, both in the House of Commons and on municipal councils, many public-spirited people whose unwillingness any longer to take part in government is a loss to the State. To give Members a sense of their community in a famous inheritance might do much to restore the dignity of their service. Universities, inns of court, schools and other institutions have long been aware of this. 'People will not look forward to posterity, who never look backward to their ancestors'.

The prestige of Parliament itself is a thing to be cared for at a time when Parliaments are being broken in other countries. We celebrate at the same time the centenary of the Reform Bill and the fourth centenary of the Reformation Parliament, and remember that 'many men have gone about to break Parliament but, in the end, Parliament hath broken them.'[6]

Turning to practical matters, the Committee acknowledged that 'an unlimited amount of research might be undertaken . . . involving endless time and expense, since the last word is never said or perfection attained,' but it estimated that 'a valuable piece of work . . . could be prepared within five or ten years at a cost of about £30,000.'[7] Where was the money to come from? Not from the Treasury, which, owing to the financial crisis, dissolved the Committee, whose interim report was thereby made final. It would have to be raised by public subscription.

In order to make the project more attractive to potential benefactors, and in particular to make Members and Peers more willing to contribute towards the cost, the (as it proved) mistaken decision was taken, at a meeting of Lords and Commons called by Wedgwood in March 1933, to broaden the scope of the project beyond the recommendations of the departmental committee. The terminal date was extended to 1918,

so as to include many Members then living, to whom Wedgwood sent a questionnaire asking impertinent questions such as 'What were your religious convictions at 21?' and 'What was your annual income, earned or unearned, when you first stood for Parliament?'. More seriously, the personnel and politics of the House of Lords was to be included, which considerably enlarged the ground to be covered and risked duplicating the work of *The Complete Peerage*; and, worse still, each section was to include a volume of conclusions dealing with the history of both Houses and their relationships with each other. As the *post mortem* on the Wedgwood enterprise put it, this was thought 'not advisable in the case of a work having a public, or semi-official, character. Many important questions, on which opinion among historians is sharply divided, would have to be dealt with, and an authoritative declaration made on matters which are still under debate among historians and which from the nature of the evidence may never be finally decided.'[8] The new scheme for the *History* failed to win the active co-operation of the professionals, the academic members of the former departmental committee, who withdrew and left the field to Wedgwood and the enthusiastic amateurs.

The following year Wedgwood managed to persuade the Chancellor of the Exchequer to agree that, provided a minimum of £15,000 (half the expected total) could be raised privately towards the cost of research and editing, the Stationery Office would bear the cost of publication, in the expectation that in due course it would be recouped from the proceeds of sales. This target was achieved in May 1935, and the first of the anticipated forty volumes, consisting of biographies of Members of the House of Commons between 1439 and 1509, was published towards the end of 1936.

This was the amateurs' history – much of the writing had been done by Wedgwood himself, and most of the examination of source material had been undetaken by local historians and antiquarians in each English county – and the professionals did not like it. Many of the biographies were very short and not particularly informative, and too many of the identifications of Members were inaccurate. It was a rushed job, nearly a thousand pages long and put together in under five years, and on Wedgwood's own admission it was based on a far from comprehensive examination of the evidence. It was followed in 1938 by a second volume, a register of the ministers and the Members of both Houses in the same period, and the professionals did not like that either. Wedgwood replied to his critics with vigour and pugnacity, but he accepted the general view that something needed to be done to put the *History* on a more secure footing. Its future direction, and the money which had been raised for it, were accordingly confided to a History of Parliament Trust, which was created in December 1940. Wedgwood was one of the founding Trustees.

The Trustees' first task was to take stock of the enterprise. Other work had been done apart from the two published mediaeval volumes – Wedgwood's niece Veronica (C. V. Wedgwood) had drafted some seventeenth-century biographies, which were stored in a cellar when war broke out and were not rediscovered for another 45 years – and research was still in progress, albeit on a reduced scale, but the policy questions which had divided the professionals from the amateurs remained unresolved. The Trustees turned for advice to F. M. Stenton, President of the Royal Historical Society, who recommended what amounted to acceptance of the professionals' terms: the appointment of a full-time editor to superintend the resumption of work after the war, the establishment of a committee of eminent historians to supervise the project under the authority of the Trustees, and the restriction of the scope of the *History* to the biographies of Members of the Commons as envisaged by the departmental committee. The Trustees accepted Stenton's recommendations.

Further progress was impossible while the war lasted, and in the changed circumstances of the post-war years it became clear to the Trustees that it was not realistic to expect sufficient private financial support to be forthcoming to meet the increased costs of production Lord Macmillan, the Chairman of the Trust, made an approach to the Government in 1948, to which the Prime Minister (Attlee) responded favourably. Following negotiations between the Trustees and the Treasury, and with the agreement of the Conservative and Liberal leaders, the Chancellor of the Exchequer announced to the House of Commons in February 1951 that an annual grant-in-aid of up to £17,000 would be made available to the Trustees for up to twenty years. The grant was intended to cover both the cost of the research and editorial staff and the net cost of publication by the Stationery Office.[9]

Now that funds had been secured, work could be resumed. An Editorial Board was formed under Stenton's chairmanship; a general editor, E. L. C. Mullins, was appointed; and embryonic sections were formed, each under the supervision of an established scholar. Staff were recruited, and accommodation was found for the in the Institute of Historical Research in the University of London, which has been a generous and hospitable landlord to the *History* from its revival to the present day. Work started on three sections covering the eighteenth and early nineteenth centuries and on two seventeenth century sections; later a mediaeval section was inaugurated, but it was clear to the Board that Wedgwood's published mediaeval volumes could not be incorporated into their scheme.

It had originally been hoped that the *History* from 1265 onwards could be completed by 1971, but as the work progressed it became apparent that this target, which had been adopted without any real knowledge of the amount of work which would be involved, was unreal-

istic. The source material available proved to be both more voluminous and more complex than had originally been thought; the help which had been expected from other sources (and on which Wedgwood had relied so heavily for his volumes) did not materialise, and the recruitment and retention of research workers proved persistently difficult, at first because the work was temporary and the salary relatively unattractive, and later because of competition with the universities as they entered a period of rapid expansion at the beginning of the 1960's. The programme was accordingly scaled down, and only the six sections then under way were expected to be finished by 1971.

The first of them, Sir Lewis Namier's three volumes covering the years 1754 to 1790, was published in 1964. Namier, who had served on Wedgwood's departmental committee of 1929, gave the *History* an intellectual justification to match Wedgwood's romantic enthusiasm. In an article published in July 1928, shortly after Wedgwood's letter to *The Times*, he had proclaimed his belief in the historical significance of ordinary men, of the multitudes who would never find a place in the *Dictionary of National Biography*. As an economic historian he saw in the House of Commons a 'marvellous microcosmos of English social and political life . . .

> For centuries it has been the goal of English manhood, and besides those who found seats in it on the strength of a tradition or of a quasi-hereditary right, there were in every House many scores of men, for whom its membership set the crown (and often the coronet) on achievements and success in other walks of life. Generals, admirals, and pro-consuls entered it, business men who had made their fortunes and now aspired to social advancement. Civil Servants, lawyers and political wire-pullers who tried to raise their professional status, etc. The rise of 'interests' and classes can be traced through the personnel of the House of Commons, the forms of English gregarious existence can be studied, the social structure of England is reflected in it, the presence or decay of independent political life in boroughs and counties can be watched in their representation. When the sons of peers or leading country gentlemen begin to invade the representation of boroughs, it is clear that Parliament is becoming the governing body; when the brewers, clothiers and iron-masters start acquiring seats in the House, it is obvious that fortunes are being made in these branches of trade, and that the early capitalists have made their appearance; by the number of West Indians in the House one can measure the prosperity of the 'sugar islands'; when many families of country gentlemen, who for generations had sat in it, withdraw from the House of Commons, one can guess that agricultural rents are falling – on a careful inquiry it will be found that the coming in of American wheat has wrought a greater change in the composition of the British House of Commons than the first two Reform Acts.[10]

Namier had begun work on his section in 1951 when the *History* was revived, and after retiring from his chair at the University of Manchester

in 1953 he moved to the Institute of Historical Research to devote all his time to writing biographies and constituency histories and directing the work of his assistants. In July 1960 nearly all the biographies and most of the constituency histories had been drafted and Namier entrusted their completion and revision to his principal assistant, John Brooke, while he began work on his introductory survey. A month later he died, and the survey was written by Brooke, but in a way which faithfully reflected Namier's intentions and his assessment of the period.

The core of the section was the two volumes of biographies of the 1,964 Members who sat in the House between 1754 and 1790. Each entry, after giving the essential biographical information about the Member's life, sought to explain how he became a Member and what part he played in the House during those years. Thus the entry for Richard Brinsley Sheridan records his baptism, education, marriages and political appointments, refers briefly to his career as a dramatist, and begins in earnest with his candidature for Stafford at the general election of 1780; thereafter his entry deals with his junior ministerial offices, his role in the impeachment of Warren Hastings, and his relations with Burke, Fox, Pitt and the Prince of Wales. Much of the remaining volume was devoted to constituency histories. The article for Sheridan's Stafford seat gives the character and size of the electorate, the candidates at each of the elections and the number of votes they received, and concludes with some general observations dealing with questions such as patronage. 'Stafford was an expensive and difficult constituency, with an electorate composed mostly of tradesmen', Brooke wrote, adding in a footnote, 'See the analysis of the poll book of 1765 in J. C. Wedgwood, *Staffs. Parlty. Hist.* ii 278–9.'[11]

The third main part of the work was Brooke's introductory survey, the purpose of which was 'to describe the various kinds of constituencies, their character and management, the great diversity of electoral qualifications; to analyse the general elections and the House of Commons which resulted from them in the six Parliaments of the period; to consider the economic, social, professional, and other groupings within the House, its composition from a sociological point of view; and finally to look at the House as a living institution and to single out the main features of its development during this period, particularly the most significant feature of all, the growth of party.'[12] Finally, there were miscellaneous appendices, on such subjects as contested elections, reports of debates, parliamentary lists, dates of Parliaments, and office-holders.

Namier was a controversial figure, and his historical thesis was equally controversial, so it was not surprising that his fellow professionals weighed in to the first instalment of the professional *History* as keenly as their predecessors had assailed the amateur version a generation

previously. The accuracy and scholarship of the biographies and constituency histories were also universally acclaimed; and it may be noted that, of the corrigenda incorporated in the 1985 reprint, nearly all were trifling. But what was the purpose of the exercise?, some reviewers asked. A. J. P. Taylor, who led the attack in a review entitled 'Westminster white elephant', wrote: 'Despite its title, it is not a history of Parliament. It is rigorously confined to the House of Commons as though we were still living in the days of the Rump. . . . This is not even a history of the House of Commons in any collective sense. It is an analysis of constituencies and a catalogue of Members of individuals. The House as an entity is hardly mentioned. . . . Some of the 1,964 were distinguished. . . . A few rank as great. . . . The rest . . . were, to outdo Browning, Persons of No Importance in Their Own Day and certainly of none in ours. . . . No one is likely to be attracted to this implacable array of dull squires.'[13] Taylor was answered by Herbert Butterfield, who pointed out that 'to those who have merely followed the story in the newspapers it must have been clear for nearly forty years that, whatever further things might be added, the primary and basic purpose was the production of a complete list and a biographical account of the members of the House of Commons. . . . For Wedgwood it was, in one respect, a question of having a monumental work which should itself be part of the national establishment, recording and commemorating the members of the greatest institutions in the world [whilst] in Namier's case the plan involved a new way of finding contact with a historical world. . . . [It] represents a type of achievement hardly paralleled in the historiography of our time [and it] will mean that the politics of any period may be studied with an intimacy and a sense of structure which have never been possible before. . . . The student of history now has a magnificent work of reference, which for many years will give him ample food for reflection. . . . The production of a vast compendium of this kind – one which codifies the state of scholarship at a given date – draws a strong line across the history of that whole branch of study and may become a springboard for a new development. Even if regarded only as a collection of materials, the present work is calculated to be a germinal thing. It will be of enduring importance to scholars; it also seems to me to be a work in which the lovers of parliamentary history will want to browse. One big anxiety remains however – the question whether the project will ever be completed.'[14]

Butterfield's question was not a rhetorical one. The Treasury grant was continued beyond 1971, although the Trustees had some tricky negotiating to do on several occasions when its renewal fell to be considered. A second section appeared: 'Namier and Brooke' was followed in 1971 by Romney Sedgwick's 1715–1754 section, which complemented it in many ways; by then most reviewers had grasped what sort of work it was meant to be, even if its general title was

somewhat misleading, and whatever their misgivings about the enterprise as a whole they agreed that the quality of the biographies and constituency histories achieved in every respect the high standard set by its predecessor. But the two Tudor sections which had been intended to follow soon afterwards were beset by continuing difficulties: Sir John Neale, whose association with the *History* went back as far as Namier's, was compelled by ill-health to abandon his editorship of the Elizabethan section in 1974, the year before his death, and in order to prevent further delay in the appearance of S. T. Bindoff's 1509–1558 section it was reluctantly decided that it should be published without an introductory survey. Neale's volumes were brought to completion by P. W. Hasler, who succeeded E. L. C. Mullins as General Editor in 1979; Bindoff was able to see the first batch of proofs of his section before his death in 1980. Not until 1982 was publication finally achieved.

Although the plan of both sections closely resembled the two which had gone before, it was inevitable that there should be differences in treatment, owing both to the character of the period and the nature of the sources. The biographies, for example, whilst recording what could be discovered about Members' parliamentary activities (little or nothing, in many cases), often included extra-parliamentary information, about their families, connexions, and wills. In the Elizabethan volumes the *History* made the first of its forays into 'cliometrics': the figures given in Hasler's introductory survey, and the statistical analysis of each of the ten Parliaments in Queen Elizabeth's reign which were appended to it, were derived from a computer analysis of the data in their biographies relating to Members' identification, parliamentary service, education, marriage, status, occupation, locality of residence, offices and age; also how Members came to be returned (whether at a general or a by-election), what they did in the House and what offices they held there.

A fifth section, covering the period 1660–1690, appeared the following year. This 'American section' was a relatively late arrival on the scene. It owed its inception in the early 1960s to generous grants from American sources, and an American scholar (Henning of Yale) was appointed to edit it. The parliamentary history of the seventeenth century was a field in which American scholars, such as Wallace Notestein, who had served on Wedgwood's committee, had made many significant contributions, so the publication of the section on 4th July 1983 was particularly appropriate.

The most recent addition to the series, five volumes covering the period 1790–1820, was published in July 1986. This event was celebrated at a dinner in Speaker's House presided over by Mr. Speaker Weatherill, who was an enthusiastic Trustee during his four years as Chairman of Ways and Means before his election to the Chair.

By this renaissance – fourteen volumes in five years – were the

prophets of doom confounded. G. R. Elton wrote that during the 1970s, 'as nothing was heard except rumours of frequently rewritten and guarded files, some people (including the present reviewer) had some censorious fun at the expense of labours which seemed increasingly pointless. Thus it is in a white sheet that one welcomes the Trust's revenge.'[15] The quality of the biographies was again applauded, and J. H. Hexter noted 'the stunning dimensions of that achievement' when he observed, 'that after 400 years the researchers for the History of Parliament Trust should have been able to turn up some information on 98 per cent of a group of nearly 3,000 Elizabethan MPs, most of whom were a good bit less distinguished in their achievements than, say, the tenth decile of persons entered in a present-day *Who's Who*, is a marvel.'[16] Henning was able to go one better: of his 2,040 Members in the seventeenth century only one eluded identification.

The reader may be relieved to learn that these majestic works of scholarship may be consulted for amusement as well as for instruction. Here is Archibald Macdonald, Member for Hindon, who had made a fortunate marriage with the daughter of Lord Gower:

> His prospects do not seem to have been affected by a ludicrous incident in December 1779. Some days after his father-in-law had resigned from the ministry, Macdonald delivered an onslaught in the House on Lord North, whom he had supported until that very moment:
>
> > He accused him of being lazy, indolent, and incapable; of being evasive, shuffling, cutting and deceptious; of being plausible and artful, mean, insolent, confident and cowardly; of being a poor, pitiful, sneaking, snivelling, abject creature, fraught with deceit, and one whom no man of honour could support or trust as a minister or an individual.
>
> Even North was stung by this bombardment, and expressed surprise that Macdonald should have been so long finding this out. The King declared himself 'highly incensed' and could see 'no excuse for his behaviour'. But the sequel was even more absurd. Lord Gower did not, after all, go into opposition, but continued to support the ministry. This change of front left Macdonald stranded. Accordingly, two days later, he recanted completely, and apologized in the Commons for some hasty expressions which had fallen from him the last evening he had been at the House. He could now affirm, that they were totally ill-founded, and that in his cooler moments were directly contrary to his real opinion, never having had any reason for entertaining any such sentiments respecting the noble lord. It was a natural infirmity which suddenly hurried him sometimes to go beyond the limits of his own judgement.[17]

He then resumed his support of Lord North, and the 'natural infirmity' was no obstacle to his being appointed a Welsh judge nine months later.

Let Anthony Henley have the last word, in his reply (composed as

a joke, but none the worse for that) to a request from his constituents at Southampton to oppose the excise bill:

> I received yours and am surprised at your insolence in troubling me about the excise. You know what I very well know, that I bought you.
>
> And I know what perhaps you think I don't know, you are now selling yourselves to somebody else.
>
> And I know what you don't know, that I am buying another borough.
>
> May God's curse light on you all.
>
> May your houses be as open and as common to all excise officers as your wives and daughters were to me when I stood for your scoundrel corporation.[18]

---

1. See E. L. C. Mullins, 'The Making of the "Return of Members" ', *Bulletin of the Institute of Historical Research*, Vol. LVIII, No. 138, November 1985, pp. 189–209. Mr Mullins was Secretary to the Editorial Board of the History of Parliament from 1951 to 1978.
2. See J. C. Wedgwood, *Memoirs of a Fighting Life*, London 1940, and C. V. Wedgwood, *The Last of the Radicals: The Life of Josiah Clement Wedgwood M.P.*, London 1951.
3. Quoted in C. V. Wedgwood, *op. cit.*, pp. 166–7.
4. J. C. Wedgwood, *op. cit.*, p. 215.
5. Interim Report of the Committee on House of Commons Personnel and Politics 1264–1832, Cmd. 4130, July 1932, p. 7.
6. *ibid.*, pp. 52–53.
7. *ibid.*, p. 54.
8. History of Parliament: Report by the Trustees appointed under Declaration of Trust dated 31st December, 1940, and Supplemental Deed dated 2nd December, 1941.
9. For the revived *History*, see M. H. Lawrence, 'The History of Parliament', *Parliamentary Affairs*, vol. 17 (1963–64), pp. 458–64.
10. 'The Biography of Ordinary Men', reprinted in L. B. Namier, *Crossroads of Power: Essays on Eighteenth-Century England*, London 1962.
11. L. B. Namier and J. Brooke, *The History of Parliament: the House of Commons* 1754–1790, London 1964 (repr. 1985), Vol. 1, p. 375.
12. *ibid.*, p. 1.
13. *The Observer*, 3 May 1964.
14. *The Listener*, 8 October 1964.
15. *The Spectator*, 22 May 1982.
16. *The Times Literary Supplement*, 21 January 1983.
17. Namier and Brooke, *op. cit.*, Vol. III, p. 80.
18. R. R. Sedgwick, *The History of Parliament: The House of Commons 1715–1754*, London 1970, Vol. II, p. 126.

XI. THE EVOLUTION OF STAFFING ARRANGEMENTS FOR MEMBERS OF THE AUSTRALIAN PARLIAMENT

A. R. BROWNING

Clerk of the Australian House of Representatives

Today, with a basic entitlement to three personal staff, backbench members of the Commonwealth Parliament might be considered by fellow Parliamentarians to be well off, but the situation has not always been thus. Staffing of the Parliament was first legislated for in the *Public Service Act 1902*. That legislation required appointments, promotions and other matters relating to the Departments of the Parliament to be determined on the nomination or recommendation of the Presiding Officer(s). It provided a basis for the employment of staff for the Departments supporting the institution, but official funding for the employment of staff for individual Members was not provided until much later.

Evolution of staffing arrangements

Prior to 1944 it appears that a majority of Members relied on privately employed staff. In that year the Federal Government decided to provide one electorate secretary at official expense for each Member of the Australian Parliament. The situation remained relatively static until May 1972 when the Senate House Committee, which had considered the matter of the provision of staff and other facilities for Members of Parliament necessary for the discharge of their Parliamentary duties, reported the following resolution to the Senate as a statement of principle:

(1) That it is inconsistent with the constitutional relationship between Parliament and the Executive Government that the need or justification for the provision of any staff or other facilities for Members of Parliament, necessary for the discharge of their parliamentary duties, should be determined by any agency of the Executive Government.

(2) That it is therefore not proper that Senators should have to make application to the Prime Minister, Minister for the Interior or other Ministers or their Departments for the staff or other facilities necessary to carry out the duties of their offices.

Then, in 1973, the Remuneration Tribunal was established. The legislation establishing the Tribunal provided that, each year, it could inquire into and determine Members' allowances, salaries and

conditions. Sub-section 7(4) (a) of the Act allows the Tribunal to also inquire into and determine matters which it considers to be significantly related, including staffing for Ministers and Members. Similarly, sub-section 7(4) (b) allows the Government to refer to the Tribunal for consideration matters which it considers to be significantly related.

In 1974 submissions were made to the Tribunal to the effect that, in addition to the electorate secretary already provided, a research resource or capability should be available to the individual Member of Parliament. However, in its report the Tribunal stated that it was not satisfied that the electoral workload and commitments of most Members were such as to warrant the official provision of research staff. To further complicate the issues involved, some Members placed more emphasis on the need for secretarial skills than on the need for research assistance. Notwithstanding, the Tribunal apparently found it difficult to dispute the validity of the Members' claims for research assistants and acknowledged that the issues involved were complicated and subject to the varying needs of individual Members.

While the 1974 Report also records the Tribunal's observation that the Parliamentary Library provided an excellent research service to Members and that Ministers and Opposition Leaders were well catered for with personal staff, the Tribunal ultimately decided that there was a case for the provision of research staff for private Members (including Opposition "Shadow Ministers" not otherwise provided with staff). Such staff could have a clear commitment to a political party and should have the capacity to provide personal research support. Such an arrangement would, it was considered, alleviate the workloads of Members, supplement the Parliamentary Library service, improve the Parliamentary performance of Members and ultimately benefit the nation. The Tribunal recommended that the Government give consideration to the provision of a reasonable number of research assistants for allocation to private Members, a certain number to be allocated to each of the recognised political parties.

The next development occurred in 1975 when the Tribunal was provided with a copy of a letter which the Minister for Services and Property had sent to all Senators and Members. This letter outlined a scheme to provide an additional staff member in each Member's electorate office, to take effect from 1 March 1975.

In its 1975 Report, the Tribunal raised strong objections to this new scheme, which did not of course accord with the Tribunal's recommendations in its 1974 Review. It stated that the scheme was not the best usage of additional staff in the interests of the efficient working of the Parliament and strongly reiterated its recommendation that the funds available should be allocated for the provisions of research assistance rather than the additional secretarial (electorate) assistance proposed. The Tribunal also stated that to provide research facilities, the pooling

of individual allocations should be encouraged rather than, as in the initial broad outline of the scheme, specifically prohibited.

The final outcome was that Members were each permitted to employ a second staff Member, and were given a discretion as to whether the second person was based in Canberra or in their electorate office. The relevant provisions stated:

2.43 A senator or member shall be entitled to employ at official expense:
(i) an electorate secretary in his electorate office;
(ii) an additional staff member, who at the discretion of the senator or member, may be located in the electorate office or in Canberra; and
(iii) where two electorate offices are provided at official expense for a member of the House of Representatives, as for the electorates of Kalgoorlie and the Northern Territory, a second electorate secretary may be employed at official expense so that an electorate secretary is located at each office.

2.44 Where a senator or member uses his additional staff member as a research assistant, the Minister for Administrative Services shall have a discretion to approve pooling and sharing of staff with another senator(s) or member(s) and to approve the employment of staff part-time within the financial limit set by the sum of the salaries payable.

The situation remained static until 1977 when the Tribunal, having received submissions on the matter, stated in its Report that it believed backbench Members were entitled to an additional staff member, that is, a total of 3 staff except in the case of Members representing geographically large electorates with electorate offices in 2 locations in which case the entitlement would be 4. The granting of this assistance was, however, considered to be impracticable due to the severely limited accommodation available in the present Parliament building.

In 1978 the Tribunal expressed the view that 'Shadow Ministers' (opposition front-benchers) should be provided with an additional staff member who, at the discretion of the particular Senator or Member, could be located in the electorate office as an electorate assistant or in Canberra as a legislative assistant. The number of Shadow Ministers qualifying for the entitlement was not to exceed the number of ministers. This proposal was not accepted by the Government. However, in 1979, the Government did provide the Leader of the Opposition with an increased number of staff positions to be allocated by him amongst the Shadow Ministers.

In 1984 the Government agreed to further expansion of the basic entitlement, and, since July that year backbench Senators and Members

have each been able to employ three persons and in the case of Members with electorate offices in 2 locations, 4 persons. At least 2 must remain in the electorate office, but the Members retain discretion as to whether the other is based in Canberra or the electorate office. Office accommodation remains a problem, however, and is likely to remain so until the occupation of the new Parliament House.

For both backbenchers and Shadow Ministers the selection of staff has been, and indeed remains, a personal prerogative. Staff may be drawn from the private sector or from the Commonwealth Public Service. Where a permanent officer of the Commonwealth Public Service is selected, the responsibility to arrange secondment to the Senator's or Member's office currently rests with the Department of the Special Minister of State, the department which oversees a whole range of services and entitlements for Members and Ministers outside Parliament House.

As is apparent from the foregoing some tension has been evident at times between the Government and the Tribunal. In 1979, for instance, the Government of the day indicated that it believed the Tribunal had no right to determine staff numbers for the opposition. Determinations of the Remuneration Tribunal are required to be tabled in both Houses of the Parliament and either House may pass a resolution disapproving of a determination which ceases to have effect from that day, and Governments have on occasion used this provision.

Legislative basis of employment

Until 1984 staff of Ministers, office holders and other Members of Parliament were engaged under the temporary employment provisions of the Public Service Act and decisions concerning their engagement had to be formally taken by the Department of the Special Minister of State. However, a new mechanism was established in 1984 with the enactment of the *Members of Parliament (Staff) Act* (MOP(S) Act), which enables Ministers, office holders and Members of Parliament to employ their own staff by the execution of employment contracts with them, although the number and overall allocation of staff of Ministers and Members continues to be determined by the Government.

The 1984 Act also provides Ministers with the ability either to make appointments to their staff or to engage Ministerial Consultants to assist in other projects. These appointments would naturally take into account the consistency of the views of those to be appointed and the Ministers themselves. In introducing the legislation the Government stated its intention that these appointments should be quite separate from any appointments to the Public Service. It was acknowledged that such appointments should be quite visible and clearly linked with the needs of a particular Minister and their tenure should be specified to be

limited. In this sense, the tenure of ministerial consultants would be restricted to the term of office of the Minister making the appointment.

Terms and conditions of employment

Pursuant to the provisions of the Act, determinations of the terms and conditions of staff employed under the Act have been made. Provisions of the Act and the determinations have been used to provide benefits such as superannuation coverage, and severance entitlements which confer rights to payments on termination of employment which are linked to the length of service of the person.

Under the MOP(S) Act staff are also entitled to the accrual of recreation leave without limit and early retirement from the age of 55 years.

In recent years more general improvements in conditions have also occurred. For instance, each Senator or Member has an entitlement for their staff to travel at government expense, to Canberra or the electorate, depending on where the staff memeber is based. The travel entitlement for the total electorate staff is limited to a maximum of 15 return visits per annum at economy class for which travelling allowance is payable for a maximum of 100 days.

Current staffing levels

Large numbers of staff are involved in the support of the Members of the Commonwealth Parliament – the 148 Members of the House of Representatives and the 76 Senators. There are 985 persons presently employed by Members of Parliament, including office holders under parts III and IV of the *Members of Parliament (Staff) Act 1984*, 573 of these are employed in electorate offices and the remaining 412 are employed as follows:

Government Ministers and Members – 328
Opposition Members and Shadow Ministers – 68
Australian Democrats (a smaller party represented in the Senate) – 14
Independents – 2

Conclusion

It can be seen that the evolution of Members' staff arrangements has been a protracted process, with some forty years elapsing between the first recognition of the need for personal staff to the present basic entitlement of three staff per Member. While there are no known plans for further increases in staff numbers, there is no doubt that the ever increasing demands placed upon Members of Parliament, together with the planned move to the new Parliament House in 1988 when there will be a significant increase in the available accommodation, will ensure that the matter is kept under review.

XII. THE AUSTRALIAN PARLIAMENT'S EDUCATION KIT FOR SCHOOLS

BY JOHN VANDER WYK

Principal Parliamentary Officer
Research and Education

Concern in recent years in the Australian Parliament about the level of political literacy in the community in general, particularly among young people, has led to a considerably increased emphasis being placed on the Parliament's educational activities.

An awareness of the need to improve and expand the Parliament's educational services followed in part from recommendations of the Senate House Committee in 1982. As a result of the Committee's recommendations, the President of the Senate agreed in the following year to the establishment of a Senate Research and Education Section in the Procedure Office, to perform the dual tasks of providing a departmental procedural research facility and a base for the Department's educational activities.

One of the first major tasks to be undertaken by the section was the preparation, as a joint project with the Department of the House of Representatives, of a comprehensive education kit on the Parliament for use in schools (although the project is being jointly funded, its administration is being undertaken by the Department of the Senate). Technical advice is available, as required, from the Commonwealth Schools Commission's Curriculum Development Centre, which also has a representative on the management committee for the project.

A project officer was appointed early in 1985, after which work began on the preparation and design of materials to be included in the kit – the project officer being assisted by parliamentary officers as appropriate. It is hoped to complete the production work at the end of this year so that a kit can be placed in every school in Australia (some 12,000 schools) next year.

The kit will comprise material specifically targeted at three levels: upper primary, lower secondary and senior secondary. To ensure that the kit is educationally sound, that it gains maximum acceptance by both teachers and students, and that it will fit into existing curricula in the various State and Territory education systems, regular consultation is occurring with officials in those systems, with curriculum experts, practising teachers, professional subject associations and educationists. The heads of the various State and Territory education systems have approved the participation of their officers in the development of the

kit. A number of items prepared for the kit, particularly those aimed at senior primary children, are presently being trialled in selected schools in several States and the Territories so that teacher feedback on their suitability can be incorporated into the final product. Several in-service courses for teachers participating in these trials have been held.

The kit will include at least one video film, charts, pamphlets and brochures, booklets, fact sheets, two computer programs, teachers' notes and student activities and exercises. It will cover all the major aspects of parliamentary activity including segments dealing with the electoral process, interaction between the community, the government and Parliament, and how members of the community can participate in the political process. It will comprise virtually a course on the Parliament.

The video film was commissioned by the Parliament. It has a two-fold purpose. It illustrates how a 'class parliament' can be set up and it also shows how a bill proceeds through the two Houses of Parliament, with the children who were participants in the class parliament acting out the roles of Senators and Members. The film will be supported by comprehensive teachers' notes and print material for use by children. The two computer programs, suitable for use in simulated classroom elections, are based on the two voting systems used to elect Senators and Members.

The kit is perhaps the most ambitious education project to be undertaken by the Australian Parliament. It should produce a number of 'spin-offs' in the form of material available to the community in general. In the longer term, widespread use of the kit in schools will, hopefully, lead to an improvement in public appreciation of the role and functions of the Parliament and a better understanding of its workings.

XIII. ADMINISTRATIVE ARRANGEMENTS FOR THE NEW ZEALAND PARLIAMENT

BY D. G. MCGEE

Clerk of the New Zealand House of Representatives

With effect from 1 October 1985 a major change in the administrative arrangements for the New Zealand Parliament occurred with the coming into force of the Parliamentary Service Act 1985.

Prior to the Act parliamentary employees had been employed by a Government department – the Legislative Department – the permanent head of which was the Clerk of the House. Employment within the Legislative Department was outside the scope of the Public Service and therefore outside the control of the State Services Commission, although the State Services Commission was the 'employing authority' for the purposes of determining the remuneration and conditions of employment of Legislative Department staff.

The position of parliamentary staff as employees of a Government department was felt to be anomolous. In particular the position of the Minister in charge of the department (who, since 1936, had always been the Prime Minister) was seen to give the Government undue control over the staff and services provided for members of Parliament which, of course, included Opposition staff and services. Consequently the Labour Government elected in 1984 had included in its election manifesto a specific commitment to abolish the Legislative Department and hand over its functions to a Commission of members of Parliament chaired by the Speaker.

The Parliamentary Service Act implements that commitment.

Two entities are created by the Act:

(1) A Parliamentary Service, within which all parliamentary staff (except the Clerk of the House) are to be employed; and
(2) A Parliamentary Service Commission of 7 members of Parliament chaired by the Speaker, which is to provide the political control of the Parliamentary Service.

The Parliamentary Service is charged with providing the administrative and support services required by Parliament. As well as comprising all the employment groups previously contained within the Legislative Department – Clerks, Hansard, Messengers, catering staff, security, secretaries, researchers and other administrative staff – the Parliamentary Service has also absorbed the parliamentary library

which had previously formed part of the National Library, a division of the Department of Education.

The principal officer of the Parliamentary Service is a new officer – the General Manager. The General Manager is to be appointed by the Governor-General on the recommendation of a panel consisting of members of parliament and permanent heads of Government departments.

Employment within the Parliamentary Service is not employment within the Public Service but, to ensure freedom of movement between the two Services, officers of each are enabled to apply for positions in the other, and to appeal against non-appointment, on the same basis as if they were officers in that other Service. As before, the State Services Commission determines the remuneration and conditions of employment of employees of the Parliamentary Service. To ensure that there is true freedom of movement between the two Services (one of the aims of the Act) most of the administrative und employment practices followed in the Public Service must now be followed in the Parliamentary Service.

The Parliamentary Service Commission itself meets at least once a month. Its meetings are attended by both the General Manager and the Clerk of the House. It has established committees to look after catering, the library (these matters were formerly dealt with by select committees) travel and staff. Non-members of Parliament can serve on these Committees.

The Act, for the first time in legislation, provides for the appointment and duties of the Clerk of the House. The Clerk is appointed by the Governor-General on the recommendation of the Speaker. The Clerk is not employed within the Parliamentary Service. The Act does assign control and direction of other Clerks-at-the-Table, the Serjeant-at-Arms, and the secretaries and advisory staff of select committees (who are all employed within the Parliamentary Service) to the Clerk. In addition the appointment of Clerks-at-the-Table and the Serjeant-at-Arms are exempted from the normal appointment procedures applying to Parliamentary Service employees generally. Such officers are appointed directly by the Clerk and there is no appeal against such appointments. The Clerk must consult the Speaker and the other members of the Parliamentary Service Commission before making such an appointment.

The Legislative Department had provided administrative and support services to two closely related parliamentary offices – the Office of the Ombudsmen and the Office of the Privacy Commissioner. These offices now receive a separate appropriation from Parliament and function entirely as independent units. A third office, the Parliamentary Counsel Office, which is located within Parliament House, will continue to receive administrative and support services from the Parliamentary

Service, although it, and its officers, are not part of the Parliamentary Service but come under the ministerial control of the Attorney-General.

XIV. TWO RECENT PRIVILEGE ISSUES AT WESTMINSTER

BY MICHAEL RYLE

Clerk of the Journals and Clerk to the Committee of Privileges, House of Commons, Westminster

The House of Commons has long defended and sought to enforce its privileges, which means essentially the assertion of rights which are, as Hatsell said, 'absolutely necessary for the due execution of its powers'. In recent years, however, it has equally been concerned to claim and enforce privilege as sparingly as possible and only where it was essential to do so in cases involving substantial interference with the performance of the functions of the House of its Members. It has sought above all, while not abandoning any of its claims, to avoid trivial cases, and to this end it has given the Speaker power to vet complaints in private and only to allow the more serious cases to be raised on the floor of the House.[1] These conflicting considerations have been illustrated and to some extent tested in two recent cases.

Leaks from select committees

The first concerned the problem posed when newspapers publish leaks of proceedings or evidence of select committees before they are reported to the House. Such disclosures, both by the original source of the leak and by the journalist and newspaper who publish it, have long been held to be contempts of the House. On the other hand, in the fairly rare cases where such leaks were proved (only seven cases were reported to the House from 1832 to 1951, although the rate has increased more recently, with five cases between 1971 and 1983) no effective action has been taken against the journalists involved since a newspaper proprietor was imprisoned in 1832. It has therefore proved difficult for the House to punish journalists for contempt, especially as the original source of the leak, usually thought to be an MP, remains undetected and hence unpunished.

The problem has undoubtedly been exacerbated by the increasingly high political profile of the 14 departmental select committees which have been appointed under standing orders since 1979. These committees consider matters of policy, often controversial; they take much of their evidence in public; and, as the Committee of Privileges reported 'this makes the unpublished aspects of their work that much more attractive to those interested in publishing leaks, and it also makes the process of leaking more politically relevant for those privy to those proceedings'.[2]

Whatever the cause, leaks of the private deliberations of select committees, and especially of draft reports prepared by the chairman and not yet considered by the committee, have become more frequent and have caused concern to members and especially chairmen of select committees.[3] Therefore when a specific case of the leak of a draft report prepared for the Home Affairs Committee was referred to the Committee of Privileges in March last year, the Committee, while finding that a serious contempt had been committed, concluded that in the light of past experience there was no benefit in taking further action in relation to that specific case, but instead decided to examine the whole problem more broadly.[4]

The Committee of Privileges took a thorough look at the long-established rules and the practical application of privilege in this area to see whether they needed to be overhauled in the modern context. Chairmen of select committees emphasised the damage done by these leaks both to the process of seeking to agree a report and more generally to the reputation and integrity of the committee system as a whole.[5] Editors and other press witnesses doubted whether real damage – as opposed to embarrassment – was caused by leaks; they had no respect for the rules of privileges in this matter and believed they should be repealed: if Members were prepared to leak, then the press were entitled to publish, they said.[6]

The Committee were presented with a stark contrast of attitudes, which could not be reconciled. As one witness put it 'Confidentiality is a legitimate interest of MPs. Disclosure is the legitimate business of the media.'[7] And at the heart of the problem was the difficulty in enforcing any rules in this area: the original sources are usually unidentified, the House has proved reluctant to impose penalties on journalists, and in any event there were no formal penalties which were obviously appropriate. The way ahead, the Committee believed, lay in defining the limited circumstances in which enforcement of the Houses privileges would be appropriate and specifying more precisely how this should be done.[8]

The Committee made a number of recommendations designed to discourage and make more difficult leaks of committee proceedings;[9] it also recommended that the initial investigation of leaks be made by the committee concerned (as was the practice in the 19th century);[10] and it proposed a new procedure under which a special report from a select committee stating that a leak had caused substantial interference with its work would stand referred automatically to the Committee of Privileges without a complaint being considered by the Speaker and without need for a debate in the House.[11]

The Committee was convinced, however, that privilege rules must be retained for dealing with publication of leaks in really serious cases – which would include publication of matter improperly acquired (by

theft or bribery for example), publication of clearly classified information, such as evidence given privately with a defence security classification, and publication which deliberately attempted to damage the committee or could cause substantial interference with its work, all of which would be against the public interest.[12] If a Member were found to be responsible for a leak which led to such publication it would usually be appropriate to discharge him from the committee; and if the publisher of the leak were a journalist who enjoyed the facilities of the Lobby or Press Gallery, it would be appropriate to suspend his pass for a specified period.[13]

These were firm and clear conclusions which the Committee adopted by 12 votes to 1, thus providing the House with an up-to-date and realistic approach to the problem of securing for committees the protection they need today to enable them to do their work effectively. The single dissenting vote was that of Mr. Tony Benn, who was opposed to applying any parliamentary privilege in this regard and who argued in favour of opening all committee proceedings, including deliberations, to the public so that the electorate would be fully informed and be able to exercise its influence. On 18th March, on a free vote, the House agreed to the Committee's report by a large majority (104 votes to 22) although admittedly with a low attendance. Thus the principle of enforcing privilege in serious cases of leaks, the definition of such cases, and the appropriate penalties that should be imposed on Members, journalists and others who were in contempt of the House were all endorsed by the House.

The House's willingness to follow its own conclusions in practice was soon to be tested. On 16 December 1985, *The Times* published an article by one of its Lobby correspondents, Mr. Richard Evans, which reported the contents of a draft report prepared by the Chairman of the Environment Committee on 'Radioactive Waste', which had been leaked to him. The subject of the draft report was highly topical and potentially controversial and the draft had not yet been considered by the committee. According to the agreed procedure, the Environment Committee therefore examined the matter, sought written assurances from Members and staff, all of whom denied responsibility for the leak, and reported to the House that the publication of the leak had caused serious interference with its work.[14]

The special report automatically stood referred to the Committee of Privileges under the new procedure. That Committee took evidence from the Chairman of the Environment Committee and from the Editor of *The Times* and Mr. Evans. By a majority of 11 to 1, it was convinced that damage was done by this leak which amounted to substantial interference with the work of the Environment Committee and it added that leaks of this kind threatened the effective operation of other committees.[15] It accordingly found, by the same majority, that a serious

contempt had been committed both by the original leaker and by the journalists concerned who published the leak.[16] The Committee strongly condemned the behaviour of the leaker but could recommend no penalty because he could not be identified.[17]

The journalists claimed in evidence that they acted responsibly and only published leaks when the public interest justified it; they also argued that privilege rules in this matter were out of date and had fallen into disrepute.[18] But the Committee was not convinced; it saw no public interest in publishing a draft report which was not agreed, and could therefore give an inaccurate picture of the committee's conclusions, when the agreed and accurate report would soon be available.[19] The Committee concluded that penalties were appropriate in this case and, following the guidelines already approved by the House, it recommended (again by 11 votes to 1) that Mr. Evans be suspended from the Lobby for six months and that *The Times* should lose one of its Lobby passes for the same period.[20]

The Committee of Privileges Report caused quite a furore. Led by *The Times*, the press were up in arms about it, claiming that the privileges of Parliament threatened the freedom of the press in this case. But when the report came to be considered by the House on 20 May, the issue of privilege as such was barely debated. The main concerns were the effect of leaks in opening up select committees private deliberations (and therefore making them, as Mr. Peter Shore on the Opposition front-bench pointed out, more liable to pressure from Ministers) on the one hand, and, on the other the suggested unfairness in punishing a journalist 'merely for doing his job', especially when the original leaker remained unconvicted. In the end, on a free vote, an amendment to the motion moved by the Leader of the House (which was to agree with the recommendations of the Committee) was passed by 158 votes to 124. As a result the following resolution was agreed –

> 'That this House takes note of the First Report of the Committee of Privileges; believes that it would be proper to punish an honourable Member who disclosed the draft report of a select committee before it had been reported to the House; but considers that it would be wrong to punish a journalist merely for doing his job.'

So what has the House decided? First, on 18 March, by a clear majority, that it upholds the rules of privilege and that publication of leaks remains a contempt which, in serious cases, ought to be punished. And, second, on 20 May, that it is not prepared to punish journalists who publish leaks from select committees (which will doubtless let the lobby correspondents breathe a little more freely) but is prepared to punish a Member who leaks a draft report to the press. The private deliberations of select committees are thus still protected by the auth-

ority of the House, even if the temptation to leak to a journalist may be somewhat increased because he appears to have been granted immunity.

As an interesting footnote, it is worth recording that a number of senior Ministers and Whips, led by the Prime Minister, who voted to agree with the Committee's report in March went into the lobby against the Committee's recommendations in May. Such is politics.

Freedom of speech and naming of individuals

The second case raised the question of what restraints, if any, should be placed on a Member in exercising his right to freedom of speech in the House. It will be remembered that Article 9 of the Bill of Rights provides that 'the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place *out of* Parliament'. It does not rule out restrictions on speech imposed by or within the House itself, and indeed the Speaker frequently applies such restrictions, for example in enforcing the rules of relevancy, in prohibiting unparliamentary expressions, or in disallowing reflections on the conduct of judges and other protected persons. This distinction was well illustrated by the House's and Speaker's reactions to a question tabled by Mr. Geoffrey Dickens in March this year.

Mr. Dickens tabled a Question for written answer by the Attorney-General in which he asked that a named doctor be prosecuted for sexual offences involving an eight-year-old girl. In itself a Question calling for prosecution is in order (the Attorney-General having a ministerial responsibility and the Member taking responsibility for the facts) and is not uncommonly asked; and people have sometimes been named in such Questions, for example in a number of recent ones relating to alleged frauds in the City of London. However the nature of the allegations (in particular the fact that in rape cases the accused is not named publicly before conviction) and the danger of prejudicing a fair trial if the case came to court, caused a number of Members, on both sides of the House, to criticise the naming of an individual in this way and in this case. Several Members suggested that Mr. Dickens, while exercising his privilege of free speech, was nevertheless abusing parliamentary privilege.[21]

Having heard these Members and Mr. Dickens, the Speaker drew attention to the fact that a Member can request the prosecution of a specified person without naming him in his Question (by supplying the name privately to the Minister for example) and he ruled –

> 'freedom of speech is essential to the work of Parliament. It is the responsibility of every individual Member to ensure that he uses his freedom in a way that does not needlessly damage those who do not

enjoy that privilege and in a way that does not damage the good name of the House.'[22]

The Speaker also reminded the House that the use of a person's name in a Question of this kind should be resorted to only if to do so is strictly necessary to render the Question intelligible.[23] A further Question by Mr. Dickens asking for the prosecution of another person was later tabled on the Speaker's direction in a form that did not involve the publication of his name. Here it will be seen that the Speaker was enforcing a rule of the House regarding the form of Questions, but it is a rule that does not apply to speeches in debates or the framing of motions, and the Speaker was not, therefore, restricting in any way the Member's basic freedom of speech.

(*This is an expanded version of an article which first appeared in* The Parliamentarian, *July, 1986*)

1. See article by F G Allen in *The Table*, Vol. XLVI, 1978, p. 53–54
2. Second Report of Session 1984–85 (HC 555), para. 16
3. ibid, paras. 25 and 32 to 36
4. First Report of Session 1984–85 (HC 308)
5. Second Report of Session 1984–5 (HC 555), paras. 32–36
6. ibid, paras. 37–43.
7. ibid, para. 44
8. ibid, paras. 45–50
9. ibid, paras. 58–60
10. ibid, paras. 61–67
11. ibid, paras. 68 and 69
12. ibid, paras. 51–55
13. ibid, para. 56
14. Second Special Report from the Environment Committee, Session 1985–86 (HC 211)
15. First report from the Committee of Privileges, Session 1985–86 (HC 376), para. 10
16. ibid., para. 11
17. ibid, paras. 12 and 24
18. ibid, paras. 13–17
19. ibid, paras. 18–22
20. ibid, paras. 23 and 26
21. See Official Report, 17th March 1986, cols. 23–25
22. ibid, col. 26
23. ibid, col. 26 and see Erskine May's Parliamentary Practice, 20th Edn., p. 338

XV. PARLIAMENTARY REDRESS OF GRIEVANCES – ANSWERS TO THE QUESTIONNAIRE

The Questionnaire for Volume LIV of the Table asked –

Parliamentary Redress of Grievances: in what ways can Members of your House ventilate the grievances of the citizen (against Government, public bodies, etc) and seek remedies on behalf of their constituents or other members of the general public? Please give details of examples from recent years.

The replies are set out alphabetically, with provincial or state assemblies following the entry of the central legislature. Lower Houses are placed before Upper Houses.

Australia: House of Representatives
Members can ventilate citizens' grievances in the Parliament and seek remedies in the following ways:

Petitions
Members may present petitions to the House from citizens seeking redress for individual grievances, although petitions of this nature are not common.

Questions
Members sometimes raise such a matter in a written question on notice to a Minister. It would also be possible to raise such a matter by means of an oral question without notice during Question Time. However, there are no recent cases of this having occurred.

Grievance Debate
During a 1 1/4 hour period on alternate sitting Thursdays Members have the opportunity to raise such matters in a 10 minute speech.

Adjournment Debate
Each evening for 30 minutes (currently 45 minutes under sessional orders), on the motion for the adjournment of the House, Members may speak for 5 minutes each on any matter. Individual grievances are perhaps most likely to be aired in this way.

It should be noted that the above methods are not the most common, nor usually the most effective, ways of seeking redress from the Government for individual grievances. In most cases such matters are best referred to the Commonwealth Ombudsman or such bodies as the

Administrative Appeals Tribunal. Within the political process, Members prefer to contact the government department concerned on behalf of their constituents and, in more serious cases, to communicate directly with the Minister concerned. It is usually only after such channels have been exhausted that a matter will be aired in the Parliament.

Australia: Senate

Senators have a number of avenues available to them under Standing Orders to ventilate the grievances of citizens and seek remedies on behalf of constituents or other members of the general public.

1. *Petitions*

It is the privilege of any individual or body of individuals to petition the Senate to obtain redress of grievances, or to ask it to do or not to do something. Petitions are presented on behalf of the petitioners by a Senator (who need not, however, necessarily agree with the contents of the petition). Petitions are announced by the Clerk immediately after Prayers. In 1985, 1903 petitions were presented to the Senate. All petitions presented are referred to the Senate's legislative and general purpose standing committees which decide whether to investigate their content.

2. *Notices of Motion*

Senators can give notice of motions which have the effect of drawing attention to grievances and problems of particular sections of the population. Only a few such motions actually come up for debate, but the mere giving of notice can draw some attention to the subject matter.

3. *Questions*

Senators may ask questions without notice in the Senate concerning matters of public concern or they may put their questions on notice. Questions on notice receive written replies which, when received, are printed in the *Hansard* together with the question asked.

In 1985, 1424 questions were asked without notice and 762 on notice.

4. *Urgency motions and matters of public importance*

Standing Order 64 enables a Senator to move a motion without notice 'That in the opinion of the Senate the following is a matter of urgency:. . .', or to propose that a matter of public importance be submitted to the Senate for discussion. Only one matter of urgency or public importance can be debated on any one sitting day, and priority is given to the first one received by the President. Debate is limited to a maximum of two hours.

In 1985, 11 urgency motions and 26 matters of public importance were considered by the Senate.

5. *First reading debate on 'money' bills*

Constitutionally, the Senate may not amend bills imposing taxation or appropriating revenue or moneys for the ordinary annual services of the government. Since its first meeting the Senate has taken the opportunity of the first reading on such bills to enable discussion of any matters irrelevant thereto. The first reading on bills which the Senate can amend is formal and the motion is put without debate.

6. *The adjournment debate*

On the motion for the adjournment of the Senate matters irrelevant thereto may be debated, and it is not necessary that matters raised be of a kind for which the government has administrative responsibility.

7. *Matters of public interest*

In 1984 the practice commenced of a Minister moving at approximately 12.45 p.m. on Thursdays of a sitting week: 'That, unless otherwise ordered, till 2 p.m. this day, matters of public interest may be discussed by Senators, provided that no Senator shall speak for more than 15 minutes'. Passage of this motion enables Senators once a week to raise matters of concern to them for a total period of about 1 hour and 15 minutes.

Under the sessional orders the sitting of the Senate is not suspended for lunch on this day. The opportunity provided by this mechanism for raising issues is used by Senators.

8. *Address-in-reply*

The motion for an Address-in-reply to the speech made by the Governor-General upon the opening of a Parliament allows debate on any legislative or adminstrative matter which may properly be considered by the Parliament.

9. *Private Senators' Bills*

Senators frequently introduce bills to legislate on matters of concern to them.

10. *Debate*

Debate on bills, motions, ministerial statements, and motions to take note of papers etc. also provide opportunities to raise issues.

New South Wales: Legislative Council

Parliamentary Redress of Grievances may be achieved through –

(1) Personal approach to relevant Minister/public body.
(2) Formal correspondence with relevant Minister/public body.
(3) Asking questions without notice in the House.

(4) Asking questions on notice in the House.
(5) Presenting Petitions in the House.
(6) Raising matter on motion for adjournment of the House.
(7) Making the matter the subject of a motion in the House.

Northern Territory of Australia: Legislative Assembly

While the Standing Orders of the Legislative Assembly of the Northern Territory do not provide specifically for a 'grievance day' or 'grievance debate' there are a number of ways in which Members of the Assembly may ventilate the grievances of citizens and seek remedies on their behalf.

Questions Seeking Information

Questions may be put to a Minister relating to public affairs, to proceedings pending in the Assembly, or to any matter of administration for which he is responsible. Questions may be asked orally or as Written Questions which are placed on the Question Paper.

Petitions

Petitions presented by Members of the Assembly are a means by which individual citizens can directly place grievances before the Parliament.

On presentation of a petition, no debate upon or relating to it shal' be allowed, but it shall be laid upon the Table of the Assembly, and Member may move, without notice, a motion to refer the petition to standing, select or other committee of the Assembly and he may alsc move that the petition be printed (S.O. 99).

A copy of the terms of every petition lodged with the Clerk and received by the Assembly shall be referred by the Clerk to the Minister responsible for the administration of the matter which is the subject of the petition (S.O. 100).

Matter of Public Importance

On any sitting day, a Member may propose to the Speaker that a definite Matter of Public Importance be submitted to the Assembly for discussion. the Speaker determines if the matter proposed to be discussed is within the competence of the Assembly and is otherwise in order.

Before Business of the Day is called on, the Speaker will read the matter proposed to be discussed to the Assembly. The proposed discussion must be supported by five Members, including the proposer. The maximum period for the debate, unless otherwise ordered, shall not exceed two hours.

Address-in-Reply, Motion to adjourn the Assembly

Standing Order 67 provides, in part, that 'no Member shall digress from the subject matter of any question under discussion provided that –

(a) this Standing Order shall not prevent the discussion on the Address-in-Reply of any matter;

(b) on a motion to adjourn the Assembly matters irrelevant thereto may be debated.'

Motion for the Second Reading of an Appropriation Bill or Supply Bill

Standing Order 67 also provides that on a motion for the second reading of an Appropriation or Supply Bill, matters relating to public affairs may be debated.

This practice probably derives from the insistence of the House of Commons on considering grievances before granting Supply to the Crown.

Private Members' Bills, Substantive Motions, pursuant to Notice

Private Members may also ventilate grievances by introducing a Bill or moving a general business motion.

Standing Order 93 provides that on not less than one in every twelve sitting days precedence will be given to General Business.

Other Ways

Members may also ventilate grievances subject to the rules of relevancy in discussion on government sponsored legislation and motions on ministerial statements and in a Committee where that grievance is within the Terms of Reference of that Committee.

Queensland: Legislative Assembly

Since 1911 provision has existed under the Standing Orders for Private Notices of Motion to be put on the Notice Paper and for the following procedure to be adopted.

Private Notices of Motion and Orders of the Day take Precedence Alternately

37. Except on days on which Government business is appointed to take precedence, Notices of Motion and Orders of the Day, not being Government Business, shall respectively, unless otherwise ordered, have precedence on alternate sitting-days of the House; but so that if there are two days in a week in which Government Business has not precedence the relative order of precedence of Notices of Motion and Orders of the Day on such days in the following week shall be reversed.

But Notices of Motion relating to the Business of the House shall take precedence of all other Business.

When Notices of Motion or Orders of the day, not being Government Business, are given or appointed for a day on which Government Business has not precedence, and the House is afterwards adjourned over that day, or a quorum is not present on that day, such Notices of Motion and Orders of the Day shall, on the next day on which the House sits, not being a day on which Government Business has precedence, take precedence in the order of the days for which they were first given or appointed, but so as not to displace on any day Notices of Motion or Orders given or appointed for that day.

In recent years, as in all Parliaments, pressure of Government business mostly legislative business, had pushed the usage of this Standing Order into the background.

From 4 August, 1970 the Standing Orders Committee recommended that by Sessional Order one hour on each sitting Wednesday be set aside for Members to address the House for a period not exceeding ten minutes each. This discussion period on Matters of Public Interest became entrenched in the Standing Orders in April 1983. (S.O. 36A)

A further amendment to the Standing Orders allowed for a thirty minute 'adjournment debate' on each sitting Tuesday allowing six members a five minutes speech on any matter of public interest (S.O. 34)

A little used Standing Order concerns a Petition which complains of some present personal grievance, for which there may be an urgent necessity to provide an immediate remedy, the matter contained in the Petition may be brought into discussion immediately on the presentation. (S.O. 238).

South Australia: House of Assembly

Standing Order No. 288 provides that:

'. . . upon an Appropriation or Supply Bill for the ordinary annual services of the Government being read a second time, a Member may discuss grievances on the motion which shall be moved by a Minister – "That the Speaker do now leave the Chair and the House resolve itself into a Committee of the whole for consideration of the Bill." '

Standing Order No. 144 imposes a time limit of 30 minutes on one Minister and the Leader of the Opposition or a Member deputed by the Leader. Any other Member is entitled to 10 minutes.

Further opportunities to discuss grievances arise when the adjournment of the House is moved. Provided that this motion is moved by 10.00 p.m. on a Tuesday or Wednesday and by 5.00 p.m. on a Thursday the House only sits three days a week) Standing Order No. 57 provides that in 'may be debated for thirty minutes, with a maximum of ten minutes for each Member speaking. Matters irrelevant to the motion may be debated and at the expiration of thirty minutes the question shall be put forthwith . . .'

Tasmania: House of Assembly

As the Tasmanian House of Assembly has only 35 members, there is ample opportunity for the 24 private members to use the forms of the House to convey the grievances of their constituents whenever they wish. These forms are long standing and originated in the House of Commons. Petitions are taken each day, and there is an hour of questions without notice. The question that the House do now adjourn may be debated for up to an hour, with any member allowed 10 minutes to speak.

Definite matters of urgent public importance may be raised at the start of the day's sitting, though these are only accepted when strictly within the rules. The annual debates on the Address-in-Reply and the budget also serve as important grievance debates.

Victoria: Legislative Assembly

The Legislative Assembly of Victoria has two ways in which Members can ventilate the grievances of the citizen and seek remedies on behalf of their constituents or other members of the general public.

1. *Grievance Day* – Standing Order No. 59 states:

   'The first Order of the Day on every third Thursday after the opening of the Session shall be the question 'That grievances be noted', to which question any Member may speak for not more than twenty minutes and the whole discussion on this question shall not exceed four hours.'

   In this debate, Members can air grievances on behalf of their constituents, to which a Minister may reply. The following is a list of subjects raised by Members in recent grievances debate:

   - Politicisation of ethnic affairs.
   - Liquor industry report.
   - Liberal Party policy (by a Labour Member).
   - Labour Party policy (by a Liberal Member).
   - Readiness Review Committee Reports: endorsement by the Disaster Services Council.
   - Motor car sales, firms' practices.
   - Design problems in Australia.
   - Retirement villages.
   - Association of Drafting, Supervisory and Technical Employees.
   - Industrial relations.
   - Red meat sales.
   - By-election, how-to-vote cards.
   - Removal of Governor.
   - Election promises.
   - Dollar Sweets Co. dispute.
   - Waste disposal in Gippsland.

- Government spending and unemployment.
- Ford superannuation scheme.
- Company take-overs and their effects on workers.
- Employment of young women.

2. *Daily Adjournment* – On the motion 'That the House do now adjourn', complaints relating to Government administrators may be raised. A Member has five minutes to raise one subject; time available for raising matters on the motion is 30 minutes. It is then customary for Ministers to respond to these complaints. Examples of subjects raised recently are:-
   - Appointment of consultants to the Department of the Premier and Cabinet.
   - Wimmera-Mallee water supply system funding.
   - Local Government restructuring.
   - Work Care registration of employees.
   - Public Service holiday.
   - Drug and alcohol abuse.
   - Teachers at Brentwood High School.
   - Marysville Primary School.
   - Rental accommodation, Mordialloc.
   - Hair restoring.
   - Transport services at Canterbury Housing Estate.
   - Seed merchant Work Care arrangements.
   - High interest rates paid by primary producers.
   - Siting of National Tennis Centre.
   - Post primary school land Doncaster.
   - City of Oakleigh Council.
   - Bathing boxes on Frankston foreshore.

Victoria: Legislative Council

There are several ways in which Members of the Legislative Council can ventilate grievances of citizens and seek remedies on their behalf. The extent to which avenues for redress of grievances are utilized is, however, influenced by the ready availability in Victoria of other mechanisms. For example, direct access can now be gained to information through use of the provisions of the *Freedom of Information Act 1982*. In addition, Victoria has an Ombudsman (who can be approached directly by citizens) and an Administrative Appeals Tribunal.

The mechanisms available to Members of the Council are as follows:

(a) *Daily adjournment debate* – Members may speak on matters of government administration to the question 'That the House do now adjourn' proposed at the end of a sitting. The guidelines governing the scope of this debate are attached (Appendix A). Some of the matters raised during 1985 were –

- an anomaly in the conditions relating to the issue of concession tickets for student rail travel leading to discrimination against certain students
  [Vict. L.C. *Hansard* 18.7.85, p. 64]
- availability of special drugs to a patient
  [Vict. L.C. *Hansard* 24.9.85, p. 153]
- dismissal of certain employees of the Country Fire Authority
  [Vict. L.C. *Hansard* 24.9.85, pp. 153–4]
- rules which prevented husbands accompanying their pregnant wives in ambulances transferring them to hospital for childbirth
  [Vict. L.C. *Hansard* 31.10.85, pp. 806–7]
- processing of an application for registration as an estate agent
  [Vict. L.C. *Hansard* 31.10.85, p. 807]
- damage caused to property during railway construction works
  [Vict. L.C. *Hansard* 19.11.85, pp. 1115–6].

(b) *Adjournment motion (for the purpose of discussing a specific matter)* – Provision is made under Standing Order 53 for a Member to raise a matter in this way provided he is supported by at least six other Members. A copy of the relevant standing order is attached (Appendix B). This procedure has been used sparingly in recent years as the Government does not hold a majority in the Legislative Council. Some examples of matters raised through use of this mechanism are –

- the failure to protect the interests of the people in the administration of the Mount Hotham Ski Resort
  [Vict. L.C. *Hansard* 7.10.81, pp. 1086–1102].
- non-disclosure in relation to negotiations concerning dismissal of members of the Department of Minerals and Energy Drilling Branch
  [Vict. L.C. *Hansard* 2.12.81, pp. 3965–76]
- the failure of the Chiropractors and Osteopaths Registration Board to register eligible practitioners.
  [Vict. L.C. *Hansard* 9.12.81, pp. 4493–4506].

(c) *Questions* – Questions may be asked both without notice and on notice. However, following the enactment of the *Freedom of Information Act 1982* there has been a marked decline in the number of questions on notice (this Act imposes certain time limits for the supply of information and experience to date suggests that its use produces information more rapidly than questions on notice). Some examples of questions without notice during 1985 were –

- effect of installation of lights at Melbourne Cricket Ground on nearby Babies' Home
  [Vict. L.C. *Hansard* 3.4.85, p. 15]

- action taken to reduce risks to emergency workers and nearby residents as a result of a fire at a chemical warehouse
  [Vict. L.C. *Hansard* 16.4.85, p. 5]
- level of building permit fees charged by Country Fire Authority fire protection section
  [Vict. L.C. *Hansard* 4.6.85 p. 11]
- lifting of a ban imposed by warders on a woman visiting her husband in prison
  [Vict. L.C. *Hansard* 16.7.85, pp. 12–13]
- odour emanating from a waste dump near Tullamarine Airport
  [Vict. L.C. *Hansard* 24.9.85, pp. 130–1]
- proposed sacking of employee engaged by the Department of Conservation, Forests and Lands on a farm tree program
  [Vict. L.C. *Hansard* 16.10.85, p. 309]

(d) *Urgency Motion* – Standing Order 68A allows for a Member to raise a definite matter of urgent public importance, the vehicle for discussion being a 'take note' motion. There are, however, strict tests as to urgency. The relevant standing order, together with the criteria approved by the House to determine urgency and priority, are attached (Appendix C). Because of the need to establish urgency, there are relatively few examples of matters raised in this way since the introduction of the standing order in 1980. However, one example of a specific matter is–

- alleged mishandling of objections to the erection of light towers at the Melbourne Cricket Ground
  [Vict. L.C. *Hansard* 20.10.83, pp. 627–40].

(e) *Substantive Motion* – There are greater opportunities for Members of the Legislative Council to raise matters in this way as General Business is given priority each Wednesday pursuant to Sessional Orders. It is only towards the end of a sitting period that this provision in the Sessional Orders is suspended to afford priority to Government Business. Some examples of relevant motions during 1985 are –

- changes in the system of grower representation on the Australian Wheat Board denying the previous right of direct election of State grower representatives
  [Vict. L.C. *Hansard* 24.4.85, pp. 30–46]
- Cancellation of a concert in aid of the Victorian School for Deaf Children
  [Vict. L.C. *Hansard* 5.6.85, pp. 19–21].

Appendix A

SPEECHES ON THE ADJOURNMENT

(Guidelines as to content, &c. – Mr. President's announcement to House, 19 November 1975)

An Honourable Member speaking to the Motion 'That the House do now adjourn' at the conclusion of a Sitting may –

(a) make a complaint;
(b) make a request; or
(c) pose a query.

In doing so, a Member must –

(a) raise only matters which are within the administrative competence of the Victorian Government;
(b) confine his remarks to a single subject; and
(c) be brief (a desirable maximum is 5 minutes).

A Member may not –

(a) develop his remarks into a set speech;
(b) reflect upon a Statute*;
(c) request the introduction of legislation*; or
(d) raise a matter previously discussed in the same session.

The matter raised by an Honourable Member must relate to a recent occurrence; i.e., be of an urgent nature. Any reply by the appropriate Minister should be as brief as possible.*

Matters raised on the Motion for adjournment of the House cannot be the subject of debate; the Honourable Member raises a matter and the Minister's reply disposes of the same.

Appendix B

ADJOURNMENT MOTION

(Amended 9 Dec. 1980)

53. No Member, unless he be a Minister of the Crown or some Member deputed by him, shall be allowed to move 'That the Council do now adjourn' unless, on his rising to make such motion, six other Members shall rise in their places and require the motion to be proposed. The Member moving the adjournment shall state in writing

*Opportunity is available to Honourable Members under Notices of Motion to seek to repeal a Statute or to introduce a Bill for specific purposes. A Minister has, likewise, other opportunities to make Ministerial Statements relating to policy matters.

the subject that he proposes to speak to, and the debate shall be strictly confined to the subject so stated. No second motion under this Standing Order shall be made during any sitting of the Council.

Appendix C

STANDING ORDER 68A – URGENCY MOTIONS
(Adopted 9 December 1980)

68A. (*a*) A Member may propose that a definite matter of urgent public importance be brought before the House for discussion by submitting to the President in writing at least two hours before the time fixed for the President to take the Chair—

(i) the subject-matter desired to be discussed; and
(ii) a statement setting out the grounds considered to justify its urgent consideration—

and, if the President is satisfied that the matter is of such importance as to warrant urgent consideration, he shall permit the motion to be moved: Provided that, where the President is satisfied that unusual and extreme circumstances did not permit of a matter being submitted to him at least two hours before the time fixed for him to take the Chair, he may waive that requirement.

(*b*) Discussion upon a matter approved by the President pursuant to this Standing Order shall be entered upon immediately prior to Questions without Notice; a motion being made, without notice, 'That the Council take note of . . . (subject).'

(*c*) A motion under this Standing Order shall not require a seconder, and shall take precedence of a motion for the adjournment of the Council pursuant to Standing Order No. 53.

(*d*) A motion under this Standing Order may not be amended, nor shall any motion for the adjournment of the debate be entertained.

(*e*) Not more than one motion under this Standing Order shall be made during any sitting of the Council.

(*f*) In the case of two or more subject-matters being proposed to the President for discussion of a sitting, the President shall decide, having regard to their relative urgency, which (if any) of those matters shall be the subject of a motion.

(*g*) No debate shall be permitted as to the exercise of discretion by the President under this Standing Order, except by motion to dissent from his ruling.

Guidelines agreed to by the House on 10 December 1980

In determining urgency, the President considers:

1 whether the matter is of recent occurrence;
2 whether the subject is being raised at the first opportunity;
3 whether the matter is of sufficient public importance to warrant invoking the urgency procedure;
4 whether the rights, welfare or security of citizens is in jeopardy; and
5 whether there is a distinct probability of the matter being brought before the House in reasonable time by other means.

If the President approves of a subject-matter being brought on for discussion under the procedure, he shall cause –

1 the Member who submitted the proposal to be notified that the discussion may proceed; and
2 the Party Leaders to be advised of the subject-matter of the motion

as soon as practicable after having reached his decision.

If the President is not satisfied that a subject-matter should proceed to debate, he shall –

1 notify the Member who submitted the proposal accordingly, giving his reasons for rejecting the request; and
2 report to the House that he has received representations for a subject-matter to be discussed and give reasons why he decided that it should not proceed.

Vestern Australia: Legislative Assembly

(a) Grievances – It is usual practice for a Grievance speech of up to ten minutes to be answered by the appropriate Minister.

Examples – Inadequacy of consumer legislation to provide for dubious or irregular private employment training schemes. Hansard p. 2843.
– Alleged governmental discrimination against a particular petroleum exploration company. Hansard p. 2836.

Formal provision for Grievances is determined by Standing Orders 224–228. Following the adoption of the Address-in-Reply, a maximum of two Grievances from each side of the House is invited on alternate Wednesdays. In practice, Grievances are generally one of the first casualties when some of the Standing Orders are suspended to assist the urgent consideration of government business. In the recent Session, there was only one day on which Grievances were called.

(b) Petitions – Recently it has become the practice for a copy of the text of each petition to be forwarded to the appropriate Minister.

Examples – Quality of drinking water in a particular country town. Hansard p. 4076.
– Retrial of certain convicted persons. (Ruled out of order on the grounds of intemperate wording). Hansard p. 4076.

(c) Other – The second reading stage of the Budget Debate and the Address-in-Reply Debate both provide Members with the opportunity to raise grievances. However in neither case is there any mechanism, either formal or informal, for providing that the appropriate Minister note the grievance.

Examples – Local opposition to establishment of alcohol and drug rehabilitation facility in a particular residential area: Budget Debate 1985 p. 2703.
– Straying stock in a particular semi-rural area as a road hazard: Address-in-Reply Debate 1985 p. 612.

Bermuda

The most usual way for a Member of the House of Assembly to ventilate the grievances of the citizen and seek remedies on behalf of their constituents or other members of the general public is to give notice of a motion which will state the grievance or grievances of the citizen(s). The debate on the motion generally takes place within two weeks of notice of the motion having been given and the Member moving the motion outlines the grievance or grievances and proposes remedies to remove them during the debate. There has been a considerable increase in such motions during the past two Sessions of Parliament and the debates have been constructive and have resulted in positive action being taken by Government and public and private bodies to deal with the grievances.

The Motion to Adjourn, moved by the Premier or other Senior Minister at the end of the consideration of the Orders of the Day, provides Members with another opportunity to ventilate grievances and propose remedies to remove them. Speeches on the Motion to Adjourn are limited to twenty minutes and so the speeches are generally to the point and constructive.

A third opportunity to ventilate grievances is provided by Parliamentary Questions followed by Supplementary Questions. The number of Parliamentary Questions asked is increasing as the Opposition Parties and Backbenchers of the Government Party find that their Questions are a very effective way of dealing with grievances.

Members will often bring grievances to the attention of Government

Ministers whose portfolios enable them in many cases to satisfactorily deal with the grievances.

Examples from recent years are complaints concerning the state of education in Bermuda, the possible deployment of nuclear weapons at the United States Naval Air Station in Bermuda, security at the Civil Air Terminal in Bermuda, Government Regulations concerning the local Fishing Industry, the use of Bermuda Public Parks, Gardens and Beaches and organized road races on Sunday mornings in Bermuda.

The debates on these grievances or answers to Parliamentary Questions concerning them have resulted in a considerable amount of information being provided by the Government which has on the whole satisfied the Members of Parliament who have raised the grievances. For example the debate on the state of education in Bermuda enabled the Minister and Shadow Minister of Education to resolve several matters which were causing concern and the debate on Security at the Civil Air Terminal in Bermuda showed how committed the Government was to ensuring the maximum security possible.

Canada: House of Commons

The Standing Orders provide for a number of ways for Members of the Canadian House of Commons to ventilate the grievances of citizens and seek remedies on behalf of their constituents, namely: a daily period for statements by Members of not more than one and one half minutes (reduced to one minute in February, 1986); a daily period for oral questions to the Ministry; the presentation of petitions; questions on the *Order Paper*; Private Members' Business including Private Bills, Private Members' Public Bills, Notices of Motions and Notices of Motions for the production of papers; the debate on the adjournment motion; and in debate of a more general nature: for example, the debate on the Address in Reply to the Speech from the Throne and the Budget debate.

Public petitions addressed to the House of Commons constitute by far the most used procedure by people to voice their concerns on matters of public interest. The right to petition the House has been exercised without interruption since Confederation in 1867. But in recent years, the number of petitions presented has risen markedly from a total of 1,200 in the previous 32nd Parliament of more than four years to approximately 3,000 for the one year 1985 in the current 1st Session of the 33rd Parliament. The largest number in one day was approximately 350 presented by 48 Members on December 19, 1985, the greater bulk concerning the indexation of the family allowances and the child tax credit. The presentation of these petitions in the House took 1¼ hours, preventing any discussion on Government Orders on that day.

In a similar event on June 26, 1985, most of the 170 petitions related

to the subject of indexation of the old age pensions in Canada and presentations in the House occupied one hour. On May 7, 1985, presentations took 1¾ hours, with no time left for Government Orders. (Canadian Commons: Votes and Proceedings, pp. 1444–6, 882–3; Debates, pp. 9631–44, 9670–1, 6204–13, 4482–4500).

Even though Members may file petitions with the Clerk of the House, in 1985 almost all the petitions were presented in the House at a specific stage in Routine Proceedings, when each Member in succession is permitted a brief statement. On some occasions, the Speaker intervened and asked that the presentations be brief, and that petitions on the same subject be grouped for presentation. (Canadian Commons Debates, pp. 9573, 4486).

Petitions concerning general issues included such matters as: 'free trade negotiations with the United States', 'actions of the official opposition', 'peace and disarmament', as well as 'pornography'. Other petitions dealt with local matters such as the future of railway maintenance shops, or door to door mail delivery in one area. (Canadian Commons Debates, pp. 9340, 9644, 9028, 9384, 9570–1).

Canada: Quebec National Assembly

By the presentation of petitions to the National Assembly, in accordance with the following:

- the Standing Orders of the National Assembly (S.O. 53, 62 to 65)
- the Quebec Charter of Human Rights and Freedoms (R.S.*., c. C–12, s. 21)

  Section 21. Every person has a right of petition to the National Assembly for the redress of grievances.

* Examples of petitions presented to the National Assembly:

1. Petition to have the Construction Decree reopened so as to permit negotiation of the insurance plan deficit without delving into the workers' pension fund. (NA Debates, 6 June 1985, Vol. 28, No. 70)
2. Petition to have the minimum hourly wage increased to $4.50. (NA Debates, 17 June 1985, Vol. 28, No. 77)

Yukon Legislative Assembly

The Assembly does not set aside a special time for the airing of grievances. However, there is plenty of opportunity for doing so through Question Period (40 minutes per sitting day – with only 8 Members in Opposition); Private Members' motions (dealt with early Wednesday afternoon for approximately 3 hours); review of Estimates in Committee (which, to date, takes as long as the Members want it to take); and, of course, there is always the opportunity to submit a petition.

Hong Kong

UMELCO* Redress System

Unlike the statutory grievance system operating in some countries, the UMELCO Redress System is neither defined nor confined by the law. It handles both appeals from people objecting to government decisions and complaints alleging maladministration on the part of government departments. All heads of departments and government officials are required to co-operate with UMELCO in operating the complaints system.

Members of the public may put forward their problems by telephone, letter or personal visit. In most cases they are interviewed by an officer of the UMELCO Office Complaints Division who endeavours to obtain all relevant information. The case is then studied in the light of government policies and procedures. It is often necessary to ask the government department concerned to comment on a case or to supply additional papers or files for reference. In important cases involving a matter of principle or policy, or containing special features, and in all cases where a head of department's explanation appears to be inadequate or unsatifactory, Members will be consulted on further actions.

There is a Duty Roster Member (DRM) system to handle complaint cases. Each week Members will be on call in turn. The Duty Roster Members are there not only to interview those who ask to see them, but also to deal with important cases brought to their notice by staff of the UMELCO Office.

Any request for interview with a particular Member will be referred to the Member concerned, who will decide whether the DRM or the appropriate UMELCO Panel should be involved.

Where a delegation requests a meeting with Members to make representations on policy issues, the convener (or Members) of the relevant UMELCO Panel will be invited to join the DRM in the interview. As regards individual complainants, the DRMs may decide to invite members of the appropriate UMELCO Panel to attend the interview, if he or she feels that the complaint has wide policy implications. At the discretion of the Duty Roster Members, and subject to the agreement of the complainants or government officials that may be present, media representatives may be allowed to be present during the interviews.

Requests from interest groups to see Members in connection with a Bill will be referred to the LegCo Ad Hoc Group concerned for consideration.

The Administration has conducted a review on the redress systems in Hong Kong. Inputs from UMELCO have been forwarded to the

*Office of Unofficial Members of Executive and Legislative Councils

Administration, following a parallel study by an in-house Ad Hoc Group. The Administration is finalising its recommendations.

UMELCO Visits

UMELCO visits are arranged regularly for Members to visit urban and New Territories districts and to view the latest developments on the ground. These visits usually conclude with a discussion with the District Boards. Regular visits are also made to selected government departments and public organisations to keep Members in touch with community interests and attitudes. A visit programme is submitted for the approval of Members at the beginning of a session.

A report is prepared after each visit. Problems and suggestions arising from the visit are referred to the Administration for comments and appropriate action. The report and the Administration's comments are then circulated to all UMELCO Members.

India: Rajya Sabha

Members of the Council of States (Rajya Sabha) ventilate the grievances of the citizens and seek remedies on behalf of the members of the general public through motions on matters of urgent public importance, private members' resolutions and other substantive motions. Discussions can also take place on motions for modification of statutory rules and on annual reports of Departments and Undertakings; and Government actions in specific fields can be discussed and various problems aired. Along with these, a close and continuous check on governmental activities is exercised through a comprehensive system of parliamentary committees. Some of the other specific procedural devices evolved for parliamentary surveillance over the adminstration include laying of papers on the Table of the House, Questions, Half-an-Hour Discussions, Calling Attention Notices, Short Duration Discussions etc. All these devices enable information to be elicited and attention focussed on various aspects of governmental activities. Some of these may be discussed in some details.

The daily proceedings of the House provide all the evidence anyone may need of the legislators' zealous care and concern for the common man. Cases of hardships or injustices suffered by the humblest of citizens; of abuse of power or gross neglect of duties by officials; of serious lags in developmental activities, or scarcity of essential goods; of social oppression or incidents of violent crime causing a sense of insecurity among people in any area; of serious accidents, natural calamities and disorders, are promptly raised in the House by alert Members, discussed, and assurances obtained from Government for appropriate remedial action. And then, there is the Committee on Government Assurances to see that the assurances and promises given by Ministers on the floor of the House are effectively and expeditiously

implemented, while the Committee on Petitions, in its own way, contributes to the strengthening of the Legislature's grievance-redressal role.

Recently the following petitions were dealt with and grievances redressed:-

(i) Restoration of certain trains and railferry services in the Kathiar-Manihari Ghat section under the N. E. F. Railway and matters connected therewith.

(ii) Counting of military service rendered by Retired EC/SSC Officers for the purposes of civil pension and other pensionary benefits without effecting recovery of the ex-gratia grants given to such officers at the time of their release and matters connected therewith.

(iii) Early construction of 46 houses left out from the first phase of construction undertaken by the D.D.A. in E.P.D.P. Colony (Chittaranjan Park) New Delhi and matters connected therewith.

(iv) Extension of liberalised pension scheme of Bombay Port Trust to cover all the retired employers of the Trust etc.

India: Gujarat Legislative Assembly

A Member of the House can ventilate the grievances of the citizens by raising the matter in the House through various devices provided in the Rules of Procedures of the House viz. questions, motions, calling attention notices, resolutions, cut-motions etc. As provided in the Gujarat Legislative Assembly Rules a petition for redressal of grievances of any citizen can also be presented in the House by a Member. Part XVII of the Gujarat Legislative Assembly Rules deals with the petition. A copy of this Part from the Rules is enclosed herewith. No petition has been presented before the current House.

PETITIONS

Scope of Petitions.

240. Petitions may be presented or submitted to the House with the consent of the Speaker on –

(i) a Bill which has been published under rule 125 or which has been introduced in the House.

(ii) any matter connected with the business pending before the House; and

(iii) any matter of general public interest provided that it is not one:–

(a) Which falls within the cognizance of a court of law having jurisdiction in any part of India or a court of enquiry or a statutory tribunal or authority or a quasi-judicial body or a commission.

(b) Which relates to a matter which is not within the cognizance of the State Government

(c) Which can be raised on a substantive motion or substantive resolution; or

(d) For which remedy is available under the law including rules, regulations, bye-laws, made by the Central Government or by State Government or an authority to whom power to make such rules, regulations etc. is delegated.

Form and contents.

241. Petitions to the Assembly-

(a) must be addressed to the Assembly,

(b) must be in respectful and temporate language;

(c) must not contain any offensive or defamatory expressions;

(d) must be signed by the petitioner or petitioners;

(e) must conclude with a prayer reciting the definite object of the petition; and

(f) must be countersigned by the member desiring to present it.

Documents not to be attached to petitions

242. No. documents shall be attached to a petition.

To be presented by member

243. Every petition to the Assembly shall be presented by a member who shall be responsible for its contents and its genuineness.

Presentation.

244. A member desiring to present a petition shall show it to the Speaker and obtain his consent to its presentation. After he has obtained the consent of the Speaker, he may present it on any day after questions and before the other business for the day is entered upon.

Member Presenting may make brief statement

245. A member presenting a petition shall confine himself to a statement in the following form:-

'I present a petition signed by ..... petitioners, regarding.....

No debate shall be permitted on such statement.

Reference to Committee on Petitions.

246. Every petition after presentation by a member shall be referred to the Committee on petitions.

COMMITTEE ON PETITIONS

Constitution of Committee on Petitions.
247. (1) As soon as may be after the commencement of the first Session of the Assembly in every year a Committee on Petitions shall be constituted by the Speaker.

(2) The Committee shall consist of the Deputy Speaker who shall be the Chairman and not more than 7 other members nominated by the Speaker.

Functions of Committee on Petitions.
248. The Committee on Petitions shall examine every petition referred to it and shall report to the Assembly stating the subject matter of the petition, the number of persons by whom it is signed and whether it is in conformity with the rules. If the Petition complies with the rules, the Committee may, in its discretion direct that it be circulated amongst the members. The committee shall in its report state whether the circulation has or has not been directed, and where circulation has not been directed, the Speaker may, in his discretion, direct that the petition be circulated. Such circulation shall be of the petition in extenso or of a summary thereof as the committee or the Speaker, as the case may be, may direct.

India: Punjab Vidhan Sabha

Members of the House ventilate the grievances and seek remedies on behalf of their constituents or other members of the general public in accordance with the Rules of Precedure and Conduct of Business in the Punjab Vidhan Sabha through Adjournment Motions, Call Attention Notices, Questions, Resolutions, discussion on Governor's Address, General discussion on the Budget by presentation of Petitions etc.

Isle of Man (Tynwald)

Redress of Grievances
Members of Tynwald can ventilate the grievances of citizens through Questions to other members in their official capacity and through the making of motions. In addition they may take up a public petition or a petition for the redress of grievance.

A public petition must carry at least twelve signatures and be presented by a member once the Standing Orders Committee has reported that it is in order. The member must confine himself to a statement of persons from whom it comes and of the number of signatures attached to it and to the reading of the petition and the prayer thereof. Except in cases of urgent necessity for providing an immediate

remedy no motion may be moved at this stage except a motion that the petition be printed with the minutes. Other motions e.g. that the prayer be granted or that the petition be referred to a select committee may be made at a later sitting. Examples in recent years include-

(1) Petition of 4,338 persons for the establishment of an independent and comprehensive programme for the monitoring of radioactivity around the coast of the Isle of Man. Presented 16th February 1977. Motion made for reference to Civil Defence Commission for consideration and report and adjourned 26th April 1977. Motion further deferred 7th July 1977. Tynwald resolved to seek assurances from UK Government etc., 18th April 1978.

(2) Petition of 5,317 persons for 'consideration of proposals which might reduce the financial burden falling upon the Ratepayers of Douglas'. Presented 21st February 1984. Referred to Select Committee on Rating for consideration and report 20th March 1984. Report debated 20th February 1985.

(3) Petition of 368 persons concerning siting of a unit for acute psychiatric cases. Presented 18th June 1985. No further steps taken.

A public Petition may also be presented to either of the Branches but this is a very rare occurrence.

A petition for redress of grievance may only be presented at Tynwald, when assembled at St. John's for the annual open air ceremony. There need only be one petitioner. The petition may be presented by the petitioner in person or by a member. It is forthwith referred to the Standing Orders Committee and does not form part of the proceedings of the Court until the Committee has reported that it is in order and the Governor (as President of Tynwald) has ordered that it appear on the Agenda Paper.

A petition for redress must-

(a) relate to a matter of public interest; and

(b) relate to a matter falling within the province of Tynwald, and contain no reference to-

  (i) any appointment made, or exercise of prerogative, by the Crown;

  (ii) any matter capable of adjudication upon by the High Court of Justice or any tribunal or arbitration or other body or authority constituted or appointed by the Governor or by Tynwald or under any Act of Tynwald or of Parliament;

Subsequently an appropriate motion may be made in respect of the petition.

Five petitions were presented at the ceremony on 5th July, 1985-

(a) a petition regarding the nationalisation of an 'essential link' ship-

ping company. Referred for consideration and report 22nd October 1985. Report debated and adopted 18th February 1986.

(b) a petition regarding the closure of a hospital. Petition ruled out of order by reason of the fact that at the time of its presentation the relevant authority had reached no final decision and had referred the matter to an independent body for consideration. The alleged grievance thus did not exist at the time it was complained of.

(c) a petition regarding the provisions of the Chronically Sick and Disabled Persons Act 1981. Petition in order but no steps taken.

(d) a petition for the purchase of a hyperbaric chamber. Referred for consideration and report to a Select Committee 19th November 1985. Committee yet to report.

(e) a petition regarding the petitioner's adverse personal circumstances. Ruled out of order as it was couched in terms which were vague in the extreme and no grievance was specified.

Malta

Attention may be drawn to grievances through-

(1) Parliamentary Questions
(2) Statement made in House (but in case of a private Member i.e. one who is not a Minister, this requires leave of House viz not a single dissenting voice)
(3) Petitions
(4) Adjournment Time
(5) Private Members Motions.

New Zealand

In New Zealand the formal manner in which Members may express the grievances of their constituents is through the petitions procedure.

A Petition is a document addressed to the House of Representatives and which conforms to the formalties laid down in Standing Orders. It may be signed by just one individual or by a group of people. It must request the House to take action to remedy a grievance, or implement reform.

When a Petition is received by a Member he or she may present it to Parliament at the beginning of a day's sitting during the period set aside for formal business.

A Petition once presented is referred to a select committee allocated by the Clerk. The extent of the committee's consideration is up to the committee itself. However, it is usual for submissions to be called for from a Government Department concerned with the substance of the Petition, and from the Petitioner. A hearing date is set and oral evidence can be heard.

Once the committee has deliberated it reports back to the House

and may make recommendations that the Petition be referred to the Government for further action.

Standing Orders provide that the Government must table a report on the action taken in regard to Petitions referred to it within 28 days of the commencement of a subsequent session of Parliament. The report on Petitions referred to the House during the 1983 session gives good examples of the types of Petitions presented to Parliament and the way in which they are subsequently treated by Government.

It should be noted however that the report refers to only 20 Petitions, yet some 247 Petitions were presented during the 1983 session. Of those 247 Petitions only 75 were reported back before the House rose at the end of the year, the outstanding 172 Petitions were held over to the 1984 session.

Tanzania

Members of the House ventilate the grievances of citizens in two ways:

1. By questioning Ministers relative to public affairs for which they are responsible. Questions may also be put to any Member of the House on matters for which such a Member is responsible by virtue of any appointment by the House. Such questions may be answered verbally or in writing.
2. By Private Members' Bills.

United Kingdom: House of Commons

The broadest answer to this question would include all proceedings involved in the democratic process, including informal extra-parliamentary methods of exerting pressure by means of letters to departments etc.

Members most frequently bring matters to the attention of the House by tabling questions for oral or written answer by the responsible minister or by way of adjournment debate. An adjournment debate lasting half an hour takes place daily, the subject matter being defined in advance; in addition day-long adjournment debates take place before the Christmas, Easter, Whit and summer adjournments (frequently having been immediately preceded by another day's adjournment debate) and an all-night adjournment debate takes place three times a year. It is open for members to apply for an extra debate under SO No 10 if a specific matter is urgent and of importance. In addition, Members can present public petitions on behalf of constituents or others.

In cases where a Member wishes to obtain a remedy for an administrative error or delay, it is possible for him to refer a case to the Parliamentary Commissioner for Administration or the Health Service Commissioner (the "Ombudsman").

Questions and adjournment debates occur daily, so it would not be

useful to select any one case as an example. Public petitions are often used to carry out a campaign to indicate widespread deep public feeling about an issue; an example of this is the series of petitions against the Shops Bill earlier in this session. An interesting example of the work of the "Ombudsman" is his report, and the Select Committee's later report, on the *Preece* case: see Select Committe on the (PCA 3rd Report 1983–84 HC 423.

United Kingdom: House of Lords

Parliamentary Redress Of Grievances

While Members of the House of Lords may 'ventilate the grievances of the citizen' in the various ways described below, it should be remembered that they do not have the same obligation to do so as a member of the House of Commons, who has a responsibility to his constituents.

1. **Questioning the Executive**

By means of Oral questions and questions for written answer, or by initiating a debate, either in the form of an unstarred question or by the various procedures for debates in the House.

2. **Petitions**

Formal public petitions may be presented to the House, if received in the correct form, by a member of the House. The presentation is recorded in the Minutes of Proceedings but the petition is not printed, nor is any debate held upon its contents unless a debate is separately initiated in the usual way.

3. **Committees**

(a) The Select Committees on the European Communities and on Science and Technology invite evidence from the public and interested parties during the course of their enquiries.

(b) Private Bill Committees and Joint Committees on Special Procedure Orders provide a method for members of the public to petition against proposed legislation, eg (1985) Okehampton By-pass.

XVI. APPLICATIONS OF PRIVILEGE

AUSTRALIA: SENATE

1. As recorded in the *The Table*, Volume LIII 1985, on 24 October 1984 the Senate adopted a report of the Committee of Privileges that the publication in *The National Times* of purported proceedings of the Senate Select Committee on the Conduct of a Judge constituted a serious contempt of the Senate. The Senate also endorsed the Committee's decision to make a further report to the Senate on the motion of the Chairman of the Committee of Privileges (Senator Childs) on 27 February 1985:

That the following matter be referred to the Committee of Privileges:

The question of what penalties, if any, might, in the Committee's opinion, be appropriate with respect to the serious contempt of the Senate constituted by certain publications in *The National Times*, the subject of the Committee's Report, tabled on 17 October 1984 and adopted by the Senate on 24 October 1984.

The Committee met on 11 occasions, and heard submissions from the persons affected by the findings of the original Committee at two public meetings. The recommendations contained in the Committee's Report, which was presented to the Senate on 23 May 1985, were as follows:

(a) 'that the Senate not proceed to the imposition of penalty *at this time*, but that if the same or a similar offence be committed by any of the media for which [the publisher of *The National Times*] is responsible, the Senate should, unless at that time there are extenuating circumstances, impose an appropriate penalty for the present offence' (in effect, the Committee, in this recommendation, is suggesting that the Senate place the publisher on a 'good behaviour bond');
(b) 'that the period of the "bond" should be for the remainder of the present session of the Parliament, that is, until the Parliament is prorogued, the House of Representatives is dissolved or expires, or the Senate and House of Representatives are dissolved simultaneously, whichever is the earliest'; and
(c) 'that specific legislation . . . be introduced in order to put the power of the Houses of the Parliament [to impose a fine for contempt] beyond doubt'.

The Senate had not, at the end of 1985, considered the Committee's recommendations.

2. On 23 April 1985 Senator Haines (South Australia) raised a matter of privilege arising out of amendments prepared for moving in the Senate in respect of the Supported Accommodation Assistance Bill. As Senator Haines explained in her speech:

> 'These amendments were prepared purely for the purpose of the proceedings in the Senate and were not disclosed except to honourable senators, and only to some honourable senators, for the purpose of discussion of the forthcoming proceedings. It appears that a departmental officer has improperly discussed the amendments with interest groups, has misrepresented the nature of the amendments and has caused those interest groups to approach honourable senators on the basis of the misrepresentation.'
> (*Senate Hansard*, 23 April 1985, p. 1390.)

Senator Haines then successfully moved:

> 'That the following matter be referred to the Committee of Privileges – the improper disclosure and misrepresentation by a departmental officer of an amendment prepared for moving in the Senate.'

The committee met twice and considered relevant material submitted. This included a letter from Senator Haines, who also forwarded to the Committee a written explanation to her from the departmental officer concerned. The Committee's report read in part:

> 'The Committee regards it as unfortunate that the present situation has arisen and emphasizes that officers who receive information in the course of their employment have an obligation to treat it in accordance with their responsibility as public servants.'

The Committee considered that further action on the matter was not appropriate and recommended to the Senate that the matter be not further pursued.

The Senate adopted the Report on 18 September 1985 (*Journals of the Senate*, p. 470).

QUEENSLAND: LEGISLATIVE ASSEMBLY

Breaches of Privilege

On Sunday, 29 September 1985, one of Brisbane's major newspapers, *The Sunday Mail*, featured two articles written by two commentators on Queensland politics. Each article was shown to contain direct transcripts from *Hansard* galley proofs. Both columnists introduced these segments by identifying them as quotations from *Hansard*. At the time of the

newspaper publication, the official *Hansard* had not been produced. Hansard galley proofs in Queensland carry the following direction at the top of each page:

> Unrevised proofs for the use of members of the Legislative Assembly only and not for reproduction.

This direction was formulated as a consequence of a 1981 recommendation of the Privileges Committee following a consideration by that committee of a similar unauthorised use of unrevised Hansard galley proofs by a journalist.

On 10 October 1985, the Honourable the Speaker in a statement from the Chair indicated he was of the opinion that this matter of such unauthorised use should be referred to the Privileges Committee. Whereupon, the House resolved accordingly on a motion of the Chairman of the Privileges Committee.

The Privileges Committee's report, tabled in the House on 6 November 1985, contained three resolutions which were unanimously agreed to by the Committee members:

1. That the Committee of Privileges considers that the passage:
   "Hansard then records this devastating understatement 'Honourable Members interjected.' "
   in 'Dempster on Sunday' in *The Sunday Mail* of 29 September, 1985 constitutes a breach of privilege in that the authorised Hansard of proceedings in the House had not been published as at that date.
2. That the Committee of Privileges considers that the passage:
   ". . . can be explained only by a full report from Hansard of what occurred . . . I ask him not to turn it into a debate (that is, to the conclusion of the third last paragraph of the article)."
   in 'Miller on Sunday' in *The Sunday Mail* of 29 September, 1985 constitutes a breach of privilege in that the authorised Hansard of proceedings in the House had not been published as at that date.
3. That the Committee of Privileges recommends that the House requests Mr Speaker to:
   (a) write to the journalists concerned, Mr Ian Miller and Mr Quentin Dempster, and to the publishers of *The Sunday Mail* concerning the articles 'Miller on Sunday' and 'Dempster on Sunday' in *The Sunday Mail* of 29 September 1985 indicating that in the opinion of the House a breach of privilege was committed in both instances, in that both reports incorrectly purported to be extracts from the official Hansard which at that time had not been published but, in reference to Hansard, must have been taken from unrevised galley proofs.
   (b) seek assurances from both journalists concerned and the

publishers of *The Sunday Mail* that they will desist from such practice and comply with Mr Speaker's direction shown at the top of each page of the unrevised galley proofs, namely, 'Unrevised proofs for the use of Members of the Legislative Assembly only and not for reproduction'.

(c) advise the Presidents of the Parliamentary Press Gallery and the Australian Journalists' Association (Queensland Branch) that breaches of privilege have occurred in relation to the unauthorised use of unrevised galley proofs of the proceedings of Parliament and request them that Mr Speaker's direction printed on the top of each page of the unrevised galley proofs, namely, 'Unrevised proofs for the use of Members of the Legislative Assembly only and not for reproduction' be adhered to at all times.

The committee submitted these resolutions to the House for adoption. However, at the time of writing (15 January 1986), the House has yet to debate the committee report.

WESTERN AUSTRALIA: LEGISLATIVE ASSEMBLY

(i) A radio journalist offered to fight the Leader of the Opposition.
(ii) A businessman threatened certain action if the Premier repeated, even in the House, remarks previously made outside the House.

In response to both incidents the Speaker issued a public statement referring to Section 8 of the Parliamentary Privileges Act 1891 (Hansard p. 3954). No further action was taken.

CANADA: HOUSE OF COMMONS

On 25 April, 1985, Mr. Andrew Witer (Parkdale-High Park) rose on a question of privilege, citing an advertisement in the 6 to 13 April, 1985 issue of *Vilne Slova*, a newspaper circulated in Toronto where his constituency is located. In the advertisement, the previous Member for Mr. Witer's constituency was identified in the Ukrainian language as the 'Member of Parliament for Parkdale-High Park'; and the constituency office address used by that previous Member was given in English with a telephone number. The Speaker heard arguments on the use of the title 'Member of Parliament' and reserved his ruling on whether or not there was a *prima facie* case of privilege. (Canadian Commons Debates, pp. 4111–3).

On 6 May, 1985, the Speaker ruled that a *prima facie* question of privilege had been established and stated that anything tending to cause

confusion as to a Member's identity creates the possibility of an impediment to the fulfilment of that Member's functions and, as borne out by ample citations and precedents, any action which impedes or tends to impede a Member in the discharge of his or her duties is a breach of privilege. Mr. Witer moved that the matter be referred to the Standing Committee on Privileges and Elections for investigation and report. The motion was agreed to. (Canadian Commons Debates, p. 4439).

On 30 May, 1985, the Committee reported that it had received evidence from the Law Clerk and Parliamentary Counsel that any act or omission which obstructed or impeded a Member of Parliament in the discharge of his or her duty may be treated as contempt. Further, the Commiteee considered letters received from the previous Member and from the Editor-in-Chief of the newspaper. Being satisfied that the advertisement was published in error and that there was no intention on the part of any of the parties to misrepresent the previous Member as the sitting Member, the Committee concluded that no further action was necessary (Canadian Commons: Votes and Proceedings, pp. 676–7 Debates, p. 5239).

INDIA: UTTAR PRADESH

The following breaches of privilege were referred to the Privileges Committee of Uttar Pradesh Legislative Council during the year 1985.

1. Mr. Om Prakash Sharma, M.L.C. gave notice of a breach of Privilege on 18.9.84 against the District Inspector of School, Azamgarh, complaining that the officer had blamed the Member for asking a question in the House allegedly under pressure, concerning the termination of service of an employee of an aided Higher Secondary School.

   On 20.3.85 the Chairman Legislative Council referred the matter to the Privilege Committee for examination and report.
2. Mr. Shyam Lal, M.L.C. gave notice of a breach of Privilege on 25.3.85 against the Executive Engineer, Electricity Distribution Division I, Varanasi, for passing aspersions and insulting the member for having asked the Question regarding his transfer in the House.

   The Chairman, with the consent of the House, referred the matter to the Privileges Committee.

MALTA

At Sitting 274 of 30 September 1985, the Hon. M. Falzon raised as a breach of privilege the remarks allegedly made by a stranger in the

Public Gallery. The Acting Speaker, the Hon. J. Buttigieg, suspended the Sitting and when it resumed 8 minutes later he informed the House that a stranger had made a short intervention and had immediately been ordered out of the Gallery by one of the marshals of the House.

NEW ZEALAND

1. False representation of proceedings of the House

On 10 July 1985 a matter of privilege was raised in an unusual way when the Speaker raised a matter which concerned himself. Because he was personally involved he asked the Deputy Speaker to rule on the matter (Hansard, Vol. 463, p. 5426).

The matter concerned an article in a local paper in the Speaker's electorate which claimed that the electorate 'technically speaking' had lost its representative voice in Parliament through the election of its member as Speaker. It went on to say that 'in the strict sense of the word' the Speaker could not continue to represent his electorate in Parliament, but that the electorate would continue to be represented by a proxy member. The Deputy Speaker ruled that the Statements might constitute a contempt of the House by falsely representing its proceedings and by tending to obstruct members in the discharge of their duties by discouraging them from accepting office as Speaker.

The Privileges Committee in its report on the matter on 16 July Hansard, Vol. 464, p. 5596) found that the passage could be construed is a contempt because, whether intentionally or not, it misrepresented technical rules of the House as they applied to the office of Speaker, but the Committee decided not to conduct a full hearing into the question.

However, it did go on to say in its report:

> 'Nevertheless the Committee was concerned to maintain the dignity and respect due to the holder of such a high office and to protect the Speaker from the unfair or misconceived attacks. It therefore takes this opportunity to stress that a member of Parliament on being elected Speaker does not thereby cease to be a full member of this House. All the responsibilities, rights, and privileges of an ordinary member continue to apply to the member who is Speaker with, of course, the addition of a large number of duties which flow directly from the office. The Committee makes the point that the fact that a member is elected Speaker is a mark of distinction. The holding of the office does not diminish the Speaker's ability to assist his or her constituents by making representations to Ministers, government departments, and other bodies on their behalf. The fact that an M.P. holds the high office of Speaker is likely to make his or her constitu-

ency representations more effective rather than less effective. While the Committee recommends no further action on this matter it does suggest that the editor of the newspaper concerned will see fit to publish the findings of this Committee.'

2. Disclosure of proceedings of a select committee

On 10 October 1985 the House agreed to a report of the Privileges Committee which had found that a journalist accredited to the Parliamentary Press Gallery and his editor had committed a breach of privilege in divulging proceedings of a select committee before the committee had reported to the House.

The breach related to an article written by the journalist which appeared in a Sunday newspaper. In the article, which dealt with an inquiry being carried out by the Foreign Affairs and Defence Committee, it was stated:

'A controversial call to export New Zealand's nuclear-free status is contained in a draft report before a parliamentary select committee.'

The article went on to describe how the Committee was, at its next meeting, to consider a special report on disarmament and arms control. It then quoted and paraphrased recommendations said to be contained in the draft report, identifying some of these as majority recommendations.

The journalist and the editor were represented by counsel before the Privileges Committee and copies of all documents tendered to the Committee in evidence were made available to them. The Privileges Committee heard evidence from the Chairman of the select committee concerned and examined the minutes of that Committee's meetings. As a result it was able to establish that the document which had come into the journalist's possession was part of the proceedings of the Committee. In these circumstances the Committee found that the journalist had clearly breached privilege. The editor had not personally handled the article submitted by his journalist, it had actually been handled by an unidentified sub-editor. However, the editor accepted full responsibility for the publication of the article, and the Committee (following a finding it had made in a privileges case in 1982) concluded that its finding of a breach on the part of the author of the article applied equally to the editor of the journal in which it was published.

The journalist refused to disclose from whom he had obtained the draft report.

The Committee recommended that no action be taken against the editor because of his lack of personal involvement.

In the case of the journalist, however, the Committee felt that a penalty was called for. The person concerned was an experienced parliamentary journalist. The Committee did not consider that he could have

been under any misapprehension as to what he was doing when he wrote the story and it did not accept his protestations of innocence in his handling of the document.

Accordingly the Committee recommended that his full accreditation to the Press Gallery be reduced to a weekly accreditation and that his privilege of using the parliamentary catering establishment be withdrawn.

(See 1984–85 Appendix to the Journals of the House, I.6A)

.Both of these reductions were to apply until the end of the session. In accordance with the House's resolution agreeing to the report Mr Speaker reduced the accreditation and withdrew the privileges. The journalist's status remained reduced accordingly until the session ended in December 1985.

3. Attempt to influence members in their conduct by threats

Probably the most contentious piece of legislation to be considered by the House during the 1984–85 session was a Homosexual Law Reform Bill whose principal object was to abolish homosexual offences between males over 16 years of age. While the second reading debate on this Bill was in progress an article appeared in a national weekly newspaper. This article in turn purported to be based on an editorial and article published in a magazine catering for members of the homosexual community and on an interview with a spokesman for that magazine.

The article contained a number of statements as to the consequences likely to be visited on members of Parliament who opposed the legislation should the Bill not pass. Alongside the article were photographs of three members of Parliament who were well known opponents of the Bill. These three members raised the matter with the Speaker who, on 9 October 1985, ruled that a question of privilege was involved (Hansard, Vol. 466, p. 7220).

The Privileges Committee heard evidence on oath from the editor and journalist who wrote the article in the weekly newspaper. Submissions from counsel appearing on behalf of the editor and journalist were also heard. The Committee did not call for evidence from those involved in the magazine's production and it was unable to identify who was the 'spokesman' for the magazine. The Committee did not pursue any investigations into the magazine's production because it concluded that the editorial and article could not be construed as a contempt of the House. In so far as the article in the weekly newspaper used extracts from the magazine it was blameless.

However, the Committee found that much of the article in the weekly newspaper, and all of that part of it which contained objectionable material, was based on the interview with the spokesman. This portion of the article began by stating that the magazine planned 'to bring

skeletons from the closets of senior politicians opposing the Homosexual Law Reform Bill'. It then quoted the spokesman as saying that the magazine 'wasn't scared to print certain facts' about the three members. Other paragraphs inferred that material about the members existed and that this would be made public.

The Committee stated in its report to the House that the offending passages, while not directly alleging misconduct against members, did 'constitute allegations that members have been guilty of unspecified but disreputable conduct'. It concluded that there was 'an inescapable inference' that that conduct would be made public if the members continued their opposition to the Bill then before the House. It therefore found that a contempt had occurred in that there had been an attempt to influence members in their conduct by threats.

In finding that a contempt had occurred the Committee rejected two defences put forward on behalf of the editor and the journalist. First, it was said that the newspaper did not intend to influence members by threats, it was merely reporting the tactics of groups which favoured the Bill. The Committee did not necessarily accept that the newspaper did not intend to influence members, but it found that whether it intended to influence members or not was beside the point. If the article could have had the effect of intimidating members that was sufficient for the contempt to be made out. This article could have had that effect.

Secondly, the newspaper argued that it had acted in the public interest in publishing its article. Again the Committee did not necessarily accept this assertion, pointing out that the newspaper had not included any editorial comment on the alleged tactics of pro-Bill groups. The Committee accepted that, being discretionary, privilege should not be invoked unnecessarily to restrict press freedom. It considered however that in this case the public interest did not preclude privilege being asserted.

The editor and the journalist indicated that if they were found to be in breach they were willing to apologise. At the same time legal proceedings for defamation were initiated by the three members against the newspaper and these were settled out of court by the publication of an appropriate apology and the payment of damages. In its report to the House recommending what action it considered should be taken, the Committee adverted to these extraneous proceedings and rejected them as a relevant consideration in determining whether a breach of privilege had occurred. It did consider that they were relevant in considering what penalty the House should exact, and it accepted that a lesser penalty than might otherwise have been appropriate would be warranted because of them. In the event it recommended that the editor and the journalist should be formally reprimanded, in writing, by the Speaker.

Appendix to the Journals of the House 1984–85, I. 6)

On 12 December the House agreed to the Committee's report (Hansard, Vol. 468 p. 9099) and on 18 December the Speaker wrote to each of the persons concerned formally reprimanding them.

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

UNITED KINGDOM

Criticism of a member in another place

February 1985: Mr Andrew Faulds MP criticised a member of the House of Lords and was ruled out of order by the Speaker [HC Deb, 21 February 1985, col 1216].

July 1985: L Bruce-Gardyne replied to an imputation made against him in another place on the Trustees Savings Bank Bill [HL Deb, 24 July 1985, col 1268/69].

House of Commons

A person or persons unknown disclosed to *The Times* certain proceedings of the Home Affairs Committee, namely the Chairman's draft report on the Special Branches of the Police, before they were reported to the House. The matter was referred to the Committee of Privileges who concluded that this premature publication constituted a serious contempt of the House. The Committee recommended that no action be taken in relation to that case, but decided that the general problems of premature publication of committee proceedings, and the application of the laws of privilege and the rules of the House thereto should be futher considered (First Report from Committee of Privileges, Session 1984–85, HC 308).

The Committee's Second Report (HC 555) made a number of recommendations relating to the problem. It was not debated in 1985.

XVII. MISCELLANEOUS NOTES

1. CONSTITUTIONAL

AUSTRALIA: HOUSE AND SENATE

Australia Act 1986
Australia (Request and Consent) Act 1986

These Acts were passed by the Australian Parliament in 1985 and came into force on 3 March 1986. The Australia Act 1986 came into operation at the same time as the Australia Act 1986 of the United Kingdom Parliament (the Acts are identical apart from minor formal differences). Their purpose was to sever the remaining constitutional links between Australia and the United Kingdom. However they do not make any change in the position of the Queen as Queen of Australia.

In brief the Australia Acts 1986:

- provide that the UK Parliament shall no longer have power to make laws for Australia;
- terminate appeals to the Privy Council from State courts (appeals from federal courts already having been terminated);
- remove restrictions under UK law on the legislative powers of the States, and remove other existing or possible limitations derived from the former colonial status of the States;
- deal with the exercise of powers and functions of the Queen in respect of the States; and
- make certain consequential amendments to the Constitution Acts of Queensland and Western Australia.

Legislation by the States, requesting the Australian Parliament to enact legislation in terms of the Australia Act and the Australia (Request and Consent) Act, preceded their passage.

AUSTRALIA: WESTERN AUSTRALIA

Australia Acts (Request) Bill 1985 – complementary to Commonwealth and U.K. legislation severing remaining constitutional links between Australia and U.K. (Assent – 6 November, 1985).

Electoral Amendment Bill (No. 2) 1985 – complementary to Commonwealth legislation altering citizenship requirements for enrolment entitlement. (Assent – 7 December, 1985).

Electoral Districts Amendment Bill 1985 – requiring electoral boundary

commissioners to invite public suggestions and to consider demographic trends when determining new boundaries. (Assent – 5 November, 1985).

Parliamentary Papers Amendment Bill 1985 – protecting the staff of the Parliament and the Government Printer from liability for any defamatory material in copies of Members' speeches. (Assent – 17 September, 1985).

CANADA: HOUSE OF COMMONS

Board of Internal Economy

On 9 September 1985, An Act to amend the House of Commons Act (Statutes of Canada, 1985, c.39) came into force. The Act provides for a new Board of Internal Economy consisting of nine members (with a quorum of five including the Speaker) as follows: the Speaker; the Deputy Speaker; two members of the Queen's Privy Council for Canada; the Leader of the Opposition or his nominee; four other members of the House of Commons consisting of two appointed by the House caucus of the government party and two appointed by House caucuses of the parties in opposition at least one of whom is appointed by the party recognized as the Official Opposition. The Act also specifies that, on a dissolution of Parliament, every member of the Board of Internal Economy shall be deemed to remain in office, as if there had been no dissolution, until another member is appointed in his place. Finally, the Act provides that, after a year, the new amendments shall be reviewed by a committee of the House of Commons and that its findings and recommendations shall be reported to the House.

CANADA: QUEBEC

Bill 90, 'Auditor General Act', was passed by the National Assembly on 20 June 1985 and was given Royal Assent on same day.

The Auditor General Act constitutes a consolidation of the provisions of the Financial Administration Act concerning the Auditor General. Its object is to favour the exercise of parliamentary control over public funds and other public property.

CANADA: SASKATCHEWAN

The Legislative Assembly and Executive Council Act was amended in 1985 to effect the following two changes:

1. The Clerk of the Legislative Assembly is now appointed by the Board of Interal Economy (made up of Mr. Speaker, 2 Cabinet Ministers, two Government Private Members and two Opposition Private Members) on recommendation of the Speaker. Formerly, the Clerk was appointed by an Order-in-Council on recommendation of the Speaker. This change will stress in law what already exists, that is the neutrality and independence of this office.

2. The Office of Legislative Counsel and Law Clerk was placed under the Legislative Assembly rather than under the Office of Premier as it was before the amendment. The Law Clerk drafts legislation for Private Members and offers legal advice to Members and the Legislative Assembly. The Law Clerk and Legislative Counsel are answerable to the Speaker through the Clerk for administrative matters.

HONG KONG

Membership of Legislative Council: The membership of the Legislative Council, Hong Kong, has been changed as follows:

	Nos.	
	From	*To*
Official Members	16	10
Appointed Unofficial Members	29	22
*Elected Members	–	24

*Elected Unofficial Members were elected under the provisions of the Legislative Council (Electoral Provisions) Ordinance 1985.

Powers and Privileges of Members of Legislative Council

The Legislative Council (Powers and Privileges) Ordinance 1985 was enacted to declare and define certain powers, privileges and immunities of the Legislative Council and of its Members and Officials.

INDIA: RAJYA SABHA

Changes were made in the Constitution of India by the Constitution (Fifty-second Amendment) Act, 1985. This Act amends articles 101, 102, 190 and 191 of the Constitution and adds a new Tenth Schedule, with a view to provide for disqualification on ground of defection.

Under the Tenth Schedule, a member of Parliament or State Legislature incurs disqualification:

(i) if he voluntarily gives up his membership of the political party that set him up as a candidate.

(ii) if he votes or abstains from voting in the House contrary to any

direction issued by the political party to which he belongs without obtaining in either case the prior permission of such political party, etc., unless such voting or abstention is condoned by such party within 15 days from the date of such voting or abstention.

A nominated member has, however, been given certain latitude under the law. If he has been a member of a political party before nomination, he shall be deemed to be so even after his nomination; if he was not a member of a party at the time of his nomination, he may exercise his option within six months from the date of taking a seat in the House. No such option is given to an Independent candidate who would stand disqualified if he joins any political party after his election.

The Tenth Schedule makes it clear that splits in and mergers of political parties would not involve disqualification on ground of defection. If one-third of the membership of a legislature party decides to opt out of it that would amount to a 'split' and not 'defection' and hence would not attract the provisions of the Act. Similar would be the effect of merger of one party with another provided two-thirds of the members of the original legislature party agree to it.

A person who has been elected to the Office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State, shall not be disqualified under the Act:

(a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party, or

(b) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office.

All questions as to disqualification on ground of defection in respect of the members of a House shall be referred to the Presiding Officer of the House whose decision shall be final. However, if such dispute relates to disqualification of the Presiding Officer himself it shall be referred to such member of the House as the House may elect and his decision shall be final.

All proceedings in relation to any question as to disqualification of a member of a House are deemed to be proceedings in Parliament within the meaning of Article 122 of the Constitution or as the case may be, proceedings in the Legislature of a State within the meaning of article 212 of the Constitution of India so that no court would inquire into such proceedings.

The Act also provides that no court shall have any jurisdiction in respect of any matter connected with the disqualification of a member of a House under the Act.

Under the Act the Chairman or the Speaker of a House has been vested with power to make rules for giving effect to the provisions of the Act. He can also direct that any wilful contravention by any person of the rules may be dealt with in the same manner as a breach of privilege of the House.

TANZANIA

In view of the amended Constitution of 1985, the composition of the National Assembly as from the recent General Elections is as follows:-

- Constituency Members (Mainland 119, Zanzibar 50)	169 (157)
- National Members (from Mass Organizations)	15 (15)
- Ex-Officio Members (Regional Commissioners) 20 Mainland, 5 Zanzibar	25 (25)
- Elected by House of Representatives Zanzibar	5 (32)
- Nominated by the President (not less than 5 from Mainland and not less than 5 from Zanzibar)	15 (10)
- Women Members (Special Reserved for Women) (Mainland not less than 5, Zanzibar not less than 5)	15 (-)
	244 (239)

Figures in brackets indicate previous composition.

N.B.: Membership of the Vice President, National Members (25) from the Regions and Nominated Members from Zanzibar (20) have been abolished in the amended Constitution.

ZIMBABWE

Zimbabwe is to abolish the 30-member Senate, an upper house in Parliament that routinely approves legislation passed by the National Assembly, the Speaker, Mr Didymus Mutasa, announced. The new House of Parliament, to be built on a hill overlooking Harare, will not include room for a Senate.

2. ELECTORAL

AUSTRALIA: NORTHERN TERRITORY

Following the 1979 General Elections in Tasmania, court action leading to the imposition of penalties resulted from the widespread failure to contain campaign spending within the $1,500 limit prescribed by law. The 1982 elections were conducted under the same rules. The campaign was very low-key as candidates were careful to avoid infringements.

In 1985 the limit was removed and in the elections held on 8 February 1986 some candidates spent very large amounts, with varying degrees of success. There was an unprecedented outcome with 15 members out of the 33 who sought re-election losing their seats. Half of the losers were Government members, even though there was a six per cent swing to the Government.

AUSTRALIA: QUEENSLAND

The Elections Act of 1983 was amended in many details; some of the principal amendments provide for:-

(a) the completion of a single enrolment card which covered both State and Commonwealth electoral rolls;

(b) the provision for information contained on the printed roll to be made available in electronic form to a Member of the Legislative Assembly and

(c) a candidate to be enrolled on the State Roll before he is qualified to be nominated, and that his nomination be supported by at least ten persons (not including himself).

CANADA: NEW BRUNSWICK

Changes were made to the Legislative Assembly Act primarily regarding members' indemnities and salaries of Opposition Leader, Speaker and Deputy Speaker. The section providing the mechanism by which the sessional indemnity of members is varied from year to year is changed from 'industrial composite' to 'industrial aggregate'.

Changes were also made to the Elections Act. A number of the amendments are simply housekeeping in nature. There are, however, two major amendments to the Elections Act. One is the provision for mobile polling stations in any treatment centre and/or public hospital in each electoral district and the procedures to be followed at mobile polling stations; and secondly, the absentee ballot has been replaced

by a write-in ballot which allows any municipal voter who is unable to vote at either an advanced poll or on polling day, because of absence, illness or some incapacity, to apply for an absentee ballot provided the conditions for the write-in ballot are compiled with.

(Contributed by the Clerk of the Legislative Assembly of New Brunswick)

UNITED KINGDOM

Insolvency Act 1985: section 214 re-enacted provisions relating to parliamentary disqualification with modifications to take account of the recommendations of the Cork Review Committee on Insolvency Law and Practice, especially by abolishing the extended disqualification period for public office including membership of the House of Lords for five years after discharge from bankruptcy. It brings all the provisions relating to the insolvency of Members of both Houses, previously covered by a number of Acts, into one section and also extends it to all parts of the United Kingdom, which under previous legislation had been differently treated.

Representation of the People Act 1985: Made extensions of parliamentary franchise to British citizens abroad for a period of five years after leaving the UK and extension of the right to apply for an absent vote to all those, including holiday-makers, who cannot reasonably be expected to vote in person at the polling station. In the case of elections to the European Parliament these provisions also apply to peers. It also altered the effect of the demise of the Crown on summoning a new Parliament so that:

(i) The demise of the Crown shall not affect the summoning of the new Parliament in pursuance of the proclamation or its duration; except

(ii) when the demise occurs at any time after the proclamation and before the poll, the meeting of the Parliament shall occur a fortnight after the date on the proclamation (subject to certain provisos; see the Act [1985 c 50 s 20] for further details).

3. STANDING ORDERS

AUSTRALIA: SENATE

The Senate received two reports of the Standing Orders Committee in 1985. The First Report concerned Standing Order 406, which prohibits

the reading of speeches, and Standing Order 363, which concerns the tabling of documents quoted from by Ministers. The Second Report concerned a proposal for a new procedure to initiate legislation in the Senate.

Standing Order 406

This, the Senate's shortest Standing Order, simply states: 'No Senator shall read his speech'.

The present debate on Standing Order 406 began in August 1982 with a motion which would have had the effect of requiring the President to strictly enforce the Standing Order, except in relation to second reading speeches introducing bills, statements made by Senators when tabling reports, and statements by chairmen on behalf of Senate committees. The Senate rejected the motion, and also rejected an amendment which would have had the effect of repealing the Standing Order and thereby allow the reading of speeches. Instead it referred the matter to the Standing Orders Committee.

The Committee reported in October 1983 and presented a proposal to amend Standing Order 406 to reflect the practice whereby some exceptions were recognised to the prohibition. Specifically, the proposed amendment provided that the Standing Order would not apply where a Senator was:

(a) moving a motion for the second reading of any bill or speaking to such a motion as first speaker for the Opposition or a minority group;
(b) making a ministerial statement or a statement on behalf of a committee;
(c) making a response to a ministerial statement or a statement on behalf of a committee;
(c) making a response to a ministerial statement or statement on behalf of a committee as first speaker for the Opposition or a minority group;
(d) speaking as first speaker on any matter of public importance or urgency motion, pursuant to Standing Order 64.

Following debate in the Senate in September 1984 the matter was referred, unresolved, back to the Standing Orders Committee. After further consideration, the Committee, in October 1985, again recommended that the Standing Order be amended in terms of the above, with the exception of paragraph (d). The Committee stated that its proposed amendment of the Standing Order would embody the principle that the only occasions on which a relaxation of the rule prohibiting the reading of speeches is appropriate are occasions where a Senator is making a statement which is not a personal one but which

is intended to express the considered position of the Senator's government or party.

The Committee's recommendation had not been considered by the Senate as at the end of 1985.

Standing Order 363

Standing Order 363 provides that a document relating to public affairs quoted from by a Minister of the Crown, unless stated to be of a confidential nature, may be called for and made a public document. Usually no motion is moved under this Standing Order; the Minister is simply asked to table the document quoted, and the Minister usually accedes to such a request. This compliance has often led to Ministers tabling their speech notes – which cannot be said to be quoted in the dictionary sense of that word.

When adopted, the Standing Order was meant to provide for an unwritten rule of the House of Commons that a Minister may not read or quote from a despatch or other state paper not before the House, unless the Minister was prepared to lay it upon the table. The rationale of the rule was that the House should not be asked to take into account the contents of a document unless the document was actually before it.

The Standing Orders Committee has advised the President that he should rule that the Standing Order is intended to apply only to a document relating to public affairs which is actually quoted by a Minister in the course of the Minister's remarks, and that it has no application to speech notes used by a Minister.

Initiation of legislation

In its Second Report of 1985, the Committee reported on a proposal by a Senator for the initial presentation to the Senate, by leave, of a plan for a bill instead of the bill itself. The Senator presenting the plan would move a motion for a resolution that a bill be brought in, in accordance with the plan and, if this motion were passed, the bill would then be drafted and brought in. This was proposed as an option to be utilised mainly in relation to Private Senators' Bills.

The background to the proposal is that a large number of Private Senators' Bills are being introduced into the Senate every year (47 were introduced in 1985). Most of these bills do not get beyond the second reading stage, and are introduced mainly to give expression to the policies of individual Senators and minor parties. The resources of government legislative draftsmen are usually available only to Ministers, for the drafting of government bills, and it was considered that the scarce non-government legislative drafting resources which were available to private Senators should not be used in, for example, drafting a complex bill which might not be acceptable to the Senate. A resolution

to bring in the bill would give some indication of the Senate's likely attitude before those resources were actually employed in preparing it.

After considering the proposal, the Standing Orders Committee advised that it would not be in the best interests of the proper conduct of the proceedings of the Senate for the procedure to be introduced. One reason given by the Committee was that the proposal would result in what would be, in effect, two second reading debates – one on the motion for a resolution to bring in the bill, and the second on the motion that the bill be read a second time.

The major consideration underlying the Committee's advice, however, was that there were existing procedures which could be used to initiate a bill without first having it drafted, including:

(a) giving notice of a motion for an order that a bill be brought in, indicating in the terms of the motion the major provisions of the bill;
(b) giving notice of a motion for an order that a plan for a bill be presented to the Senate; and
(c) giving notice of a motion to refer to a standing committee a proposal for a bill.

The report was not considered by the Senate in 1985.

AUSTRALIA: NEW SOUTH WALES LEGISLATIVE COUNCIL

Changes were made to the following standing orders in 1985:

Standing Order No.	
3	Amendment consequential on Standing Order 3A.
3A	New Standing Order providing for the swearing of Members after a periodic Council election.
6	Amendment consequential on Standing Order 3A.
8A	Substitute Standing Order providing for election of President and updating references to Statute covering manner of choosing President.
10	Substitute Standing Order to provide for Chair to be taken at appointed time. Former Standing Order allowed half-hour period of grace.
11, 128 and 224	Substitute Standing Orders providing for the ringing of Quorum and Division Bells for five minutes instead of two minutes. When one Division is followed shortly thereafter by another Division, Chair may exercise discretion to ring Bell for one minute, provided there is no objection.

The distant location from the Chamber of Members' offices and other areas used by Members has necessitated the extended time. This has been accomplished in the past by Sessional Order on a trial basis.

270 Amendment to correct reference to Consolidated Fund.

280 Amendment to permit House to appoint different times of meeting instead of four o'clock on each sitting day.

A new edition of the Standing Orders was published following these changes.

AUSTRALIA: NORTHERN TERRITORY

During 1983 the Standing Orders Committee directed the Clerk t review the provisional Standing Orders of the Legislative Assembly an to report to the Committee.

The purposes of the review were to:

(a) establish procedures appropriate to the needs of the Assembly,
(b) ensure that the Standing Orders did not conflict in any way with Northern Territory law;
(c) omit obsolete provisions;
(d) define established practice not stated in existing Standing Orders;
(e) ensure equitable treatment between Government and Opposition Members of the Assembly; and
(f) the amendment of Standing Orders which do not clearly express their purposes or which do not equate with the practice of the Assembly.

The provisional Standing Orders were based, to a large extent, on House of Representatives' practice and on practices which were appropriate to the former Legislative Council. In reviewing these Standing Orders, the Committee made recommendations which it believes would make the practices of the Legislative Assembly more in keeping with a small Chamber which has both a deliberative and a reviewing function.

The Committee recommended a number of changes to the speech time provisions in the Committee stage and recommended that the second speaker to any motion be given equal time to that of the mover of the motion for the sake of even-handedness in the Chamber.

The Committee also recommended the adoption of Standing Orders covering procedures to be followed for an Address to the Administrator, to the Governor-General or to Her Majesty the Queen. In the days of the Legislative Council, the Administrator presided over the

Chamber and it was not considered necessary to spell out such procedures.

Major recommendations which the Committee made were:

(a) the deletion of financial procedures which are applicable to the House of Representatives but which, in the Committee's view, were not applicable to the Legislative Assembly, since the operations of the House of Representatives are governed by the Australian Constitution whereas the operations of the Legislative Assembly are governed by the *Northern Territory (Self-Government) Act*; and

(b) a procedure whereby leave would not be required for Ministers to make statements at any time when other business is not before the Assembly. The Committee also recommended that a motion to take note of such a statement may be moved without leave. This was an innovation in Australian parliamentary practice.

Another recommendation was the omission of the terms 'Questions on Notice' and 'Questions without Notice' from the Standing Orders wherever appearing, and the use of the words 'Written Questions' and 'Questions' in their place.

This was also a departure from normal Australian parliamentary practice. The provisional Standing Orders, based as they were on a House of Representatives' practice, were outmoded, as Questions on Notice were not asked and replied to in the Assembly. These changes would bring the terminology of the Standing Orders into line with Assembly practice.

There was a total revision of the chapter 'Proposed Laws Returned'. The Committee believed that the Standing Orders relating to the way in which amendments recommended either by the Administrator or the Governor-General were dealt with by the Legislative Assembly had been based on a wrong legal interpretation and recommended consequent changes to those Standing Orders. These changes accorded with the provisions of the *Northern Territory (Self-Government) Act* and made it clear that, if the Administrator or the Governor-General recommends amendments to proposed laws, the Assembly would consider the amendments but it would not again consider the whole proposed law.

The Report of the Committee was adopted by the Assembly on 29 August 1985.

AUSTRALIA: QUEENSLAND

Standing Orders amendments include:–

(a) A new Standing Order No. 125 barring a suspended Member from all buildings and the grounds of the Parliamentary Reserve. Since the last drafting of that Standing Order in 1950 new buildings have been constructed and the Reserve area increased;
(b) Further debate on the Minister's Second Reading speech shall be adjourned for a period of at least six whole calendar days (S.O. 241(d));
(c) Where changes to year dates in the Title or elsewhere of an Act are required due to consideration of the Bill being brought over into the next calendar year, the Clerk shall make the necessary amendments (S.O. 281) and
(d) Where the Clerk of the Parliament is unavoidably absent or ill his duties shall be performed by the Deputy Clerk (formerly the Clerk-Assistant).

CANADA, HOUSE OF COMMONS

1985 amendments and their purpose.

A. Permanent Amendments:
On 28 February, 1985, the House agreed to amend the Standing Orders by deleting 'Labour, Manpower and Immigration' from the list of Standing Committees and substituting therefore 'Labour, Employment and Immigration' (Canadian Commons Debates, pp. 2604–5).

On 28 June 1985, the House agreed to amend the Standing Orders by adding to the list of Standing Committees a new Committee on Multiculturalism which was given a permanent Order of Reference. (Canadian Commons Debates, pp. 6368–9).

B. Provisional Amendments:
'The purpose of reform of the House of Commons in 1985 is to restore to private members an effective legislative function, to give them a meaningful role in the formation of public policy . . .' [Third (and final) Report of the Special Committee on Reform of the House of Commons, 18 June, 1985].

On 27 June 1985, the House ordered that Provisional Standing Orders take effect, unless otherwise ordered, from 9 September 1985 to 12 September 1986. (Canadian: Votes and Proceedings, pp. 910–919; Debates, pp. 6325–7).

The Provisional Standing Orders include the following changes:

i) the selection of the Speaker shall be by secret ballot.

ii) the Speaker shall ensure the orderly conduct of Private Members' Business, including ensuring that all Members have not less than 24-hours' notice of items to be considered during 'Private Members' Hour'.

iii) unless otherwise ordered, referral of each bill after second reading (except bills based on a supply motion) shall be to an *ad hoc* legislative committee. Such committees have the power to send for persons and papers (as having Standing Committees); consist of not less than 20 members and not more than 30; and cease to exist when the bill has been reported. The chairman is appointed by the Speaker from the Panel of Chairmen consisting of not less than 10 Members.

iv) a legislative committee shall meet within two sitting days next after the adoption of a motion for second reading and reference of a bill.

v) within ten sitting days following the adoption of a Committee report, the Clerk of the House shall convene a meeting of each Standing Committee listed therein, for the purpose of electing a Chairman, provided that 48 hours notice is given of the meeting.

vi) within ten sitting days of a request by four Standing Committee members giving reasons, the Committee's Chairman shall convene a meeting, provided that 48 hours notice is given of the meeting.

vii) each standing, special and legislative committee shall be empowered to retain the services of expert, professional, technical and clerical staff.

viii) the Board of Internal Economy shall grant spending authority to standing, special and legislative committees, setting their budgetary procedures.

ix) during the daily question period in the House, questions may also be addressed to a designated member of the Board of Internal Economy.

On 18 December 1985 and again on 6 February, 1986 additional proposals for provisional amendments to the Standing Orders were laid upon the Table. The latter proposals were adopted on 13 February, 1986, and are to be effective from 24 February 1986, until the last sitting day of 1986. (Canadian: Votes and Proceedings, pp. 1644–66; Debates, pp. 10659–74, 10688–704, 10733–52, 10753–68, 10788–804).

CANADA: NEW BRUNSWICK

A complete revision of the Standing Rules of the Legislative Assembly of New Brunswick was undertaken following which new Provisional Standing Rules were adopted for the 1985 session of the Legislative Assembly (1985 Journal of the Legislative Assembly, p. 36; 1985 Journal of Debates, Vol. 2, p. 453).

It is expected that these new rules will be adopted during the 1986 session of the Legislative Assembly as the Standing Rules of the Legislative Assembly of New Brunswick.

CANADA: QUEBEC

The Standing Orders of the National Assembly were first adopted as provisional Standing Orders on 13 March 1984. They were subsequently amended and made permanent on 16 April 1985.

HONG KONG LEGISLATIVE COUNCIL

Royal Instructions 1917 to 1985

THE CHIEF SECRETARY moved (6 February 1985) the following motion: That with effect from 13 March 1985 the Standing Orders of the Legislative Council of Hong Kong, made by the said Council on 9 October 1968, be amended in Standing Order No. 60–

(a) in paragraph (3) by deleting 'The sittings shall be held in private unless the committee otherwise order or except as provided under paragraph (9) of this order'. and substituting the following–

'The sittings shall be held in public unless the chairman otherwise orders in accordance with any decision of the committee.'

(b) in paragraph (5) by deleting '(7)' and substituting the following–'(6)'

(c) in paragraph (96) by deleting 'shall, unless the committee otherwise order, meet in public and'.

He said:– "Sir, I move the resolution standing in my name on the Order Paper.

"This resolution proposes amendments to Standing Order 60 so as to permit the Finance Committee to conduct all its meetings in public unless the Chairman orders otherwise in accordance with any decisions of the Committee.

"Members will recall that Standing Orders were amended in 1983 to enable the Finance Committee to sit in public to examine the draft

Annual Estimates before the Appropriation Bill is considered in committee of the whole Council; and further amendments were made in 1984 to enable the Public Accounts Committee to hold its hearings in public.

"I am sure that Members will agree with me that those public meetings held last year in March by the Finance Committee and in November by the Public Accounts Committee were well received by the public at large. As another major step towards more open government, it is only right that regular meetings of the Finance Committee, and not just those meetings at which the draft Annual Estimates are considered, should be held in public as well. For confidential items, the Committee will still meet in private and the resolution recognises this.

"The opportunity has also been taken to correct a cross reference in Standing Order 60 which concerns the appointment of a clerk to the Finance Committee.

The resolution, Sir, if passed, will come into effect on 13 March 1985".

SIR ROGER LOBO:– "Sir, on behalf of my Unofficial colleagues, I would like to place on record our support for these amendments to the Standing Orders and this further welcome step towards the development of more open government.

Sir, we beg to move and support the motion".

Question put and agreed to.

2. THE ATTORNEY GENERAL moved (10 July 1985) the following motion:– That the Standing Orders of the Legislative Council of Hong Kong be amended–

(a) in paragraph (1) by deleting 'the oath or affirmation of Allegiance' and substituting the following–
'an oath or affirmation';

(2) in Standing Order No. 6(1) by deleting 'the oath or affirmation of Allegiance' and substituting the following–
'an oath or affirmation in accordance with the provisions of the Oaths and Declarations Ordinance,';

(3) in Standing Order No. 11(1)(a) by deleting 'of Allegiance';

(4) in Standing Order No. 63 by inserting after 'shall not' the following–
'except in the case of sittings of the committee held in public,'.

He said:– "Sir, the purpose of the resolution before the Council is

twofold. *First* it provides for amendments to Standing Orders 1, 6 and 11 in order to enable Members to take the alternative form of oath provided for in the Oaths and Declarations (Amendment) Ordinance recently enacted by this Council and which was brought into force by a notice in the *Gazette* for 5 July. This amendment is designed to permit the swearing in of new Members at the first sitting of the new session, in accordance with the revised procedures.

"*Second*, the resolution provides for an amendment to Standing Order 63 in order to provide that when sittings of a Select Committee are held in public, evidence and documents may be published before the committee has presented its report to the Council. This amendment requested by the Select Committee on the Trial of Commercial Crime at its meeting on 4 June 1985, will be of assistance to its work when it wishes to take evidence in public. It will remove the restriction that exists presently upon the reporting of such evidence before the committee has presented its report to the Council.

"Sir, it is recognised however that further changes to Standing Orders will be required in order to meet the need of the enlarged and partly elected Legislative Council which will come into being on 30 October of this year.

"Some thought has already been given to these changes as part of the review of all the legislative arrangements affecting this Council. But it is now clear that there is not sufficient time left this session for Members of the Council to come to any decisions. Accordingly, Sir, later this year I have no doubt that the President will consult members of the new Council upon the procedures that they wish to adopt for reviewing Standing Orders, including the possibility of setting up a select committee. In the meantime, if members of the public have any comments to make on the existing Standing Orders which are included in the laws of Hong Kong and are available for purchase at Government Publications Centres, or on the need for amendment, they are invited to make these in writing to the Clerk of Councils in the Government Secretariat.

Sir, I beg to move the resolution standing in my name in the Order Paper".

MR. CHAN KAM-CHUEN:– Sir, you may recall that when the Oaths and Declarations (Amendment) Bill was debated in this Council in May this year, I abstained from voting on the Bill. The reasons for my abstention were set out in my speech delivered in this Council on May 15. As a matter of principle, I shall also abstain from voting on this motion.

Question put and agreed to.

(Extracted from Hansard Reports in the session of 1984/85)

Standing Orders of the Legislative Council of Hong Kong (as amended)

Finance Committee

(Amended L.N. 314/76 L.N. 255/83 L.N. 216/84 L.N. 241/85)

60. (1) There shall be a standing committee, to be called the Finance Committee, the members of which shall be the Chief Secretary, the Financial Secretary, one other Official Member, to be nominated by the President, and all the Unofficial Members.

(2) The Chief Secretary shall be the chairman of the committee and in the absence of the chairman the Financial Secretary shall act as chairman.

(2A) The functions of the Finance Committee shall be such as are conferred upon the Committee by the Public Finance Ordinance, any other law and these Standing Orders, and such as many from time to time be referred to the Committee by the Council.

(Cap. 2.)

(3) The committee shall sit at the times and at the place determined by the chairman. Written notice of every sitting shall be given to the Members at least two clear days before the day of the sitting. The sittings shall be held in public unless the chairman otherwise orders in accordance with any decision of the committee.

(4) The chairman and eight Unofficial Members shall form a quorum. All matters before the committee shall be decided by a majority of the Members voting but no *ex officio* Member or Official Member shall have a vote.

(5) The clerk of the committee appointed under paragraph (6) of Standing Order No. 4 (Duties of the Clerk) shall attend the sittings of the committee. He shall keep a record of the proceedings of the committee and shall distribute a copy thereof to each Member before the next sitting.

(6) Every proposal involving expenditure from public funds, of the nature described in paragraph (1) of Standing Order No. 58 (Supplementary Estimates and Excess Financial Provisions) shall first be considered by the Finance Committee and thereafter every such proposal which has been approved by the committee shall be submitted to the Council for its consideration and approval in the manner provided in Standing Order No. 58 (Supplementary Estimates and Excess Financial Provisions).

(7) No proposal involving expenditure from public funds which has

not been approved by the Finance Committee under paragraph (6) of this order shall be submitted to the Council for its consideration and approval, except on a substantive motion moved for that purpose by an *ex officio* Member or an Official Member.

(8) Nothing in paragraphs (6) and (7) shall limit or prejudice any action that may be taken under the provisions of the Public Finance Ordinance. (Cap. 2.)

(9) The Estimates presented in accordance with the provisions of Standing Order No. 54 (Presentation and Second Reading of Appropriation Bill) may be referred by the President to the Finance Committee for their examination before consideration of the Appropriation Bill in committee of the whole Council. For the purposes of any such examination the Finance Committee may call before them to give evidence the public officer for the service or services provided under any head of the Estimates.

MEMBERS AND OFFICERS OF THE COUNCIL

Oath or Affirmation (Amended L.N. 138/71 L.N. 189/85) (Cap. 11.)

1. (1) Except for the purpose of enabling this order to be complied with, no Member of the Council shall sit or vote therein until he has made or subscribed an oath or affirmation in accordance with the provisions of the Oaths and Declarations Ordinance.

(2) The Clerk shall whenever necessary administer the oath or affirmation before the transaction of any other business.

Proceedings at First Sitting of Session (Amended L.N. 138/71 L.N. 189/85) (Cap. 11.)

6. (1) At the first sitting of a session Members who have not yet taken or subscribed an oath or affirmation in accordance with the provisions of the Oaths and Declarations Ordinance, shall then do so.

(2) The Governor, if he so wishes, shall then address the Council.

(3) Immediately after the Governor has addressed the Council, the sitting may be suspended for such period, or the Council may be adjourned, until such day as the President may determine.

(4) At the resumption of the sitting, or on the day to which the Council is adjourned under paragraph (3) of this order, a motion may be moved without notice for an address of thanks to the Governor for his address.

(5) A motion under paragraph (4) of this order shall be moved in the following form:

'That this Council thanks the Governor for his address.'.

(6) Amendments may be moved to the motion described in para-

graph (5) of this order only by way of adding words at the end of the motion.

ARRANGEMENT OF BUSINESS

Order of business at Sitting (Amended L.N. 130-27 L.N. 199-85)

11. (1) The business of each sitting other than the first sitting of a session shall be transacted in the following order:

(a) Administration of oath or affirmation.

(b) Reading by the President of messages and announcements by the President.

(c) Presentation of petitions.

(d) Laying on the Table of papers and of reports of select committees.

(e) Asking and answering of questions put to the Government.

(f) Statements by *ex officio* Members and Official Members.

(g) Personal explanations.

(h) Obituary and other ceremonial speeches.

(i) Proceedings on motions and bills.

(j) Proceedings on motion for the adjournment of Council under Standing Order No. 9(4) to (8).

(2) The items of business mentioned in sub-paragraphs (a), (b), (c), (d), (f), (g) and (h) of paragraph (1) of this order shall not require notice; but with the exception of items (a) and (b) they shall not be entered upon save with the previous leave of the President.

Premature Publication of Evidence (Amended L.N. 199-85)

63. The evidence taken before a select committee and documents presented to the committee shall not, except in the case of sittings of the committee held in public, be published by a member of the committee or by any other person before the committee have presented their report to the Council.

INDIA: GUJARAT LEGISLATIVE ASEMBLY

No amendment has been made in the Rules of Procedure but a direction under rule 56 of the Gujarat Legislative Assembly Rules has been issued by Hon'ble the Speaker as follows;

'11.AA. A private member shall not be entitled to give notices of motions for leave to introduce more than five Bills for any Session.'

Background

Under rule 121 of the Gujarat Legislative Assembly Rules, a private member is entitled to give notice of motion for leave to introduce a private member's bill. As the rule itself does not prescribe any limit on the number of notices a member can give during a session, it was open for a member to give as many notices as he liked. In March 1985 as many as 34 notices of non-official bills were received from one member. It was, therefore, felt necessary to restrict the number of notices of bills a private member can give for any one Session and hence the above direction was issued by the Speaker.

ISLE OF MAN: TYNWALD

MEMBERS AS COUNSEL

1. On 31st January 1985 the Isle of Man Law Society informed the Clerk of Tynwald that its members noted that the Standing Orders of Tynwald and the Branches preclude advocates who practice for local authorities from being members of those bodies and were of opinion that with the present standing orders relating to disclosure of the interests of Members, the standing orders relating to advocates were no longer relevant.
2. Under Standing Orders 72 and 73, if an advocate was a member of Tynwald, neither he nor his partners or assistants could appear before Tynwald on behalf of any client. This provision effectively debarred members of the Island's legal practices from membership of Tynwald since their firms would automatically be debarred from appearing for local authorities, petitioners etc.
3. The Standing Orders Committee reported that this was unduly strict and recommended that it be amended to provide that –
   (a) only the member and not his partners or assistants should be prevented from acting for a local authority;
   (b) the member should not take part in any debate in which any partner or his assistant may be acting for a petitioner or memorialist or noticed party or in which his firm might have a pecuniary interest.
4. Accordingly it recommended that Standing Orders 72 and 73 should be amended as follows:-

   '72. No member of Tynwald shall take any part in the discussion of or vote upon any matter with regard to which he or any partner of his is acting professionally for reward, or may directly or indirectly, receive any professional remuneration.

   '73. A member of Tynwald who is a practising Advocate of the Manx Bar may not appear before Tynwald as an Advocate in any matter, and may not be retained by, or give professional

advice to, any person who is concerned or interested in any Bill, Petition, Memorial or Resolution submitted or intended to be submitted to Tynwald with reference to such Bill, Petition, Memorial, Resolution or other matter:

Provided that this Standing Order shall not apply to any Advocate who receives no reward for his professional services in such matter.'

5. The amendments were adopted by Tynwald on 16th October, 1985.
6. Corresponding amendments to the Standing Orders of the Keys and of the Legislative Council have not yet been made.

UNITED KINGDOM
HOUSE OF COMMONS

The following amendments were made to Public Business Standing Orders in 1985 on the dates shown:

23 May 1985: SO No 6 (Arrangement of Public Business) allocating the number of days in the Session on which the subject for debate is named by the Leader of an Opposition party. SO No 33 (Questions on amendments), consequential on the above.

HOUSE OF LORDS

Consideration was given to postponment of business without notice, and it was agreed that, notwithstanding the provisions of SO 37 (Order of Business), postponement of business could be moved, though the question would not be put if any single Lord were to object.

4. EMOLUMENTS

INDIA: RAJYA SABHA

1. Changes were made in the salary, allowances, pension and other amenities of the Members of Parliament by the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1985 which amends the Salary, Allowances and Pension of Members of Parliament Act, 1954. This Act provides for –

(i) increase in salary from Rs. 750 to Rs. 1,000 per month.
(ii) facility of 16 single air journeys throughout the year to members.
(iii) repayable advance not exceeding Rs. 20,000 for purchase of conveyance.

(a) increase in minimum pension of ex-members of Parliament from Rs. 300 to 500 per month with an increase of Rs. 50/- per month for every additional year of membership beyond five years.
(b) payment of constituency allowance, and amounts to be paid for medical and other facilities to be determined by Rules.

2. Changes were also made in the salaries and allowances of Ministers by the Salaries and Allowances of Ministers (Amendment) Act, 1985 which amends the Salaries and Allowances of Ministers Act, 1952 to increase the salary and allowances of the Prime Minister, Cabinet Ministers, Ministers of State and Deputy Ministers. This Act, keeping in view the fact that the Ministers are basically members of Parliament with the additional responsibility of being on duty as Ministers throughout the year, provides that –

(a) Ministers shall be entitled to salary, daily allowance and constituency allowance at the same rates as a member of Parliament;
(b) the amount payable to Ministers by way of sumptuary allowance shall be, Rs. 1,500 per mensem in the case of the Prime Minister, Rs. 1,000 per mensem in the case of a Cabinet Minister, Rs. 500 per mensem in the case of a Minister of State and Rs.300 per mensem in the case of a Deputy Minister;
(c) Ministers shall be exempted from income-tax in respect of the value of the rent free official residence provided to him; and
(d) the facility of free travel within India shall be extended in respect of six return journeys per year to a Minister and any one member of his family accompanying him on such journeys.

3. The salary and allowances of the officers of Parliament were raised during 1985 by the Salaries and Allowances of Officers of Parliament (Amendment) Act, 1985 which is complementary to the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1985 and the Salaries and Allowances of Ministers (Amendment) Act, 1985. This Act –

(a) provides that the Chairman of the Council of States shall be entitled to a salary of seven thousand five hundred rupees per mensem as against his salary of Rs. 2,250 per mensem prior to the amendment and that the other officers of Parliament shall be entitled to a Salary, daily allowance and constituency allowance at the same rates as a member of Parliament, that is to say salary Rs. 1,000 per mensem, daily allowance Rs. 75 per day, throughout the term; and the constituency allowance at the same rates as are applicable to members of Parliament.
(b) increases the amount payable to Officers of Parliament by way of sumptuary allowance, from Rs. 500 to Rs. 1,000 p.m. in

respect of the Chairman of the Council of States and the Speaker and from Rs. 250 to Rs. 500 per month for the Deputy Chairman and the Deputy Speaker.

(c) exempts from income-tax the value of the official residence provided to an officer of Parliament; and

(d) extends the facility of free travel in respect of six return journeys per year within India to an Officer of Parliament and any one member of his family accompanying him on such journeys.

4. The Salary and Allowances of Leaders of Opposition in Parliament (Amendment) Act, 1985 made changes in the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977. This is also complementary to the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1985 and the Salaries and Allowances of Ministers (Amendment) Act, 1985. This Act provides –

(a) that a Leader of the Opposition shall be entitled to a salary, daily allowance and constituency allowance at the same rates as a member of Parliament;

(b) that a sumptuary allowance of Rs. 1,000 per mensem shall be paid to a Leader of the Opposition;

(c) that he shall be exempt from income-tax in respect of the value of the official residence provided to him; and

(d) that the facility of free travel in respect of six return journeys per year within India shall be available to a Leader of Opposition and to any one member of his family accompanying him on such journeys.

5. GENERAL

AUSTRALIA (HOUSE OF REPRESENTATIVES)

Training of Officers from Overseas

While attending a meeting of Clerks in New Delhi in January 1986. my friend Ng'ona Chibesakunda of Zambia posed the question as to what facilities were available in the various Parliaments for the training of officers from other Parliaments. I chose not to answer his question. on behalf of Australia, at the time because I wished to be absolutely precise in the information I gave.

The position in Australia is that we are always willing to provide training to those parliamentary officers who are able to pay their own fares and meet their own expenses while in Canberra.

In addition, for those who cannot pay their own way, some funds are available through the Australian Development Assistance Bureau (ADAB) of our Department of Foreign Affairs. Many of our African,

Asian and Pacific colleagues have received training in this way. The Parliament of Australia does not itself have funds for this purpose.

For an officer to receive training through ADAB, it is necessary for the Parliament concerned to make application through the nominating authority of its own Government. The nominating authority then makes an assessment between the competing applications. For instance, there may be persons seeking sponsorship for agricultural, scientific or industrial training who will be in competition with those wishing to undertake parliamentary training. The nominating authority would then approach the local Australian High Commission.

As soon as sponsorship is approved by ADAB, we are asked by them to draw up a program which may include a short period with one of our State Parliaments which have been extremely generous in supporting our training programs. Generally we prefer an attachment to be no longer than 4 – 5 weeks. Individual programs are arranged to give high priority to the expressed needs of the trainee. Most applications these days come from the South Pacific region which reflects the special role that Australia feels it should play in its own region.

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

Australia (House of Representatives) – Standing Committee on Procedure

The Standing Committee on Procedure was appointed on 27 February 1985 by the House of Representatives to inquire into and report upon the practices and procedures of the House generally with a view to making recommendations for their improvement or change and the development of new procedures. Later, on the same day, standing order 25 providing for the appointment of the Standing Orders Committee was suspended for the remainder of the session.

The appointment was notable in that this is the first procedure committee established by the House, although there have been definite proposals for such a committee in the past.

Soon after its establishment the committee circulated a questionnaire to all Members listing possible subjects for inquiry and inviting them to indicate those matters they would like the committee to address. The response to the questionnaire was heartening, with almost half the Members responding. Those matters listed by most Members were division procedures, questions without notice, programming of business of the House and giving notices orally.

As well as approaching current Members of the House, a number of former Members and the Australasian Study of Parliament Group were informed of the establishment of the committee and invited to make submissions.

The committee saw as its immediate task, given the recent increase in the size of the House, the need to examine the opportunities private

Members had to raise matters in the House and resolved at its second meeting to inquire into alternative opportunities for Members to concisely address the House. There was a general feeling that the question of giving notices orally should be re-examined early, in view of the decision taken at the commencement of the Parliament to dispense with oral notices. The committee recognised that the increase in oral notices in recent years, (from a 1980 average of 3.3 per sitting day to an average of 12.2 per sitting day in 1984, taking over 11 minutes per day) and the fact that they were often given primarily for their immediate publicity, had been a reflection of the frustration felt by private Members at the limited opportunities they had had to raise briefly matters of concern.

The committee's first report was tabled on 24 May and recommended the adoption of a procedure whereby Members could make statements for not more than 90 seconds during a 15 minute period following the presentation of papers. It also proposed that, during the period set aside for Members' statements, Members receiving the call should be able to give an oral notice if they so wished. The committee had determined that it should report expeditiously on this matter so as to provide the earliest opportunity for the House to take action on its recommendation – it was hoped in time for the operation of the procedure from the commencement of the 1985 Budget sittings.

During the course of its deliberation on the first report it had become evident to the committee that, apart from the immediate need to provide Members with a procedure whereby they could concisely raise matters of importance, basic to any changes to the practices and procedures of the House had to be a thoroughly comprehensive review of the pattern of parliamentary sittings, the hours of sitting of the House and the most effective use of its time. The committee therefore resolved on 18 April to inquire into the days and hours of sitting and the effective use of the time of the House.

In its response to the first report tabled on 29 November 1985 the Leader of the House indicated that, whilst recognising the need to give more opportunities for private Members to address the House, the Government was not attracted to the committee's proposal for short statements in isolation without further reform. The Government believed the provision of opportunities for private Members to address the House should be addressed in the context of how the time of the House is used and it undertook to put forward a comprehensive submission to the committee on the effective use of the time of the House.

The committee has yet to complete its inquiry into the days and hours of sitting and the effective use of the time of the House and its report is expected during the Autumn sittings. The committee has also commenced its next inquiry having, on 20 February 1986, resolved to

conduct an inquiry into the standing orders and practices which govern the conduct of Question Time.

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

Information Systems Developments

Notes in the 1985 edition of *The Table* provided some insight into proposed information systems developments and the administrative framework under which they proceed. This item provides details of progress since that article was produced.

Broadly, developments are proceeding in three major work streams, viz:

- provision of services to Members
- determination of strategic directions for the new Parliament House (networking and related developments)
- provision of support for Departmental operations.

Provision of services to Members

The Department has an information systems strategic plan which sets down a framework to implement systems so that some of the perceived benefits of modern information systems may be realised by Members themselves and experience gained in the practicalities and support requirements. The plan also takes into consideration that, although word processing is an obvious requirement, other facilities may be required in the long term. As a result, through a comprehensive tender process, micro-computer equipment was selected that could not only provide immediate word processing requirements but also meet the possible longer term needs of Members.

Approval was obtained to equip a representative group of Members with computer facilities. The following list is a broad break-down of Members who received units in the initial allocation:

Leader of the Opposition
Leader of the National party
Chairman of Committees
Party Whips (3)
11 Government Members
6 Liberal Party Members
3 National Party Members

In addition to the above, provision was made to install units in each of the party typing pools. Since the initial allocation a further 18 units have been acquired and distributed in proportion to party representation.

As a general principle it was decided that at least one staff member from each Member's office would receive the basic training *before* the

unit was deployed to his or her office. Initially, the total number of participants from each office was limited to two staff.

The first series of training courses were conducted in Parliament House. The standard course was 3 days long and covered basic word processing. Quite a diversity of trainees, ranging from the very hesitant to the very confident, participated in these courses. Approximately 80 Members' staff have been trained as part of the initial implementation.

Recipients have been quick to explore aspects of the equipment most appropriate to their needs. The requirement varies from processing of their correspondence to doing other high edit work such as speeches and press releases. Also, in some cases, there has been heavy use of the list processing application for constituency 'mail-shots'.

All Members and their staff have accepted the introduction of the micro-based equipment as providing them with additional resources. Consequently there has been a very positive attitude adopted and a willingness to learn and in some instances struggle with this level of technology as an investment in future productivity gains.

It has been reasonable to conclude that the introduction of word processing as the first application is proving successful in raising the skills levels of the Members and their staff both in the technology and the management issues which underpin it. Further units are to be supplied as funds permit.

It is important to bear in mind that the word processing capacity is just one function the equipment is capable of performing. Future applications could include access to free text data bases (eg Hansard), Telex, document transfer and office management applications. Some Members' staff have already mastered word processing and are proceeding to establish rudimentary office indexing applications. This application is best handled by the unit's personal computing facility but in accordance with the approved direction this aspect will be supported at a later stage.

The Department has worked with the Department of the Senate on these matters, and identical equipment has been provided to a number of Senators.

Networking and related developments

Considerable effort was spent during 1984–85 year on network cable topologies (configurations) for the new Parliament House. In accordance with a decision of the Joint Standing Committee on the New Parliament House, both broadband and baseband cables are being installed in harmony with the construction program. This action was taken so as not to prematurely force the Parliament into certain important decisions regarding network hardware and software. At the same time, it was considered imperative that some trials be undertaken

before occupancy to determine which software and interface units would be most suitable for the new Parliament House network.

The East Block Parliamentary Annex (a separate building a couple of hundred metres from Parliament House) was considered the most suitable environment to proceed with a pilot. A major advantage is that, because this building is occupied by the Chamber Departments, both the Senate and the House of Representatives can test interfaces and ensure complete compatibility with each other.

Requirements for the new House are being progressively refined as experience is gained and lessons are learned. It is anticipated that a firm understanding of the requirements for the new House can be developed during 1986/87 in preparation for occupancy.

Provision of support for Departmental operations

Provisions of services to Members involves the Department in significant expenditure over the next three years. In view of budgetary pressures, this commitment has meant that expenditure in the other directions, particularly the provision of services to Departmental administrative areas, have had a lower immediate priority. In the longer term however some adjustments will be made to ensure that the important, if lower profile, activities which go to the support of the Department, and thus ultimately the Members, do not suffer.

Within the above constraints, a number of systems have been developed to assist operations in the Department's Finance and Personnel Sections. Further developments will occur in the Serjeant-at-Arms, Table and Committee Offices. These activities are primarily incremental in nature, ie, based on the results of previous developments and subject to finding and appropriate approvals, new opportunities are continually examined.

Conclusion

The Department is one of five working in the Parliament, and it is following a path which ensures the development and delivery of information systems to Members, and staff, in a way that strikes a good balance between immediate needs and the requirements of the long-term, especially in the context of the move to the new Parliament House.

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

AUSTRALIA (SENATE)

Loan(s) Bill

Each year the Australian Parliament passes, together with the annual Appropriation Bills, a Loan Bill which authorizes the Government to

borrow money during the financial year for expenditure on defence and for supplementation of the Consolidated Revenue Fund.

The Bill for the financial year 1985–86 appeared as the Loans Bill, and authorized borrowing not only for that financial year but for all future financial years. When the Bill was considered in the Senate on 17 October, the Opposition and the Democrats moved amendments to restrict the operation of the Bill to the current financial year, on the basis that the Parliament should have the right to decide annually whether it will authorize the Government to borrow in the course of the financial year.

The Government opposed the amendments in the Senate, but when the amendments were made by the Senate they were agreed to in the House of Representatives. During the debate in the Senate, the Minister for Finance argued that the Bill would not affect parliamentary control of expenditure because any expenditure requires authorization by appropriation, but the Opposition and the Democrats insisted that the authority to borrow should be reviewed annually by Parliament. The Minister also stated that 70% of all Government expenditure is authorized by Acts which provide for unspecified and permanent appropriations for the purposes of the Acts. Senator Peter Rae pointed out that concern had often been expressed about this situation, and contended that it provided a further reason for ensuring that the authority to borrow was not made permanent.

Independence of the Houses

In October 1985 Senate Estimates Committee A noted a number of developments relating to the control by the Houses of their own finance and staffing, and recommended that the Senate pass the following resolution:

> That the estimates of expenditure for the Senate to be included in the Appropriation (Parliamentary Departments) Bill shall be those determined by the Standing Committee on Appropriations and Staffing.

This proposed resolution was intended to make it clear that the Senate Appropriations and Staffing Committee should have the final say in determining the appropriations for the Senate and should not be subject to a government veto.

Following the Senate's consideration of the Appropriation (Parliamentary Departments) Bill on 2 December, the following resolution was agreed to, on the motion of the Chairman of the Committee, Senator Richardson:

"That –

(a) the provisions of the Resolution of the Senate of 25 March 1982, relating to the responsibilities of the Standing Committee on

Appropriations and Staffing with respect to the estimates for the Senate, are re-affirmed;

(b) the estimates of expenditure for the Senate to be included in the Appropriation (Parliamentary Departments) Bill shall continue to be those determined by the Standing Committee on Appropriations and Staffing;

(c) if before the introduction of the Bill the Minister for Finance should, for any reason, wish to vary the details of the estimates determined by the Committee, he should consult with the President of the Senate with a view to obtaining the agreement of the Committee to any variation;

(d) in the event of agreement not being reached between the President and the Minister, the Leader of the Government in the Senate, as a member of the Appropriations and Staffing Committee, should be consulted;

(e) the Senate acknowledges that in considering any request from the Minister for Finance the Committee and the Senate would take into consideration the relevant expenditure and staffing policies of the Government of the day; and

(f) in turn the Senate expects the Government of the day to take into consideration the role and responsibilities of the Senate, which are not those of the Executive Government and which may at times involve conflict with the Executive Government."

It is expected that this resolution, which stresses cooperation and consultation between the Executive Government and the Senate as well as the autonomy of the Senate, will govern the financial relationship between the Government and the Senate in the future.

Regulations and Ordinances Committee: Disallowance of an Ordinance

On 28 November the New South Wales Acts Application Ordinance of the Australian Capital Territory was disallowed as a result of a notice of motion given by the Chairman of the Regulations and Ordinances Committee. This is the first occasion since 1971 when a piece of delegated legislation has been disallowed on the initiative of the Committee. The reason for this is that usually the Committee receives undertakings from Ministers to amend regulations and ordinances and refrains on the basis of those undertakings from recommending disallowance.

In this case the ordinance was disallowed not because the motion moved by the Chairman was agreed to, but because the notice of motion had not been resolved at the end of 15 sitting days after it was given, and the ordinance was deemed to be disallowed pursuant to the provisions of the relevant statute. This is also the first instance of delegated legislation being disallowed in the Senate by the expiration of the statutory period for disposing of a notice of motion.

On 5 December the Committee presented its report explaining the circumstances. The ordinance amended certain specified New South Wales statutes applying in the Territory, and provided that all other New South Wales Acts applying in the Territory ceased to apply by force of the ordinance. The Acts so 'repealed' in the Territory were not specified in the ordinance; it is believed that there were over 100 of them, and in the case of some Acts it was not clear whether they applied in the Territory. The Committee considered that the Acts 'repealed' by the ordinance should have been specified in the ordinance, not only to show what statutory provisions were being removed, but to give each House of the Parliament the opportunity to prevent, through the disallowance power, the cessation of any particular Act which it wished to preserve. It would have been possible for the Government to accede to the Committee's wish by means of a new ordinance, but by the last day for resolving the Chairman's notice of motion no undertaking had been received from the Attorney-General, and so the ordinance was disallowed.

Some years ago disallowance provisions in relevant statutes were amended, on the recommendation of the Committee, to ensure that disallowance would have the effect of reviving laws repealed by the disallowed legislation, but the relevant amendment of the relevant statute was so worded that it does not apply to New South Wales laws in force in the Territory. As a result of this, it is not clear whether the disallowance of the ordinance has the effect of reviving the New South Wales laws 'repealed' by the ordinance. Some further legislative action may have to be taken in relation to this matter, in accordance with a recommendation by the Committee.

The Regulations and Ordinances Committee considered many other important provisions in delegated legislation, and received undertakings from Ministers to make amendments. Those matters included the service of summonses under the National Crimes Authority Act, the issue of search warrants by telephone, and the right to trial by jury in the A.C.T. In relation to these three matters the Committee insisted that service of summonses other than by the normal methods of service should be authorized only by a judge, that only a judge should have the power to issue a search warrant by telephone and that defendants should have the right to trial by jury in all criminal cases. Of particular interest was an ordinance relating to blood donations in the A.C.T. This ordinance gave the Commonwealth immunity from suit in relation to the contraction of AIDS by blood transfusion where the relevant authorities had properly conducted relevant tests. The ordinance was so drafted that it could have been interpreted as providing complete immunity even in cases of negligence by the relevant authorities. The Minister agreed to amend the ordinance to ensure that there would be no immunity in cases of negligence, and to insert a 'sunset clause' to

ensure review of the operation of the provisions. Amendments to achieve these purposes were made to similar provisions in the Veterans' Entitlements Bill.

End of the End-of-Session Rush?

For many years, and probably since 1901, Senators have complained of the end-of-session rush, when the Senate finds itself with a large number of Bills to be passed before the end of the sittings and only one or two weeks remaining to deal with them, the House of Representatives having risen after passing many Bills in its last days of sitting. Various remedies have been suggested for this situation. One such remedy which has been proposed is the setting of a 'cut-off date' for the receipt of Government Bills by the Senate.

On the first day of the sittings, Senator Macklin, an Australian Democrat, gave notice of a motion in the following terms –

(1) That, where a Bill is introduced by a Minister, or is received from the House of Representatives, after 30 May 1986, and a motion is moved for the second reading of the Bill, debate on that motion shall be taken to be adjourned upon the conclusion of the speech of the Senator moving the motion, and the resumption of the debate shall be made an Order of the Day for the first day of sitting in August 1986, without any Question being put.

(2) That this Order cease to have effect at the commencement of the first day of sitting in August 1986.

This motion does not prevent the receipt of Bills from the House of Representatives in the last two weeks of the sittings, but has the effect of automatically adjourning them until the budget sittings.

The motion was passed, but was amended on the motion of the Leader of the Opposition to provide that bills introduced after 30 May may be referred to standing committees for examination during the winter long adjournment by motion without notice.

During the debate on the motion the Manager of Government Business announced that the Government did not intend to bring Bills into the Senate after 30 May, and in the House of Representatives members were advised that the House would sit an extra week in an attempt to get all of the Government legislation through the House by that date.

(The above four items on the Australian Senate were contributed by the Clerk-Assistant (Procedure) of the Australian Senate)

AUSTRALIA: NEW SOUTH WALES

The Preparation of Bills in the Parliament of New South Wales

The introduction and passing of bills is the most important function of Parliament.

With this in mind this paper considers the new procedures adopted by the New South Wales Parliament in September 1985 to overcome the inherent delays associated with bills being presented to the Governor for assent and the public availability of those new acts after assent.

The former system required several stages of printing of legislation involving mechanical, transportation and other practical delays. Previously, a bill was introduced, read a first time and was then sent to the Government Printer for a 'Proof' copy. This was printed from the tabled Bill and was therefore not immediately available to members after the first reading. The 'proof' copy of the bill was read again and then a 'struck-off' (proof read copy of the bill with errors corrected) was ordered.

When the legislation had passed both Houses the bill was ordered for printing as a vellum (copy of the bill the Governor signs to become an act). This process took several days and towards the end of session could take up to several weeks owing to the backlog of bills and the amount of printing involved. The vellum, when delivered, also required reading before presentation to the Governor. From the vellum copy the Acts would be ordered for publication and after a further proofing, Acts were ordered for delivery. This final process would often take several months to complete and thus the availability of legislation in Act form was greatly delayed.

However, a combination of technology, new procedures and greater co-operation has meant new Acts are available only 28 days after the bill passes through both Houses.

I now propose to outline those new procedures:

Word processing equipment was installed in the Parliamentary Counsel's Office and linked directly to the new computer printing equipment at the Government Printing Office. This has allowed Parliamentary Counsel to draft and correct legislation in his office before being printed by the Government Printer.

This has virtually removed any errors in legislation. A bill is printed as a 'First Print', usually in advance of its introduction into the House. As Notice of Motion is given for leave to bring in a bill, the Parliamentary Counsel releases the bill from the Government Printer and it is delivered to Parliament House and kept in a secure area. When the bill is introduced and read a first time it is made immediately available to members. The Government Printer immediately receives notice of a first reading and then releases the bill to his commercial outlets

allowing the public access to new legislation. The 'First Print' is then proof-read for literal or printing style errors and the vellum is then ordered.

To assist the process the Attorney-General approved a new drafting style including:

i) Omitting full points from headings in Bills;
ii) Omitting ordinal references in dates and replacement by cardinal numbers;
iii) Omitting commas from dates;
iv) Discontinuing the use of 'colon' and 'dash' together;
v) Eliminating the words of Assent from the last page of copies of new Acts.

These changes have led to a greater consistency in bill style.

Once the 'vellum' is ordered it is usually delivered from the Government Printer within 48 hours. The new Act is printed at the same time by the Government Printer except for the front page which is added later when the act number is alloted. There are infrequent cases when an amendment or alteration is made to a bill during its passage through the Parliament. In such circumstances the vellum would have to be discarded and a new one prepared. This new procedure has meant that the time for presentation of bills for assent has been greatly reduced. Standing Order No. 306 (2) of the Legislative Assembly requires that the certificate of the Chairman of Committees, Acting Chairman or Temporary Chairman of Committees be placed on the vellum certifying that the vellum corresponds to the bill as passed by both Houses. The Clerk must certify that the Bill has passed both Houses. The vellum may now be prepared immediately a Message accompanying a Bill is returned from the Legislative Council indicating the bill's passage. Once the certificates are signed, the vellum is forwarded to the Governor for Assent.

When the Bill is assented to the Government Printer is advised of the new Act number and the front page of the new act is printed and distribution takes place accordingly.

This new process has successfully combined technology and procedure so that legislation is now available for distribution within weeks rather than months.

(Contributed by James Kelly, Acting Parliamentary Officer-Table and Deputy Serjeant-At-Arms)

BERMUDA (SENATE)

Bermudan senators voted in July 1985 to allow the Caribbean island's famous shorts as acceptable dress in the Upper House. 'It's the begin-

ning of the end,' said the Senate's president, Mr Hugh Richardson, who opposed the move to allow bare knees.

NEW ZEALAND

New Select Committee System

The New Zealand House of Representatives adopted new Standing Orders effective from 1 August 1985.

A major feature of the new Standing Orders is a complete restructuring of the select committee system.

All previous committees have been abolished. New Standing Orders provide for the appointment of the following committees:

- Thirteen 'subject' committees, with jurisdiction determined by the allocation of Ministerial portfolio responsibilities.
- A Regulations Review Committee to review delegated legislation.
- A Privileges Committee, with similar terms of reference as the previous committee.
- Ad hoc committees, appointed as and when the House requires.
- A Business Committee, with powers to issue guidelines to other select committees relating to their general procedure and jurisdictional powers in cases of dispute over which committee should conduct an inquiry.

This structure provides for a variety of functions: consideration of legislation, examination of the estimates, investigation into public expenditure, scrutiny of regulations, consideration of internal business of the House and provision for the setting up of special committees on major bills, or for particular inquiries.

The Standing Orders Committees report describes these changes as 'evolutionary rather than revolutionary in nature' showing a 'remarkable degree of flexibility and willingness on the part of the House to use committees to enhance and extend the work of the House'.

Most interest has centred on the thirteen new 'subject' committees. The areas of responsibility of these committees have been determined by the grouping of Ministerial portfolios. This approach has ensured comprehensive coverage of the key areas of government activity. It also has the flexibility to accommodate any future changes in the scope or organisation of government activity.

The major groupings are recognised by the following committees: Commerce & Marketing, Communications & Road Safety, Education & Science, Finance & Expenditure, Foreign Affairs & Defence, Government Administration, Internal Affairs & Local Government, Justice Law Reform, Labour, Maori Affairs, Planning & Development, Primary Production, and Social Services. Examples of

the specific responsibilities of the new committees are: for the Commerce & Marketing Committee, trade, industry, marketing, tourism, consumer affairs, insurance and trustee functions; for the Communications & Road Safety Committee, transport, broadcasting, postal services and telecommunications; for the Planning & Development Committee, all matters relating to public works, energy, the environment and national and regional development; and for the Primary Production Committee, agriculture, fishing, forests and lands.

The committees have widely drawn terms of reference. Each committee has specific responsibility for both legislative functions (bills, petitions and estimates) and the scrutiny of the policy, administration and expenditure of government departments and associated non-departmental government bodies within its jurisdiction.

Consideration of bills by select committees is one of the strengths of the New Zealand parliamentary system. This feature has been retained in the new system. A major development has been the extension of the scrutiny function to all thirteen committees.

The Standing Orders Committee expected that the work of the new committees in respect of their scrutiny functions would involve two tasks:

(a) the regular and systematic monitoring of the activities of government departments and related organisations in policy implementation, administration and expenditure;
(b) arising from the regular monitoring of departments, detailed investigations into specific issues over which there may be some concern, e.g., the level of performance in the execution of a particular departmental responsibilty.

Coupled with the widely drawn terms of reference the Standing Orders grant the committees a number of uniform powers. These include power to:

- hear evidence in public;
- travel within New Zealand;
- appoint subcommittees for the purpose of any business except the consideration of bills;
- take evidence in confidence and, without further action by the House, confer permanent confidentiality on any such evidence;
- make interim reports to the House at any stage of its consideration of any item of business;
- include in their report (other than on bills and petitions) any minority view expressed by any member of the committee;
- table reports during periods when the House is not sitting, and have such reports published by means of delivering a copy to the

Clerk of the House (with the exception of final reports on bills and petitions);
- meet during adjournments and recesses without further instruction from the House;
- initiate their own inquiries (terms of reference of the new committees);
- record and report to the House any evidence taken before them.

Other Changes to Standing Orders

Apart from the changes to the Standing Orders relating to select committees a complete overhal of the Standing Orders was undertaken.

The major change made was to the sitting days and hours of the House. Instead of sitting from 2.30 – 5.30 and 7.30 to 10.30 p.m. on Tuesdays, Wednesdays, and Thursdays, and from 9.30 a.m. – 1 p.m. on Fridays, the House now sits only on 3 days a week (Tuesdays, Wednesdays, and Thursdays) from 2 – 5.30 and 7.30 – 11 p.m. The later finishing hour has been the subject of some complaint from members and others and these hours are likely to be reviewed in 1986. When a sitting of the House is extended by a motion for 'urgency' to consider certain business there will be in future an automatic break between midnight and 9 a.m. the following morning. Only in extraordinary situations can a motion for urgency authorise the House to sit through the small hours of the morning. It is envisaged that such an extraordinary situation will arise only in respect of the need to pass legislation changing tax rates with immediate effect as a consequence of a Budget announcement, etc.

The many other changes made in what was a complete rewriting of the Standing Orders are too numerous to deal with here. In summary some of the more significant are:

* Sound broadcasting of proceedings to continue throughout all hours the House sits (previously during 'normal' hours only);
* Quorum reduced from 20 to 15;
* Speaker given power to require a member to withdraw from the Chamber for a limited period without the member forfeiting the right to vote;
* Important changes to the order of business making Wednesday a guaranteed private members' day. (Indications so far are that this has tripled the proportion of sitting time that the House spends on private members' business – raising it from about 5% of total time to 15%.)
* Changes to the procedures for passing local and private bills;
* Abolition of the procedure for giving oral notice in the House of motions. (From having about 800 notices of motion given each

session with very few ever debated, the giving of substantive notices of motion has virtually disappeared overnight.

* A new form of oral question called a question of the day, has been introduced. There is provision for up to 6 questions of the day to be asked each day. The period of notice for a question of the day is about 4 hours, compared to ordinary oral questions (which are retained), which are subject to a minimum of 48 hours' notice.

(*Contributed by D. G. McGee, Clerk of the House of Representatives*)

UNITED KINGDOM

HOUSE OF COMMONS

Public Bill Procedure: a few recent reforms at Westminster

In May 1985 the House of Commons Select Committee on Procedure published a report on Public Bill Procedure (HC 49 (1984–85)). It was not, however, until 27th February 1986 that the House debated the report and agreed to some of its proposals.

There had been no review of legislative procedure in the Commons since the report of the previous Select Committee in 1978 (HC 588 (1977–78)). Frustration among two large new intakes of Members in the period since then may have had something to do with the specific reference to the Committee in 1984 of 'procedure on public bills in standing committees, with particular reference to the allocation of time therein'. It was this matter which led to the most controversial sections of the report in 1985. The Committee proposed that in respect of all Government Bills committed to a standing committee a new 'Legislative Business Committee' (LBC) should consider whether a bill was likely to require more than twenty-five hours in standing committee. If it thought it was likely to do so the LBC should recommend a maximum number of hours for consideration of the bill by the standing committee. Such recommendations should, it was proposed, be implemented without debate in the House. The aim of the Select Committee on Procedure was to ensure balanced and full consideration of all bills which arouse major controversy. The Committee was particularly critical of the current practice whereby on the most controversial bills an inordinate amount of time is often taken on early clauses, thus giving Governments a justification for introducing a guillotine. Guillotines introduced in these circumstances then frequently allow insufficient time, or in some cases no time at all, for debating some later clauses.

When the House debated the Committee's report in February the Government did not propose to implement any of the Committee's proposals on timetabling. An amendment, supported by all but one of

the Committee's Members, which would have provided for a one session experiment was defeated.

A number of other recommendations of the Committee were also not accepted by the Government, but Members of the Committee particularly welcomed the Government's approval, and the House's acceptance, of the recommendation that provision for 'Special Standing Committees' should be made in the Standing Orders. Previously only experimental use had been made of this procedure, which enables standing committees which normally merely debate the provisions of bills also to hear a limited amount of evidence before beginning their normal debates. As a result of the success of Committee Members in carrying an amendment against the Government it is now possible for any Member to move, immediately after second reading, that a bill be committed to a Special Standing Committee. Interestingly enough some weeks later the Goverment indicated its intention to move to commit the Shops Bill (which would have liberalised Sunday trading) to such a committee during the course of its second reading debate on 14th April. This concession was not, however, enough to persuade the House to give that unusually controversial bill a second reading.

Procedurally perhaps the most interesting of the Committee's recommendations accepted by the Government was the provision for a new motion 'That the Question be now proposed'. This had been put forward as a means of dealing with exceptionally long speeches moving amendments in the House or in Standing Committee. Such speeches had on a very few occasions in the last few years been used as a delaying device. Since the familiar form of closure cannot be moved until after a question has been proposed from the Chair there was no means of curtailing a speech of inordinate length, provided the mover avoided irrelevance and tedious repetition.

The new provision would, if the House agrees to the question 'that the question be now proposed', bring the mover's speech to an abrupt end and enable debate to begin. One of those who supported this procedural reform, Mr. John Golding, had been the Member whose eleven hour speech in a standing committee – the longest speech in recent times – had called attention to the need for some action to be taken. His record is thus likely to stand for some time!

(*Contributed by George Cubie, Journal Office, House of Commons, Westminster*)

XVIII. EXPRESSIONS IN PARLIAMENT, 1985

Allowed

'Baby' (Can Com Deb, p. 5528)
'Breathalyzer installed at the door' (Can Com Deb, pp. 4961–2)
'Bulldust' (Vict L A Hans, 24.10.85, p. 1234)
'Cheek' (Can Com Deb, p. 3002)
'Chief racist' (W Aus LA Hans, p. 4539)
'Corruption' (Gujarat L A, 20.3.85, vol 1)
'Crap' (Can Com Deb, p. 3849)
'Debauchery' (Uttar Pradesh V S, 21.3.85, 369 VI p. 16)
'Dickhead' (NSW LC Deb 13.11.85, p. 9487)
'Foolish person' (Bermuda Hans, 1985)
'Gaggle of hoons' (Aus NW Terr, 17.4.85, p. 592)
'Hypocrisy' (Can Com Deb, pp. 6801, 7788, 9413–4)
'Hypocrite' (NZ Hans vol 461, p. 3720)
'Hypocrites' (Can Com Deb, p. 2417)
'Hypocritical' (Can Com Deb, pp. 5101–2)
"I do not believe the Rt Hon Lady" (HC Deb, vol 73, col 162)
'Imbecile' (Bermuda Hans, 1985)
'Little anti-nuc from Braddon' (Tasm H A)
'Little left-winger' (Tasm H A)
'Mesquin' (Can Com Deb, pp. 3057–8)
'Minister of social injustice' (Can Com Deb, p. 6023)
'Misleaders' (NZ Hans vol 459, p. 1871)
"Obscene double standard' (Vict L A Hans, 24.10.85, p. 1243)
'Political swine' (Can Com Deb, pp. 4942–3)
'Silly' (Bermuda Hans, 1985)
'Stupid person' (Can Com Deb, pp. 4323–4)
"The right hon. prima donna Member for Henley" (HC Deb, vol 80, col 923)
'To hell with it' (HL Deb, 7.5.86, col 744)
'Voice of anarchy' (Gujarat L A, 20.3.85, vol 1)
'Would not want deliberately to mislead' (Can Com Deb, pp. 3079–80)
'Wrong policy' (Gujarat L A, 20.3.85, vol 1)

Disallowed

'A corpse is speaking' (Gujarat L A, 27.6.85, vol 3)
'A farce' (Gujarat L A, 20.3.85, vol 1)
'A group of actors' (Gujarat L A, 2.4.85, vol 2)
'ALP ratbags' (Vict L A Hans, 12.11.85, p. 1661)
'Abusing his position in the House' (Can Com Deb, pp. 2307–8)
'An absolute lie' (Aus Sen Hans, 25.3.85, p. 699)

'An advocate for the criminal' (Gujarat L A, 1.7.85, vol 4)
'An exile of 14 years' (Gujarat L A, 20.3.85, vol 1)
'An old gramophone record' (Gujarat L A, 28.3.85, vol 2)
'Assembly of rogues' (Uttar Pradesh L C, 22.7.85, p. 105)
'Bankrupt' (of a Senator) (Aus Sen Hans, 28.3.85, p. 967)
'Bastard' (Can Com Deb, p. 3863)
'Bloodthirsty monster' (referring to a foreign Prime Minister) (Raj S, 22.8.85)
'Bloody two-faced————' (referring to a Senator) (Aus Sen Hans, 29.5.85, p. 2701)
'Bloody' (Qld, vol 298, p. 4073)
'Bludger' (Qld, vol 297, p. 3471)
'Booby-trap' (Quebec NA Cttee Deb, CEMO, 5.12.84, pp. 397–8)
'Brutus' (Vict L A Hans, 28.11.85, pp. 2568–9)
'Buggers' (Qld, p. 1724)
'Bullshit' (Can Com Deb, p. 4819)
'Carelessly' (Gujarat L A, 22.3.85, p. 1)
'Chattering' (Uttar Pradesh L C, 21.3.85, p. 47)
'Cheating' (Uttar Pradesh L C, 5.9.85, p. 27)
'Chicanery' (Aus Sen Hans, 14.10.85, p. 1139)
'Childish and vile' (Gujarat L A, 26.3.85, vol 2)
'Childish attempts' (Gujarat L A, 17.7.85, vol 6)
'Corpses in their coffins voting at his pre-selection' (Vict L A Hans, 24.10.85, p. 1237)
'Corrupt' (Qld, p. 1174)
'Courtiers' (Uttar Pradesh V S, 20.3.85, 369 V p. 41)
'Coward' (Raj S, 25.7.85)
'Cowardly' (Aus Sen Hans, 29.5.85, p. 2714)
'Cowardly, despicable, dastardly' (Can Com Deb, pp. 5373–4)
'Crap' (Vict L A Hans, 22.10.85, p. 1036)
'Crocodile tears' (Gujarat L A, 4.7.85, vol 4; 17.7.85, vol 6)
'Crook' (Aus Sen Hans, 5.12.85, p. 3020)
'Crook' (Qld, vol 298, p. 4550)
'Deceive' (Can Com Deb, p. 5680)
'Deliberately misleading the House' (NZ Hans vol 458, p. 1546)
'Deliberately/wilfully misleading' (Can Com Deb, pp. 5743, 9336)
'Despicable' (Vict L A Hans, 26.11.85, p. 2409)
'Dictators' (Vict L A Hans, 30.10.85, p. 1439)
'Dishonesty' (Uttar Pradesh L C, 20.3.85, p. 86)
'Does it mean that he is all at sea?' (NZ Hans vol 461, p. 3190)
'Don't aggravate the situation' (Uttar Pradesh L C, 4.9.85, p. 35)
'Double-dealing' (Gujarat L A, 11.7.85, vol 5)
'Drongos' (Aus NW Terr, 13.11.85, p. 303)
'Euology' (Gujarat L A, 23.7.85, vol 7)
'False statement' (Can Com Deb, p. 3508)

'Filth' (NZ Hans vol 464, p. 5664)
'Flock of sheep' (Gujarat L A, 20.3.85, vol 1)
'Flunkeys' (Aus Sen Hans, 18.4.85, p. 1210)
'Folks' (Gujarat L A, 20.3.85, vol 1)
'Fool' (Qld, vol 298, p. 5093)
'Fraud and intrigue' (Gujarat L A, 21.3.85, vol 1)
'Fraud' (Vict L A Hans, 3.10.85, p. 725)
'Funeral' (Uttar Pradesh L C, 16.7.85, p. 19)
'God, they're liars! It's incredible' (NZ Hans vol 459, p. 1845)
'Government has no sense' (Gujarat L A, 18.7.85, vol 6)
'Gutless wonder' (NZ Hans vol 457, p. 203)
'Gutless wonder' (Tasm H A)
'Hard hypocritical act to follow' (NZ Hans vol 457, p. 16)
'He is still in the trough' (Vict L A Hans, 30.10.85, p. 1415)
'He must know how to behave in this Parliament' (Raj S, 27.3.85)
'He should remain within his limit' (Uttar Pradesh L C, 30.7.85, p. 21)
'He should take valium' (Vict L A Hans, 30.10.85, p. 1420)
'He votes in favour of the tax dodgers when his vote matters and against the tax dodgers when his vote does not matter' (Aus Sen Hans, 25.2.85, p. 114)
'He wouldn't know' (Vict L C Hans, 24.4.85, p. 6)
'He's a liar' (Aus NW Terr, 29.8.85, p. 1530)
'His deviant bigotry, his deviant authoritarianism and his deviant contempt' (of a State Premier) (Aus Sen Hans, 13.11.85, p. 2066)
'His mean brain' (Uttar Pradesh L C, 21.3.85, p. 92)
'Hoodlum' (Raj S, 26.3.85)
'Horseshit' (Vict L A Hans, 3.10.85, p. 725)
'Hypocrite' (Can Com Deb, pp. 2601–2)
'Hypocrite' (NZ Hans vol 462, p. 4070
'Hypocrite' (Vict L C Hans, 14.8.85, p. 51 and 18.9.85, p. 52)
'Hypocrites' (Vict L A Hans, 3.7.85, p. 1119; 19.7.85, p. 1654; 24.9.85, p. 305; 1.10.85, p. 507)
'hypocritical campaign' (NZ Hans vol 463, p. 5450)
'I say clearly to him that he has called others in this place frauds and hypocrites. I level that against him' (Aus Sen Hans, 25.2.85, p. 151)
'I will take care of him' (Raj S, 27.3.85)
'Idiot in the other place' (NSW LC Deb, 30.10.85, p. 8917)
'Idiotic fellow' (Bermuda Hans, 1985)
'If you don't control him, he will take charge of him' (Raj S, 27.3.85)
'Immoral' (Qld, p. 1174)
'It's always a pleasure to hear the voice of the South African Embassy speaking up in this Parliament' (of a Senator) (Aus Sen Hans, 11.11.85, p. 1876)
'Italy is the country where the in-laws of our present Prime Minister have their residence' (Raj S, 30.4.85)

'Its leader lies' (Vict L A Hans, 24.4.85, p. 452)
'Jaundice is still tolerable, but here all are blind' (Gujarat L A, 8.7.85, vol 5)
'Lackeys in Cabinet' (Vict L A Hans, 1.10.85, p. 541)
'Larrikin' (Vict L A Hans, 23.4.85, p. 339)
'Learnt the big lie technique' (NZ Hans vol 459, p. 1694)
'Liar for liar' (Quebec NA Deb, 24.4.85, p. 740)
'Lair' (Aus Sen Hans, 27.11.85, p. 2364)
'Liar' (Bermuda Hans, 1985)
'Liar' (Can Com Deb, pp. 2599, 5285–6, 5974–5, 6826, 8991)
'Liar' (Qld, vol 298, p. 4227; p. 1176; p. 5016)
'Lie on the Table of the House' (NZ Hans vol 459, p. 1914)
'Lie' (Qld, vol 297, p. 3264; vol 297, p. 3535; p. 162; p. 1176)
'Lie' (Uttar Pradesh L C, 21.3.85, p. 122; 19.7.85, p. 104; 1.8.85, p. 20)
'Lied during the campaign' (NZ Hans vol 458, p. 1611)
'Lied' (Can Com Deb, pp. 3001, 5239, 5727, 5917, 5973–4, 6393, 9085)
'Lies can wait' (NZ Hans vol 459, p. 1846)
'Lies' (Qld, p. 1176)
'Lies' (Vict L C Hans, 9.6.85, p. 45)
'Like a bastard on Father's Day' (Aus NW Terr, 18.4.85, p. 686)
'Low talks' (Uttar Pradesh L C, 21.3.85, p. 91)
'Lying' (Aus Sen Hans, 18.4.85, pp. 1194, 1221; 30.5.85, p. 2815);
'Makes his speech with an eye on the press' (Gujarat L A, 26.3.85)
'Member's calibre' (Gujarat L A, 23.7.85, vol 7)
'Misleading' (Can Com Deb, p. 3001)
'Moron' (Aus Sen Hans, 22.4.85, p. 1276; 19.9.85, p. 755)
'Mug' (Qld, vol 298, p. 4008)
'Narrow-minded, rabble-rousing, rabid, racist way' (Vict L C Hans, 29.10.85, pp. 606–7)
'Never tells the truth' (Can Com Deb, pp. 1363–4)
'No doubt he will get a pay-off from the oil companies' (of a Senator) (Aus Sen Hans, 12.11.85, p. 2001)
'Nonsense' (Raj S, 27.3.85)
'Nonsense' (Uttar Pradesh L C, 3.9.85, p. 6)
'Noted double dipper in this Parliament, you are' (NSW LC Deb, 22.10.85, p. 8237)
'Noted gambler, the member is a (NSW LC Deb, 22.10.85, p. 8236)
'Patronage politician' (Quebec NA Deb, 13.11.84, p. 671)
'Patronising twerp' (Aus Sen Hans, 5.12.85, p. 3019)
'People like Senator————, contemptibly interjecting again today as is his wont' (Aus Sen Hans, 22.3.85, p. 673)
'Pompous twit' (NZ Hans vol 458, p. 912)
'Rambling and stupid nonsense' (Bermuda Hans, 1985)
'Reactionary rookie' (Vict L C Hans, 16.10.85, p. 356)
'Reckless mendacity' (Vict L A Hans, 23.4.85, p. 340)

'Rogues mouth' (Uttar Pradesh L C, 21.3.85, p. 92)
'Rotten at the core' (NZ Hans vol 459, p. 1694)
'Rude or half-witted' (Vict L A Hans, 13.11.85, p. 1747)
'Scab' (Vict L A Hans, 19.7.85, p. 1663)
'Scabs' (Qld, vol 298, p. 4419)
'Scandal monger' (Can Com Deb, p. 5375)
'Schemed, the member has' (NSW LC Deb, 27.11.85, p. 10859)
'Scurrilous' (Can Com Deb, p. 7212)
'Senator————, in his stupor and ignorance' (Aus Sen Hans, 5.11.85, p. 1568)
'Sensation seeker' (NSW LC Deb, 17.4.85, p. 6117)
'Shameless hypocrite' (Can Com Deb, p. 6401)
'She [a Senator] did not tell the truth' (Aus Sen Hans, 27.5.85, p. 2561)
'Shonk' (of a Senator) (Aus Sen Hans, 27.11.85, p. 2359)
'Silver budgie' (referring to the Prime Minister) (Aus Sen Hans, 17.10.85, p. 1331)
'Simpleton' (Malta H Reps, 5.11.85, S 290)
'Slap-dash' (Gujarat L A, 21.3.85, vol 1)
'Sleaze bag' (Can Com Deb, p. 2107)
'Smart arse' (Tasm H A)
'Snigger like a schoolgirl' (Aus Sen Hans, 20.3.85, p. 483)
'Spreading around the falsehoods' (Can Com Deb, p. 2615)
'Supreme Court is in collusion with the Central Government' (Raj S, 12.8.85)
'Sycophancy' (Uttar Pradesh L C, 22.7.85, p. 58)
'Tame dog' (Raj S, 26.3.85)
'Tax avoidance expert par excellence' (W Aus LA Hans, p. 2195)
'Tax cheat' (W Aus LA Hans, p. 1235)
'Teach you how to behave' (Raj S, 27.3.85)
'Tell a lie often and it is believed' (Vict L C Hans, 16.4.85, p. 29)
'That is false' (NZ Hans vol 458, p. 1547)
'The Member speaks without any reflection at all' (Malta H Reps, 18.11.85, S 295)
'Their own damn bureaucracis, their own bloody public servants' (Aus NW Terr, 17.4.85, p. 598)
'There are people who sell membership of the Rajya Sabha for five to six lakhs of rupees; the membership of Rajya Sabha is purchased today in five-six lakhs of rupees' (Raj S, 30.4.85)
'Thief' (NZ Hans vol 464, p. 5674)
'This is the man whose unctuous, oozing hypocrisy must be unrivalled in the history of this nation' (of a State Premier) (Aus Sen Hans, 29.5.85, p. 2702)
'To buggery with you' (Aus NW Terr, 14.11.85, p. 1775)
'To drown in a handful of water' (Uttar Pradesh L C, 21.3.85, p. 73)

'To talk while seeing the exorcist shaking his head violently' (Gujarat L A, 15.7.85, vol 6)
'Tom Dick and Harry' (Uttar Pradesh L C, 24.7.85, p. 44)
'Traitor to New Zealand' (NZ Hans vol 460, p. 2446)
'Traitor' (Tasm H A)
'Trickery' (Uttar Pradesh L C, 5.9.85, p. 27)
'Twit' (Vict L A Hans, 23.10.85, p. 1185)
'Tyrant' (of a State Premier) (Aus Sen Hans, 29.5.85, p. 2711)
'Under the guise of a Member' (Gujarat L A, 26.7.85, vol 8)
'Uproar' (Gujarat L A, 15.7.85, vol 6)
'Wasting the time of the House' (Uttar Pradesh L C, 29.8.85, p. 98)
'Weasel' (Vict L A Hans, 17.4.85, p. 198)
'What is bred in the bone will not come out of the flesh' (Gujarat L A, 20.3.85, vol 1)
'Worthless' (Gujarat L A, 17.7.85, vol 6)
'You are an animal' (Raj S, 26.3.85)
'You are reading it wrongly' (Uttar Pradesh L C, 25.3.85, p. 13)
'You are the tail-wagging dog of the Communist Party' (Raj S, 26.3.85)
'You bastard' (Aus NW Terr, 6.6.85, p. 1002)
'You dill' (Vict L A Hans, 14.11.85, p. 1984)
'You greasy grub' (Aus Sen Hans, 9.5.85, p. 1647)
'You lied' (Vict L A Hans, 21.11.85, p. 2235)
'You little fool' (Vict L A Hans, 14.11.85, p. 1852)
'You ought to get out of the gutter' (Vict L A Hans, 30.10.85, p. 1413)
'You pious humbug' (Aus Sen Hans, 22.2.85, p. 47)
'Your beginning bowl is to be filled in' (Gujarat L A, 8.7.85, vol 5)

XIX. REVIEWS

Statutory Interpretation by Francis Bennion, (London, Butterworths, 1984, cii + 904 pp, £85.00.)

This is the first major original work on statutory interpretation to be published in the United Kingdom this century. The author is a former UK draftsman whose drafting experience includes work for other Commonwealth countries. The book gives an account of what is justly described as 'the common law system of statutory interpretation'. Although largely confined to United Kingdom sources it has much to say that is of equal relevance in other common law jurisdictions.

It is impossible to describe the book unreservedly as a good book or a bad book. It is both. It is certainly a vast achievement and one must be thankful that it has been brought to fruition. The general lines of the analysis offered are sound and the work will undoubtedly serve to raise the level of debate on this neglected subject.

The book takes the form of a code, with 396 numbered sections each consisting of a proposition and commentary. These are arranged into 22 Parts. Parts I to VII (the first 400 pages) set out the author's system. Parts VII to XXII (the last 450 pages) cover in more depth topics raised in the earlier Parts. The arrangement of the whole can be seen from the summary of Parts and arrangement of sections at the beginning (pp. ix to xxiii).

This method of arrangement is archaic for a legal text book but one can understand why it is used. The position of a writer on statutory interpretation is very much like that of the early legal writers. The subject is vast and although much practised, relatively little studied; the caselaw is a wilderness of single instances where statements of principle, if articulated at all, are expressed at an unhelpful level of generality; there is widespread ignorance of elementary matters; there is no accepted analytical framework. In short, there is very little common ground. It is understandable that the process of bringing order to the subject should begin by setting down a number of basic propositions in large type. This method of arrangement also enables the logical relation between different propositions to be expressed formally; and there are copious cross-references.

But the method has its drawbacks. It leads to a style of expression which brooks no contradiction. Some of the difficult topics covered would benefit from more discussion and less assertion. The views of other writers are referred to less frequently than one would expect and then for the most part only in order to be dismissed. To an extent, the relative importance of the propositions themselves is concealed; some,

the plain meaning rule (section 120), for example, are of profound importance; others say very little. At times the arrangement seems artificial, the propositions scarcely distinguishable in importance from the commentary which follows.

This last failing is particularly noticeable in Part I ('The Interpreter') which is perhaps the least successful Part. Some subjects of considerable importance are cursorily despatched (including the distinction between mandatory and directory requirements, contracting out of statutory provisions and the tort of breach of statutory duty) whilst much space is taken up with statements of the obvious. The reader wishing to read the book through would be well advised to start at page 81.

In fact the general reader may find the episodic structure difficult to negotiate if he tries to read from cover to cover (although he is invited at p. xxv to attempt this). Much more can be learned from taking up a particular thread and following it through.

There is a wealth of learning to be discovered on such a voyage of discovery and some sound common sense on basic questions. By way of example, what Bennion has to say on the following topics is refreshing, right and it is to be hoped will be received into the common currency of legal thinking. It must be said that the likelihood of this occurring is diminished by his habit of clothing his insights in idiosyncratic terminology. Some of these coinages are helpful but others merely irritate. It is an interesting reflection on the breadth of Bennion's conceptual framework that he has himself identified and diagnosed this disease (in others); and named it – 'Humpty-Dumptyism' (Bennion, 'Legislative technique', (1979) 129 N.L.J. 748 at p. 749). The upshot is that the reader must be alert, as when reading an Act of Parliament, to spot expressions which have a defined meaning elsewhere in the text.

(1) The concept of legislative intention

There has been a good deal of ink spilt over such questions as whether a representative assembly has a single 'intention' and, if so, whether it can be said to have any intention in relation to unforseen circumstances. Bennion demonstrates that the way through this thicket is simply to acknowledge what really happens. What has hitherto been conspicuously lacking, no doubt because much of what happens is veiled by the natural reticence of those involved, is a straightforward explanation of the respective contributions of the civil servants, Ministers and Members of Parliament to the making of an Act of Parliament. This Bennion supplies:

> 'One aspect of reality that needs to be recognised is that there is both a political element and a civil service element in the production of an Act. The draftsman and other civil servants provide the actual text, based on a thorough working-out of the details of policy, a full

assessment of the practical considerations, and a survey of likely consequences. The political element combines government policy and the view of the nation's representatives in the legislature. The Minister tells the civil servant what the public want (and also what the public will not stand for). The parliamentarian validates the result or not, as (subject to the whipping procedure) he thinks fit.

'So we see that there is a dichotomy. On the one hand the ideal, august, infallible legislature. On the other the human, inadequate, legislative workshop. Between the two the answer lies. In construing legislation it is necessary to bear both in mind, producing a synthesis between them.' (pp. 231–2)

Provided the realities of the matter are recognised, the concept of legislative intention is not only a viable concept, it is the central concept in statutory interpretation. This does not mean, however, that the role of the court in interpreting an Act is purely passive. Bennion emphasises throughout the creative role of the court in making sense of the legislative text, assimilating it with the existing body of the law and applying it to new circumstances.

(2) The correction of the statutory text

One of the more striking aspect of the courts' creative role is the correction of manifest errors in the statutory text. It is sometimes denied that the courts can do this. In two valuable passages (pp. 207–210 and 339–342) Bennion shows, with many examples, that the courts do beyond any doubt in fact correct obvious errors before proceeding to interpret and apply the text:

'Such textual errors may arise because of the drafting vice of compression. Or the text may be garbled. Or there may be incompleteness in the text or an underlying basic error of fact or law . . . we are not here concerned with arguable or debatable errors, but only with those that are manifest and beyond denial.

'When the text is thus semantically obscure, the interpreter's first task is to remedy the obscurity by notionally putting the words into the grammatical form most likely to have been intended . . . This may be straightforward when the error is a simple one such as the mere transposition of words. Often the task may be very difficult, but it still has to be done Then, having arrived at the corrected version, the interpreter goes on to apply the interpretative criteria to it in the usual way.' (p. 207)

The fact of the matter is that mistakes do occur in statutory texts and the shortage of parliamentary time means that in many cases there can be no correcting amendment until there is further substantive legislation. It is as well that the courts should recognise this so that if the

general legislative intention is clear it is not thwarted by an obvious mistake.

(3) The basic rules of statutory interpretation

The heart of the code is Part VI ('Guides to Legislative Intention'), and in particular Articles 116 to 121. Anyone who has tried to use the older standard U.K. textbooks (Craies on Statute Law, 7th ed. 1971; 1st ed. under that name 1907 but founded on Hardcastle on Statutory Law 1st ed. 1879; and Maxwell on Interpretation of Statutes, 12th ed. 1969; 1st ed. 1875) will know the sinking feeling you get when, having found a relevant passage and read through an apparently plausible account of a particular rule or presumption, with examples of cases in which it appears to have been decisive, you invariably find, after a page or two, the word 'But' followed by an equally plausible account of the cases in which the rule or presumption was not decisive – with no vestige of any explanation as to why.

Bennion offers a more elaborate theoretical framework which is a classic example of how a problem can be made simpler by acknowledging its complexity. the truth of the matter is that even where the meaning of the legislative text appears to be plain it falls to be read against the background of a wide variety of interpretative criteria – rules of construction, principles of general legal policy, presumptions as to what Parliament had in mind and linguistic canons of construction. These can be separately analysed but their relevance and weight in any given case varies. A problem of statutory interpretation must be resolved by a balancing of the relevant factors.

> 'The biggest mistake made about statutory interpretation is that the court selects which 'rule' it prefers, and then applies it in order to reach a result. The error perhaps originated with Professor J Willis, in what Cross called a 'landmark' article. The article, ominously entitled "Statutory Interpretation in a Nutshell" appeared in (1938) 16 Can. Bar Rev. 1. After warning his readers that it is a mistake to suppose that there is only one rule of statutory interpretation because "there are three – the literal, golden and mischief rules", Willis went on to say that a court "invokes whichever of the rules produces a result which satisfies its sense of justice in the case before it . . ."
>
> 'If there ever were, there are certainly not now just three "rules" of statutory interpretation. The so-called literal rule dissolves into a presumption that the text is the primary indication of intention and that the enactment is to be given a literal meaning where this is not outweighed by other factors. The so-called golden rule dissolves into one factor that may outweigh the literal meaning, namely the presumption that an "absurd" result is not intended. The so-called mischief rule dissolves into the presumption that Parliament intended

to provide a remedy for a particular mischief and that a purposive construction is desired. There are many other considerations.

'The court does not "select" any one of these, and then apply it to the exclusion of the others. The court takes an overall view, weighs all the relevant factors, and arrives at a balanced conclusion. The basic rule set out in the present section of the Code endeavours to state the truth.'

What does not appear in the book itself, and is indeed difficult to fit within the confines of a text-book rather than a collection of materials, is a worked example of the Bennion method of interpretation. Such an example can be found in Bennion, 'Scientific Statutory Interpretation and the Franco Scheme' [1983] British Tax Review 74. How close an ambitious argument based on this article came to succeeding in the Court of Appeal may be seen in *I.R.C. -v- Trustees of Sir John Aird's Settlement* [1984] Ch. 382.

(4) The effect of the lapse of time on statutory interpretation

This is another area of fundamental importance in which the traditional wisdom fails to provide proper guidance, indeed is positively misleading. Unfortunately, one of the more memorable contributions to the subject of statutory interpretation is the assertion by Lord Esher in *The Longford* (1889) 14 P.D. 34 at p. 36 that the Act 'must be construed as if one were interpreting it the day after it was passed'. This assertion was much wider than the decision in the case required and is emphatically the exception, not the rule. There is no comparable judicial statement of the rule, although it is daily acted upon by the courts and has been assumed by draftsmen down the ages (see Thring, *Practical Legislation* (1902) p. 83). It is that an Act is to be taken to be always speaking.

In one of his best sections (Article 146 and commentary), Bennion nails this point once and for all. There is, he says, a presumption that an 'updating construction' should be applied to an Act of Parliament.

'Each generation lives under the law it inherits. Constant formal updating is not practicable, so an Act takes on a life of its own. What the original framers intended sinks gradually into history. While their language may endure as law, its current subjects are likely to find that law more and more ill-fitting.

'The intention of the legislators, collected from an Act's legislative history, necessarily becomes less relevant as time rolls by. Yet their words remain law. Viewed like this, the ongoing Act resembles a vessel launched on some one-way voyage from the old world to the new. The vessel is not going to return; nor are its passengers. Having only what they set out with, they cope as best they can. On arrival

in the present, they deploy their native endowments under conditions originally unguessed at.'

This is plainly right; many examples follow. It is unfortunate that the first example given is not to the point.

At p. 357, Example 1, the case of *Peart -v- Stewart* [1983] 1 All E.R. 859 is given as an example of the possibility of the draftsman inserting words which are empty at the date of enactment with the object of catching a future set of circumstances. This is simply never done, at least in the United Kingdom. It is one thing to describe an existing class of case in general words which would be apt to cover further examples coming into existence in future. It is another to have a completely empty provision. The case concerned the question whether the county court was a 'superior court' for the purposes of the Contempt of Court Act 1981 (c. 49). The definition (s. 19 of the Act) provides that 'superior court' includes any court exercising powers equivalent to those of the High Court. The county court is for legal purposes generally an inferior court. But by s. 74 of the County Courts Act 1959 (c. 22) the county court had, as respects matters not otherwise provided for, the same powers as the High Court; this had been held to extend to the power to punish for contempt of court. Thus the question was does 'exercising the powers of the High Court' mean 'which generally enjoys the same powers as the High Court' or 'when exercising powers corresponding to those of the High Court'? The fact that there appeared to be no existing court falling within the former category might have been thought a strong indication that the construction was absurd. Consideration of the general purpose of the enactment, namely to set legal bounds to the former common law powers of courts according to the seriousness of the subject matter, might have lead the court to the latter construction. The case is an example (fortunately, exceptional in recent times) of an uninformed, narrow construction. The decision was immediately overturned by the County Courts (Penalties for Contempt) Act 1983 (c. 45).

On other aspects of the construction of old provisions, there is a similar mixture of sense and nonsense. It is well said (at p. 357) that old Acts, whilst still speaking, do not necessarily speak with the same force as recent Acts. The distinction between 'precision drafting' and 'disorganised composition' (pp. 177 et seq.) is relevant. But it is unrealistic to suggest as a general proposition that the failure of Parliament to repeal an old Act has positive force, conferring added legitimacy. Elsewhere (at p. 217, example 5) Bennion indeed states the real position:

> 'The truth is that the parliamentary timetable is almost always congested; and it is impracticable to remedy statutory defects as they arise. Moreover, on many topics . . . agreement as to the best remedy

is not easy to find. Legislators who cannot agree on a matter are unlikely to do anything about it.'

Failure to agree on what is to be put in place of an old law does not confer any additional legitimacy on the law.

This mixture is typical of the work as a whole. The main outlines of the analysis are good. There are powerfully written and compelling passages on some topics. There is a great deal of plain common sense, which the world ought to know. But there is a certain fallibility in point of detail and the arrangement and manner of expression is at times curiously distracting. Another irritation is the fact that, despite its length, this book does not purport to supersede the author's earlier, slighter writings to which the reader is constantly referred. Perhaps these are signs of a work produced in too great haste.

However, the fact that the second edition may prove to be better than the first should not be allowed to detract too much from the author's achievement. This book ought to be read by anyone with a serious interest in statutes and statutory interpretation.

(Contributed by G. B. Sellers, Office of the Parliamentary Counsel, Whitehall)

Henry Brougham: His Public Career 1778–1868 by Robert Stewart
(London, The Bodly Head, 406 pp., £18)
0 370 30271 0

When Henry Brougham died in 1868, in his ninetieth year, he was given an apt epitaph by a London newspaper: 'He is done marching, the old drum-major of the army of liberty.' Brougham well knew how to drum up public support. He was expert in the exploitation of the media of his times, and his oratory was no less commanding on the public platform than in Parliament or in the court room. And the causes for which he sought public support were essentially libertarian – the abolition of slavery; freedom of worship, of the press, of elections; the freedom to obtain education, and justice under the law.

Before his celebrated defence in 1820 of Queen Caroline, the King's discarded consort, Brougham was renowned as a defender of the oppressed. Afterwards he was for fourteen years the most talked of man in the country, and the most revered by the ordinary people. His aid was essential to the passage of the Reform Bill in 1832. The Whigs, to whose party he belonged – in his own words, he was an indifferent party man – benefited from his great public reputation, and they knew it, but they never wholly trusted him. His behaviour was often eccentric, sometimes so much so as to put his sanity in question. Of his fifty years

in politics he held office for only four, from 1830 to 1834, as Lord Chancellor.

His life has attracted a number of biographies. Now, a generation after the last, Dr Robert Stewart's 'Henry Brougham: His Public Career 1778–1868' will commend itself both to the scholar and the general reader. It is especially welcome because Dr Stewart is also the author of an admired work on 19th century politics. He is well able to guide his readers through the vagaries of Brougham's political life.

Edinburgh born, Brougham entered the university there at the then usual age of fourteen. At eighteen he was submitting well regarded papers on physics to the Royal Society. His interest in science lasted throughout his life – calculation and experiment were his recreation after he had committed himself to law and politics.

He turned hesitantly to the law as a profession, and found progress slow at the Scots bar, and the prospects narrow. He determined to make his name with a book, and produced 'An Inquiry into the Colonial Policy of the European Powers', described by Dr Stewart as 'an astonishing virtuoso performance for a man still not twenty-five years of age . . . two large octavo volumes of dense argument and copious information.' The book was well received. Meanwhile Brougham had become involved in the launch of the 'Edinburgh Review', which was an immediate success, and soon became highly influential in London no less than in Edinburgh. He was its leading contributor for many years, on every topic under the sun. These successes were not enough for him. One by one his Edinburgh friends (they all made their mark in life) were being drawn to London. He followed them, to practise at the English bar, and to seek a seat in the House of Commons.

Brougham's chance to make his name came early, in 1808, when he was instructed – as a Scots advocate; he was not called to the English bar until later that year – to appear before a committee of Parliament in support of a petition against certain Orders in Council. In his words, the principle of those Orders 'was abundantly simple. Napoleon had said that no vessel should touch a British port and then enter a French one, or one under French control. The Orders in Council said that no vessel whatsoever should enter any such port without having first touched at some port of Great Britain.' The United States was also concerned. She was already at odds with Britain over the searching of her ships for naval deserters. She would tolerate no further interference with her shipping.

Brougham had early seen and written about the danger to British trade posed by the Orders. Consequently those adversely affected by them looked to him for representation. They were not disappointed. His mastery of the facts was such that it was said that not a ship cleared Liverpool or Hull but that he had notice of the bill of lading. The petition was rejected, but his clients met to vote him their thanks, and

it was then that superlatives began to be used about his eloquence and powers of exposition. In 1812 he succeeded in bringing about a revocation of the Orders. By then he was a member of the House of Commons. In proceedings lasting six weeks he skilfully deployed massive evidence. Eventually Castlereagh, on the government's behalf, agreed to the revocation. He said that their effect on trade with America had not been foreseen.

Dr Stewart says, 'Parliamentary history records few greater personal triumphs.' He may, however, be on less sure ground when he goes on to say, 'A government, normally secure in its majority, faced by a fragmented and timid opposition, had been forced to capitulate, at the height of its war with Napoleon, on a major article of its commercial and military policy.' Castlereagh had then not long been Foreign Secretary, but he was not the man to capitulate on a major article of policy. There were signs that Napoleon's grip on Europe might at last be loosening. In those weeks Castlereagh may have been thinking towards the grand alliance which was to overthrow Napoleon, the alliance of Castlereagh's devising, and which only his skill and patience could have sustained. The Orders would hardly have been consistent with such an alliance. Perhaps in the end Brougham was not alone in his triumph.

However, it may be that Dr Stewart is less than generous in his comments on Brougham's behaviour in the events leading to the trial of Queen Caroline – 'trial' being the usual and convenient term to describe the proceedings on the second reading in the House of Lords of the Bill of Pains and Penalties to deprive the Queen of her title, and to dissolve her marriage.

She had appointed Brougham her legal adviser in 1812, and so brought him into the pitiful tale which had begun in 1795, with the marriage of two strangers, George, Prince of Wales, and the Princess Caroline of Brunswick. He detested her at sight, and soon extinguished any liking she may have had for him. After the birth of their daughter they lived apart, in deepening hatred. His wish to get rid of her quickened with the imminence of his succession to the Crown. The government made offers to her, through Brougham. Nothing in Brougham's career has been so harshly criticized as his conduct in these negotiations. Dr Stewart does not spare him. He speaks of Brougham playing Caroline false, and even of the 'well of his duplicity not having run dry.' No doubt Brougham vacillated, and was sometimes less than candid, but rough language about her to his friends, and the pathos of her position, may have tended to obscure an understanding of his difficulties.

In 1814 Caroline had gone to live abroad, against Brougham's advice. Her indiscretions at home had been such that he feared she would be tempted to greater indiscretions abroad, and so give grounds for divorce. By the final year of the negotiations he had no reason to doubt

that she was living in adultery. And as her legal adviser he had had to seek the return of letters written by her daughter, the sixteen year old heiress presumptive to the Crown, which suggested that Caroline had been, to say the least, neglectful of her duties as a mother. How would he meet these charges, if divorce proceedings were brought against her? He had another anxiety. He knew that the Prince of Wales had secretly gone through a form of marriage with Mrs Fitzherbert ten years before his marriage to Caroline. The secret had been well kept. What would be his duty as to that, in such proceedings?

The climax was reached in 1820. George had become King George IV. Caroline came back to London, a Queen only by title. On the day that it was learnt that she was to be brought to trial Brougham told Denman, her Solicitor General, of his anxieties, and concluded. 'So now we are in for it, Mr Denman.' Denman later wrote that he would never forget the tone and manner with which those words were uttered. That evening they went to see the Queen. After Brougham had left she said to Denman, 'He is afraid.' Denman thought that she was right, but that his fear was for her. Even Brougham could not then have foreseen the triumph that was to be achieved by his consummate powers.

Dr Stewart says that in the four years of Brougham's chancellorship he fell 'from a height of popularity rare in the English party system to a depth from which he was never, politically speaking, to recover. In all of English history was there ever a more rapid demise not inspired by criminality or high impolicy?' The three chapters which Dr Stewart devotes to Brougham's chancellorship show how his considerable successes were marred by instances of disloyalty and interference. The third of these chapters is entitled 'A Grotesque Apocalypse', which is from Disraeli's description of Brougham's three week tour of Scotland in the high summer of 1834. A rapturous reception may have gone to his head. He made boastful and politically disastrous speeches. He took the Great Seal with him – the King thought that to take it across the border without his leave was almost treasonable – and allowed young ladies to use it for a party game. These and other escapades, some no doubt exaggerated, were gleefully reported by the London press. Brougham's enemies were both numerous and vociferous, but none was more deadly than himself.

However not all Dr Stewart's readers will be able to accept his version of Brougham's behaviour soon afterwards. In the autumn of that year the Prime Minister, Lord Melbourne, went to Brighton thinking to consult the King about the leadership of the House of Commons, but instead received his government's dismissal. On the evening of his return to London he told the news to only two members of his Cabinet, Brougham and Palmerston, and enjoined them to secrecy until the Cabinet meeting arranged for noon the following day. The other

members of the Cabinet did not have to wait so long. They were able to read of their dismissal in 'The Times' of the next morning.

Dr Stewart says, without qualification, that Brougham 'leaked the news to the press.' That was the accepted view for many years, but it must now be accepted that someone else about Melbourne heard and then imparted the news. In the 'History of The Times', volume 1, published in 1935, it is said, 'It is astonishing to think that history for long accepted as a fact that the informant of "The Times" was Brougham, with whom the paper had broken absolutely since the summer.' The accusation against Brougham was always based merely on tendentious gossip.

Brougham's contribution to the reform of English law was immense, but is hard to define with precision. One difficulty of attribution is that Brougham was disposed to claim credit for every law reform measure passed during his long political life, while his enemies were no less disposed to deny him credit for any. But the effect of his law reform speech of 1828 – the one which lasted for six hours and three minutes, during which he refreshed himself from a hatful of oranges – cannot be questioned. J.B. Atlay, one of his earlier biographers, said of it, 'This speech may be said without exaggeration to have led, directly or indirectly, to a greater number of beneficial and useful reforms than any other, ancient or modern, and its extraordinary wealth of detail may be recommended to those who are inclined to scoff at the qualifications of Brougham as an initiator of legislation.'

A striking omission from Brougham's speech was any acknowledgement of Jeremy Bentham, whose advice Brougham had sort in its preparation; a few years later, after Bentham's death, Brougham was to describe him as the 'father of English law reform.' Yet Brougham's way was not Bentham's. Root and branch reform was what Bentham sought – his ideal was a written code of law, that every citizen might possess and understand. Brougham's way was less drastic. He looked for adaptation, wherever possible. Bentham said of Brougham's speech that his mountain had produced a mouse.

Brougham's enthusiasm for law reform did not abate during the many years after he left the Woolsack. And he remained a political force for as long as he saw hope of regaining office. Disraeli once remarked casually that the House of Commons was empty because Brougham was speaking in the Lords. His invective, and sarcastic wit (of an indolent peer, with ministerial duties, 'His lordship's problems will give him many a sleepless day') always assured him of an audience. Political disappointment did not sap his energy – in age, as in youth, he scorned idleness – but gradually he withdrew from the political scene, and turned to his other multifarious interests, all directed to the betterment of mankind.

Biographies of Henry Brougham do not lie long undisturbed on the

library shelves. Apart from his autobiography – virtually unreadable, but begun when he was well into his eighties, as he asked should be remembered – six biographies of him appeared during the hundred years after his death. But diversity of biographical treatment may afford the only hope of coming to some understanding of that man of high and versatile talents, and countless contradictions. Certainly those who seek such an understanding will be grateful to Dr Stewart for his contribution to that treatment.

(*Contributed by Donald Robson, Barrister, London*)

Parliament in the 1980s ed. Philip Norton (Basil Blackwell, Oxford, 1985, £19.50 hardback, £6.95 paperback)

There is no difficulty in justifying a constant flow of books about the British Parliament, because it is a constantly moving target. Its adaptability is one of its main sources of strength. So we can welcome a new contribution to the literature of Parliament, entitled *Parliament in the 1980s*, edited by Philip Norton. The editor is Reader in Politics at the University of Hull, and all his contributors have graduated from that politics department. This common origin may help to explain the coherence of a book which has two particular strengths. First, it gives an accurate and perceptive snapshot of both Houses of Parliament in 1984. Secondly, it offers the reader a clear insight into the process of change and adaptability. Thus it captures the mood and character of Parliament at a given moment and at the same time shows how evanescent that mood can be. Indeed, its title courts disaster by implying consistency across the whole decade, when the text indicates that Parliament in 1989 will certainly have changed its mood again, just as it has since the late 1970s. Yet the text stands up to its title well.

The book takes as a theme the contribution of recent changes – behavioural, structural and representational – to the better fulfilment of Parliament's function of 'scrutiny and influence'. The structural changes refer primarily to the new select committees of both Houses, especially the system of committees monitoring areas of government policy and the relevant government departments. Undeniably, this development has major significance for the future, but it is reassuring to find that the committees do not swamp the book. They are balanced by chapters on behavioural changes in each House: backbench independence in the Commons, and the new professionalism and independence of the Lords. The latter conveys an illuminating and, from the reviewer's experience, extremely accurate impression of the new House of Lords. Freed, somewhat unwillingly, from the prospect of reform which most of its members favoured, the House of Lords has begun to assert itself in a

way that few could have anticipated twenty years ago. As one anonymous member is quoted as saying, the failure of reform proposals has had the effect of freeing the House from its past lethargy and making it 'determined not to pussy-foot about any longer but instead to get on with the job in hand'.

In some respects this determination has taken the form of a challenge to the Commons on selected occasions. Ironically, this has led the House, conservative to the core throughout most of the 20th century, to be courted by the left-wing leaders of the Greater London Council and other metropolitan local authorities as an ally in resisting a Conservative Government. But the main trend is for the Lords to complement rather than rival the Commons. The majority recognise the pointlessness of trying to replicate the Commons, and their approach to self-generated reform is to seek out those things which the Commons cannot do or do not do, and to fill the gap. Accordingly the Lords' emphasis is on those things which take time or use specialised skills and a less overtly party-political attitude – scrutiny of European legislation, legal issues, science and technology, detailed consideration of unexciting bills, not to mention those parts of controversial bills which have been guillotined before debate in the Commons.

Much of this appears in *Parliament in the 1980s* without the trend itself being identified. Yet the trend has implications for Norton's discussions of reform. In his coverage of reform prospects for both Houses, he canvasses the possibility that the Lords might adopt a departmental Committee structure comparable with that of the Commons, and takes it for granted that any reform of the Lords membership will be on the basis of election. Both views ought to be questioned. Recent practice in committee has certainly been for the Lords to concentrate heavily on those areas where the Commons are weak, that is, on those subjects which a departmental committee structure cannot readily accommodate. As for an elected Second Chamber, this has most of the intellectual arguments in its favour but suffers from a serious practical objection. What constituency can be devised for the Second Chamber that is not either a duplication of the First (and thus a source of rivalry), inferior to the First (in which case it is flawed) or superior to the First (and thus another source of rivalry)? Failure to identify this constituency has led some to favour the status quo and others to favour outright abolition. No means has yet been devised to go on tapping the varied and specialist expertise of the Lords, and their spirit of public service, while getting rid of the anomaly of a hereditary majority. The reformers have to find a way of not throwing the baby out with the bathwater. Maybe the answer lies in rethinking assumptions about elected membership.

This review inevitably leans towards that part of *Parliament in the 1980s* which concerns the Lords. Prudence makes the officers of one

House – including the reviewer – tread carefully on the territory of the other. The book needs no such inhibitions. It gets beneath the surface of the Commons in a knowledgeable and instructive way. Specially useful is the chapter on the constituency MP – a necessary reminder that much of the backbench MP's work, and arguably the greater part of his achievement, is not in Westminster at all. Instead there is a heavy demand from the constituency, whether it be the demands of aggrieved constituents on the MP's surgery or mailbag or the need for the MP to earn popularity in a marginal seat.

The book also discusses the role of the backbencher at Westminster, including a stimulating account of a recent trend in backbench voting habits. Before 1974, the powers of the whips seemed unassailable and the likelihood of party revolt was small. Since then, under the influence of two extremes in Government strength – first no majority and then an 'overlarge' majority – backbenchers have shown growing signs of independence; the habit of cross-voting is catching. This has recently (April 1986) reached the extreme case of defeat for the Government on the second reading of their Shops Bill, when 68 Conservative backbenchers voted against their frontbench. The book rightly underlines this new volatility. It also identifies the importance for the whips of avoiding rebellions. Therein lies the unseen influence of backbenchers, the policy changes that occur before policy becomes public, as a result of the whips' judgement about what the party faithful (or the unpredictable Lords) will tolerate. Indeed it can be said – and Norton does – that a vote against the party line in the Commons is usually a mark of failure, because it shows up a failure to convince Ministers beforehand in private. But the threat of revolt is crucial to backbench influence, and secret negotiations often have to be followed by a public confrontation across the floor of the House and in the division lobbies. Parliament is seldom as spontaneous as it looks.

The editor can be commended on bringing together a well balanced and accurate account of Parliament. There are a small number of obvious inconsistencies, such as the statements on facing pages that 'less than half' (wrong) and '65 out of 90' (right) of the European Communities Committee's reports have been recommended for debate. The weakest part of the volume is the editorial matter itself. This is rather heavy-handed and at times obscure – what is this 'parliamentarianism' that is said to have had its peak in the nineteenth century and has declined under 'pressures of democracy and industrialisation'? What justifies the 'Norton View' (sic), referred to frequently in the conclusion, which is a grandiose title for an opinion that overstates the power of backbenchers by overlooking the lack of cohesion which is their essential weakness? The conclusion is also weak on topics such as proportional representation, on which it takes an oversimple view of people's voting habits.

Nevertheless, the book is one which I recommend. When the next edition is written, as I hope it will be, it can develop some arguments missing from this one, such as the response of Parliament to radio and television (particularly the keenness of members of both Houses to use TV as a public platform) and the emergence, or rather re-emergence, of a multiple party system in place of the rigid two party system of recent years. But the omissions are few. On the basis of this book, I would happily enrol in the politics department of the University of Hull.

(Contributed by PDG Hayter, Principal Clerk, Committee Office, House of Lords)

The Tudor Parliaments: Crown, Lords and Commons, 1485–1603, by Michael A. R. Graves (London, Longman, 1985, 0582491908, £5.50)

The contribution of the English-speaking countries outside the United Kingdom to the study of Parliamentary history has been considerable. One need only reflect on the important work done by the Yale Center for Parliamentary History. It is pleasant to welcome a work by Michael A. R. Graves, Associate Professor at the University of Auckland and author of a fine study of *The House of Lords in the Parliaments of Edward VI and Mary I* (1981).

The orthodox view of the sixteenth-century Parliament was established by the generation of Tudor historians who flourished between the two world wars. The doyen of this group was the late J. E. Neale. They argued that Parliament was given a new dignity and power in the kingdom during the 1530s when it was used by the royal government to pass the legislation necessary to break with Rome and to confiscate the wealth of the church. During the reign of Edward VI, Parliament was used to make the church more Protestant and, during the reign of Mary I, Parliament restored the links with Rome. Finally, at the beginning of Elizabeth I's reign, Parliament passed the legislation which established a lasting settlement of religion. Within Parliament itself, there were changes. Gradually, the Commons became the dominant chamber while the Lords disappeared into the background; Graves quotes Elton's criticism: 'The Lords stood in the wings and made their rare appearances as a body – rather like the chorus in *Iolanthe*'.

J. E. Neale extended the orthodox view when he argued for the existence of a strong opposition to the royal government in the Commons during Elizabeth's reign. This opposition was a group of Puritan members who sought a more radical religious settlement. From here, we can proceed smoothly to the history of the early Stuart Parliaments and the breach between King and Parliament which led to the

Civil War. The history of the Tudor, especially Elizabethan, and of the early Stuart Parliaments is the history of the struggle between royal authority trying to maintain its influence and the House of Commons fighting on behalf of the liberty of the subject.

The orthodox school represented by Neale was greatly influenced by biographical methods and studied the biographies of members in detail. During the last two decades, a group of revisionists, led by G. R. Elton, have concentrated more on the institutional rather than the political history of Parliament. They have looked at the business of Parliament; the changes in procedures; and the developments in the keeping of the records of Parliament. The orthodox interpretation has begun to look more and more doubtful. Study of the business of Parliament has revealed the importance of the House of Lords in initiating and passing legislation usually in a more efficient manner than the House of Commons. Neale's puritan opposition in the Commons has been written off the pages of history while dissensions in the Commons are now largely explained as the product of fights between the clients of factions in the Privy Council. The revisionists see the Tudor Parliament as a bicameral institution where the upper chamber still had a significant role and where Parliament itself was an useful and largely obedient instrument of royal government.

Graves attempts 'to synthesise the tested and acceptable elements in both the orthodox and revisionist positions in an attempt to produce a more balanced and realistic history of the Tudor Parliaments'. He begins with a very useful chapter on the procedures, records, personnel and privileges of Parliament. This includes a clear and fascinating explanation of the origin of the three-reading procedure for bills. It is salutary to learn that one Elizabethan subsidy bill took two hours to read aloud and that in 1581 the Commons listened to a list of 92 bills.

There follow five chapters on the Parliaments from 1485 to 1597. The most satisfactory are the chapters on the Reformation Parliaments, 1529–1558, which reflects the fact that the Parliaments of Henry VIII have been well studied by S. E. Lehmberg in his two monographs, *The Reformation Parliament, 1529–1536* (1970) and *The Later Parliaments of Henry VIII, 1536–1547* (1971) and that the House of Lords, 1547–1558, has been studied by Graves himself. The chapters on the Parliaments of Elizabeth I are less successful because little work has been done since Neale. The most notable of the few studies is Norman Jones on the settlement of religion in 1559, *Faith by Statute* (1982). However, it is startling to recognise how far the current view of Elizabeth's Parliaments has changed since Neale wrote his *Elizabethan House of Commons* (1949) and his *Elizabeth I and her Parliaments* (1953–57).

The Tudor Parliaments is a valuable synthesis of current historical views. The orthodox view of the Reformation as changes enhancing the role of Parliament, especially in destroying the medieval limitation

on statutes, is retained. The daily work of Parliament is well illustrated as is, in the epilogue, the poor attendance record in the Commons which was only slightly worse than the House of Lords. While Neale's political opposition has been dismissed, Graves suggests that there are instances of opposition formented by court intrigues. Future research may redress the balance and restore a little politics to the Elizabethan Parliament.

(Contributed by David Lewis Jones, Deputy Librarian, House of Lords Library)

Whitehall and Westminster by Dermot Englefield (Harlow, Longman, 1985, 218 pp, paperback, £15, ISBN 0 582 90272 X)

It comes as something of a surprise to realise the extent to which the activities of Parliament consist of obtaining, or seeking to obtain, information from the Government. Questions and Ministerial Statements are obvious instances, but debates, the consideration of legislation, and the work of select committees are all more often than not concerned with obtaining information from the Government, and thereby calling the Government to account for its conduct of affairs. It is this aspect of the relationship between Whitehall and Westminster which Dermot Englefield's book investigates. The book's subtitle – 'Government informs Parliament: The changing scene' – neatly sums up its scope.

As the book's title suggests, its concern is solely with the Parliament of the United Kingdom. After a lucid but brief historical introduction, the book concentrates on the present day, most of the examples given coming from the early 1980s. This, incidentally, is perhaps a pity, as it would be interesting to see whether any difference of approach can be discerned between Conservative and Labour governments; as it is, the book deals mainly with practice under the present administration.

The first of three parts of the book describes how the Government is organised to inform Parliament, and how the Parliamentary timetable is organised. The second and major part discusses the various kinds of proceedings in Parliament. The wide range of debate which takes place in Parliament is demonstrated by an analysis of the business of the House of Commons over a fortnight at the beginning of 1984. The treatment of legislation is illustrated by a case study of the Trade Union Bill of Session 1983–84. Select committee work is the subject of a comparatively short chapter, but is also discussed in other chapters, notably that on foreign and European Communities affairs. The House of Lords, while touched on at various points throughout the book, is the subject of a separate chapter which, after an inauspiciously purple

patch in its opening paragraph, goes on to provide a useful general description of the work of the House with particular reference to the obtaining of information from the Government. The final chapter in this part of the book discusses the work of the Parliamentary Commissioner – an important modern addition to the tools available to the House of Commons for quarrying out information about the workings of Government departments.

It is not surprising, considering that the book's author is the Deputy Librarian of the House of Commons, that its third and final part comprises two chapters dealing with papers. The first describes the different categories of Parliamentary papers and reports of debates, the second describes the indexes available to these papers, principally the Parliamentary On-Line Information System (POLIS) maintained on computer by the House of Commons Library. The degree of detail is sufficient for the two chapters to provide a great deal of useful guidance to anyone making use of Parliamentary papers for research, particularly if they have access to POLIS.

The first of six appendices provides a portrait of the 1980–81 session in the form of tables, running to over 40 pages (and perhaps a little indigestible), showing each day's business in each House and in committees. Other appendices include documents giving guidance to officials on the disclosure of information and lists of official papers regularly laid before Parliament.

One puzzling aspect of this book is that it is difficult to know to whom it is addressed. It is certainly not a treatise on the dissemination of Government information generally, as it deals only with the communication of Government information to Parliament, and thus does not touch on the lobby system and the use of 'leaks', both of which have recently been so much in the public eye. Nor is it a comprehensive account of the relationship between Government and Parliament, for matters such as the need for the Government to retain the confidence of the House of Commons, and the ways in which both Houses can influence Government policy, are outside the scope of the book. In its third part, the book goes beyond the subject of Government information and deals with public access to information about Parliament. In many ways the book provides a very readable introduction to the work of Parliament as a whole, but from that point of view it leaves a number of gaps. Judged as a possible textbook, it suffers from occasional inaccuracies. For example, the claim that 'there are seldom more than two or three statements a month' (page 59) is no longer true; nor is it the case that bills are divided 'within clauses into sections' (page 64) – the clauses into which a bill is divided become sections when the bill becomes an act.

Nevertheless, there is a great deal in the book to interest and inform readers approaching the subject of Parliament from many different

angles. For the general reader, the book illuminates a number of less well-known aspects of the work of Government and Parliament. For librarians or students undertaking research into Parliament, there is much of interest, and the part of the book dealing with papers (at perhaps disproportionate length for the general reader) will be of great practical value. Clerks will find the author's approach a novel and instructive one, well worthy of study.

(Contributed by David Beamish, Senior Clerk, House of Lords, Westminster)

The Viceroy's Fall: How Kitchener destroyed Curzon, by Peter King, (London, Sidgwick & Jackson, £12.50)

This book tells the story of Lord Curzon's Viceroyalty and deals in particular with those last bitter months when the Viceroy was embroiled in a complex battle both with the Commander-in-Chief Lord Kitchener and with his own Secretary of State, St. John Brodrick. How the battle ended is well-known. First there was the early resignation not of Kitchener but of the Viceroy; then came the departure from India amid the acclamations of 'an unprecedented number' of sorrowing well-wishers representing 'every class and community in the land', only to be followed by the chilly reception at Charing Cross by a 'third Secretary'; and finally a career which thereafter never achieved its early bright promise. In the wilderness for a decade Curzon returned to Government only during the First World War and although he had the satisfaction of holding the Foreign Office during the crucial if frustrating early years of peace the highest honour was denied to him. Ostensibly this was on the grounds that he was ineligible for the office of Prime Minister by reason of his seat in the House of Lords: the real reason, as he himself suspected, was that the Conservative magnates had rejected him and this rejection was not unconnected with the ill feelings engendered by the failures of 1905.

The issue which lay at the heart of the matter was simply this: how and by whom was the Indian Army to be commanded? The system which had been inherited by Curzon and which had, with few modifications, been in existence since the mutiny laid down a network of arrangements the keynote of which was 'duality'. All important matters of policy were decided in the Council of State presided over by the Viceroy either on their own initiative or acting on the instructions of the Secretary of State. The Commander-in-Chief had authority over all internal military matters and he was himself invariably a member of the Council. His membership however was a matter for the Viceroy's discretion, not one of right. Another seat at the Council Table was

occupied by the so-called Military Member and it was this official who was responsible for the Military Department. As a departmental head he was answerable not to the Commander-in-Chief of the Army but to the Council as a whole. This, in brief, was the system which Lord Kitchener found intolerable and which he was determined to destroy.

For Kitchener, fresh from his successes in South Africa, it was wholly incompatible with the office of Commander-in-Chief that he should have to bargain and weedle his way through the Committees and red tape which he assumed were the inevitable accompaniments of the system of dual control. To Curzon however the existence of the Military Department, and its responsible representation on the Viceroy's Council, was an essential safeguard of the constitutional arrangements whereby the Indian Empire was governed. The distinction, he wrote, 'between executive and administrative functions is a recognised feature of sound military government in all civilised countries'. Moreover the army in India was so great in numbers and so diverse in nationalities and customs that it would be beyond the capacity of any single man to manage it without the intermediary of a department of State which should in his view be responsible in the end to the civil authorities. To give in to Kitchener's demands would be in Curzon's view to hand over 'the greatest governing institution in the world' to a military dictatorship. Such a development would have been quite contrary to Curzon's most deeply held conception of the role of constitutional government in the development of Empire. In the end he sacrificed his career for that belief.

In Lord Kitchener Curzon had an opponent who had already tasted success in slaying the dragon of red tape both in the Sudan in the aftermath of the fiasco of Khartoum and in South Africa at the height of the Boer War. As a result he was accustomed to getting his own way. It was only to be expected that he should set less store than Curzon on the constitutional requirements of a settled Government and on the checks and balances designed to ensure that the priorities facing the administration as a whole were impartially considered. In one form or another this problem is frequently met with by all governments at all times. The question that must be faced is, why did Curzon so singularly fail to resolve the matter, if not to his own complete satisfaction, at least without accomplishing his utter ruin. Why, in short, did our most brilliant proconsul in the brief period of imperial high noon allow himself to be outmanoeuvred by the man whom Lord Rosebery referred to as 'the Hercules of the Himalayas'?

I fear the reader does not receive as much help from Mr. King on this all-important question as he might wish. The events are chronicled meticulously enough but there is little attempt to stand back and to observe the unfolding of the story from a distance. Instead, the reader is faced with indigestible chunks of correspondence, inevitably bewil-

dering to the reader since the letters are replete with references and assumed familiarity. Mr. King is in no doubt as to the identity of the villain: it is Lord Kitchener whose single minded and at times dishonest manoeuvring behind the Viceroy's back swept all obstacles from his path. Ruthless, Kitchener undoubtedly was; he could hardly have achieved the position he held in his chosen career had he not been. Yet the reader is left with some doubt as to the fairness of the judgment which allows the author to use the verb 'to lie' in one of its forms so often in referring to Kitchener's activities in the course of the two central chapters.

In the end the failure was a *political* failure in so far as Curzon allowed the situation which should have been – indeed was – foreseen to become so out of hand that he was left with no alternative but resignation. Mr. King offers explanations other than Lord Kitchener's treachery for the Viceroy's political failure. We are told harrowing stories of Lord Curzon's nursery experiences (horrifying to us, that is, but perhaps less so in that more robust age); he notes his prickly sensitivity to criticism and that destructive arrogance which gave rise to the 'damned doggerel' about the Very Superior Person which did him so much harm. And there are other more far-fetched explanations offered as to why Curzon failed to understand his opponent based on the alleged sexual preferences of the Commander-in-Chief. But in the end all these pale into irrelevance compared with that overriding failing which Harold Nicolson observed of the man whom he himself admitted he admired to the point of hero-worship. 'The tragedy of his life was that [Curzon] imagined that a man could obtain the highest office in the state by the sheer worth of industry, integrity, intelligence and efficient public service . . . No man in modern England can become a great statesman unless for many years he serves as a politician. That service was the only one that Curzon had been unable to perform'.

(Contributed by James Vallance White, Principal Clerk, House of Lords)

The First Five Years of Parliamentary History – A Triumph of Optimism over Experience.

'The harsh economic climate endured by higher education in the early 1980s was certainly not the best time to contemplate establishing a new historical journal' was how H. T. Dickinson began his review of the first three volumes of *Parliamentary History* in *The Times Higher Education Supplement* in June 1985. His views were echoed by Peter Thomas in the *Welsh History Review* in the same year when he described the setting up of a new academic journal as 'almost a miracle'. The journal concerned first appeared in late 1982, as a yearbook,

published by Alan Sutton of Gloucester. Its very appearance in print seemed something of a triumph to the editorial committee who had worked on the project since the idea had originated about five years earlier. The then editor, Eveline Cruickshanks, when canvassing academic opinion in the late 1970s, was firmly told that she would be wise to desist from any such venture. As the financial position of universities grew worse in the early 1980s the views of the pessimists seemed confirmed. By then, however, Dr Cruickshanks and her colleagues on the editorial committee had already rushed in where angels were refusing to tread. They were committed to a yearbook which they hoped would fill a need for a forum for historical research on all aspects of British parliamentary history (including the pre-Union Scottish and Irish Parliaments) from the medieval period to the twentieth century.

Work on the first volume began in an atmosphere of some trepidation, for the committee was not wholly certain both of the amount of publishable material to be tapped, and the likely circulation the hard pressed academic sector could guarantee. They commissioned articles and book reviews for the first two issues and negotiated a five-year contract with a publisher. It soon became abundantly clear that there was indeed a considerable demand from the historical profession for such an outlet for research, a point made by John Simpson in the *Scottish Historical Review* in 1985. Circulation built slowly – launching a new venture such as a journal is a difficult process – but over the first five years sales have built to around 500 per issue, with an encouragingly large proportion of private as opposed to institutional subscribers.

Both the circulation and the authorship of the articles strongly demonstrates *Parliamentary History*'s international character. The largest contingent of authors and number of sales outside the United Kingdom comes from the United States, reflecting the long standing interest among scholars in North America in British parliamentary history. Each issue, however, has had a fair sprinkling of authors from Commonwealth countries, especially Canada, Australia and New Zealand, as one would expect, with their long and close association with the 'mother of parliaments' at Westminster. Such authors have included Philip Lawson (Dalhousie University) on 'Parliament and the First East India Inquiry, 1767'; M. A. R. Graves (University of Auckland) on 'The Management of the Elizabethan House of Commons: The Council's 'Men-of-Business' "; Edwin Jaggard (Western Australian College of Advanced Education) on 'The Parliamentary Reform Movement in Cornwall, 1805–1826'; Marie Peters (University of Canterbury, New Zealand) on ' "Names and Cant": Party Labels in English Political Propaganda, *c.* 1755–1765'; and Ian Newbould (University of Lethbridge) on 'Whiggery and the Growth of Party, 1830–1841: Organization and the Challenge of Reform'. The editorial committee wishes

to strengthen its links with Commonwealth parliamentary historians, and to this end 'editorial representatives' are being established in Canada, Australia, and New Zealand to encourage and monitor contributions to the journal, and to help spread news and information of the journal at conferences and other such appropriate occasions. This move will, to some extent, imitate the already established American associate editorial committee based at Washington University, St. Louis, Missouri, under the chairmanship of Richard W. Davis, but with members in Washington, D.C., and in California. This committee has been in existence from the outset as part of the deliberate international outlook of *Parliamentary History*.

These new moves to develop the journal's Commonwealth connexions have coincided with two other major changes which are about to overtake *Parliamentary History*. From the publication of volume 6 in 1987 the journal will be published by Oxford University Press, twice yearly in May and November. Thus the subtitle of 'Yearbook' is being dropped. This move is taking place in order to maximise the international potential of the journal, built up over the past five years, which a large academic publisher with a world-wide reputation can offer. The new biannual format will allow extra space for the expansion that a constant flow of good material demands. It will also allow the journal to publish special issues devoted to particular topics or periods of parliamentary history. The first such issue will appear as volume 6, part 2 (November 1987) on 'Parliament and Liberty from the Reign of Elizabeth to the English Civil War', the papers of an international conference held at St. Louis in the summer of 1986. A second is in preparation for 1989 (volume 8, part 2) on 'Legislation and Interest Groups in Elizabethan Parliaments', and two further special issues are at the planning stage: one on 'Studies in the Development, Work and Composition of the Medieval English Parliaments', provisionally scheduled for volume 9, part 2 (1990), and another on an aspect of twentieth-century British parliaments. One further change recently took place in the editorial structure of the journal. In September 1986 I took over as editor from Eveline Cruickshanks. She not only saw the original conception become a reality, but with her editorial colleagues shaped its successful future and organised the transference of the journal to a new publisher. I am conscious that she will be a difficult act to follow.

Thus it can be seen that though the journal has a new publisher and editor from 1987, the aims of *Parliamentary History* remain the same: to publish high quality research articles, and papers of a more general appeal, together with book reviews and review articles. The reviews section is of particular importance, as the high quality of past contributions can testify. Its aim is to keep readers abreast of the latest work

both in parliamentary history and in wider British political history which inevitably impinges on the history of parliament.

It is the hope that as the reputation of *Parliamentary History* expands under the new publishing format and regime, the 'Parliamentary History Yearbook Trust', established as a charity in 1983 to oversee the editorial and financial side of the journal and to sponsor its publication, might take on new academic roles, possibly as an organising body for conferences and workshops on parliamentary history, which in turn may well produce material for publication in the journal.

Parliamentary History received a much needed fillip in its early days from generous grants from the British Academy, the Twenty-Seven Foundation, the Isobel Thornley Bequest of the University of London, and from Shell (U.K.) Ltd. The money so raised bought time to enable the project to develop a reputation for quality. We are now on a firm foundation from which to progress and what we have already achieved in the first five years has amply justified the faith shown in the journal. Many academic reviews have echoed the optimism that the editorial committee now feel in their product: 'the success is entirely justified. The format of the journal is attractive, its range is a skilful combination of the wide and the specialized, and its contents are of a high calibre . . . The major advantages of *Parliamentary History* are its strong sense of identity, the coherence of its contents, and its ability to cover a defined field over a considerable time span' (H. T. Dickinson, *T.H.E.S.*, 1985); 'an excellent format . . . and the level of scholarship is high . . . a very exciting and important journal' (Simon Adams, *History Today*, 1984); 'a splendidly balanced volume. All institutions of higher learning should subscribe, even in these hard times' (P. D. G. Thomas, *Welsh History Review*, 1985).

Note:

The new subscription rate from 1987 will be £25 for institutions and £12.50 for individuals for two issues a year with a total of about 320 pages. For a subscription and further details please write to Oxford Journals, Oxford University Press, Walton Street, Oxford, OX2 6DP. For back numbers, volumes 1 (1982) – 5 (1986), please write to Alan Sutton Publishing Ltd., 30 Brunswick Road, Gloucester, GL1 1JJ.

(Contributed by Clyve Jones, Editor, Parliamentary History, Institute of Historical Research, University of London.)

XX. RECENT BOOKS ON PARLIAMENT AND RELATED TOPICS

Afigbo, A. E. and others
The Making of Modern Africa, 2 vols, Longman, 1986

Aitkin, Don and Jinks, Brian
Australian Political Institutions, 3rd ed., Carlton, Victoria, Pitman, 1985.

Arora, R.
Parliamentary Privileges in India, New Delhi, Deep & Deep Publications, 1985

Barrett, Edward
Constitutional law: cases and materials, Mineola, N.Y.: Foundation Press, 1985

Bottomley, Arthur George, Baron Bottomley
Commonwealth, comrades and friends, Somaiya Publications, 1985

Bowden, Beth
Parliament and the People, Government Publishing, PO Box 14–277, Kilbirnie.

Browning, H. O.
The 1975 Crisis: A Historical Overview, Sydney: Hale and Iremonger, 1985.

Brugger, Bill and Jaensch, Dean
Australian Politics: Theory and Practice, Sydney, George Allen and Unwin, 1985.

Bullen, Roger and Pelly, M. E.
Documents on British Policy Overseas, Series I, Volume II: Conferences and Conversations 1945: London, Washington and Moscow, HMSO, 1986

Burridge, Trevor
Clement Attlee: a political biography, Cape, 1985

Byrt, W. J.
The Framework of Consensus: Government, Business and Trade Unions, Sydney: Law Book Co., 1985.

Carsten, F. L.
The First Austrian Republic, 1918–38, Gower, 1986

Carter, Lief
Contemporary constitutional law making: the Supreme court and the art of politics, New York: Pergamon Press, [1985]

Chalmers, R., and Hutchison, J.
Inside Canberra: A Guide to Australian Federal Politics, Curry O'Neal 1983.

Chapple, Francis Joseph, Baron Chapple
Sparks fly!: a trade union life, Joseph, 1985

Chaturvedi, Ram Gopal
Amendment of the constitution: philosophy and practice, Jaipur: Institute for Research and Advanced Studies, 1985

Chandhary, V.
The President and the Indian Constitution, New Delhi, Allied Publishers, 1985

Corwin, Edward Samuel
Corwin & Peltason's *Understanding the constitution*, New York: Holt, Rinehart, and Winston, 1985

Crisp, L. F.
Australian National Government, Longman Cheshire 1983.

Critchley, Julian
Westminster blues: minor chords, Elm Tree, 1985

Dalton, Edward Hugh John Neale, Baron Dalton
The Second World War diary of Hugh Dalton 1940–45, edited by Ben Pimlott, Cape in association with the LSE, 1986

Drewry, Gavin (ed)
The new select committees: a study of the 1979 reforms, Oxford: Clarendon, 1985

Drysdale.P. and Shibata H. (eds)
Federalism and Resource Development: The Australian Case, London: Allen and Unwin, 1985.

Dutton, David
Austen Chamberlain: a gentleman in politics, Ross Anderson, 1985

Englefield, Dermot
Whitehall and Westminster: government informs Parliament: the changing scene, Harlow: Longman, 1985

Englefield, Dermot (ed)
Today's Civil Service, Harlow, Longman, 1985

Ethridge, Marcus
Legislative participation in implementation policy through politics, New York: Praeger, 1985

Fisher, Louis
Constitutional conflicts between Congress and the President, Princeton, N.J.; Guildford: University of Princeton Press, 1985

Fletcher, Eric George Molyneux, Baron Fletcher
Random reminiscences, Bishopsgate Press, 1986

Foot, Michael
Loyalists and loners, Collins, 1986

Garbutt, Paul E.
London Transport and the Politicians, Ian Allan, 1986

Gehlot, N. S.
The Office of Governor, its constitutional and legislative reality, Allahabad, Chugh Publications, 1985
Gehlot, N. S.
Office of the speaker in India, New Delhi: Deep & Deep Publications, 1985
Graves, Michael
The Tudor parliaments: Crown, Lords and Commons 1485–1603, London: Longman, 1985
Haywood, G,. A.
The Tynwald Companion, 4th ed., Printing Committee of Tynwald, 1985
Henderson, Paul, *Parliament and Politics in Australia: Political Institutions and Foreign Relations*, 3rd ed., Richmond, Victoria: Heinemann Education, Australia, 1985
Herr, R. A.
Party Committees: The Implications for Parliament, University of Tasmania, 1983.
Howson, P.
Howson Diaries: The Life of Politics, Viking 1984
Hull, Elizabeth
Without justice for all: the constitutional rights of aliens, Westport, Conn.: Greenwood Press, 1985
Inter-Parliamentary Union
Parliaments of the World, 2nd ed, Gower, 1986
Jerome, James
Mr Speaker, McClelland and Stewart Ltd, 1985
Jewell, Malcolm Edwin
The legislative process in the United States, New York: Random House, 1985
Jones, Clyve and Jones, David Lewis
Peers, politics and power: the House of Lords, 1603–1911, London: Hambledon, 1986
Jowell, Jeffrey and Oliver, Dawn
The changing constitution, Oxford: Clarendon, 1985
Keefe, William
The American legislative process: Congress and the States, Englewood Cliffs, N.J.: Prentice-Hall, 1985
Kellas, James G.
The Scottish Political System, 3rd ed., Cambridge University Press, 1986
Killen, D. J.
Killen: Inside Australian Politics, Methuen Haynes, 1985.

Kirchner, Emil
The European Parliament: Performance and Prospects, Gower, 1986

Kenyon, J. P. (ed)
The Stuart constitution, 1603–1688 – 2nd ed. Cambridge: Cambridge University Press, 1986

Kouzmin, A., Nethercote, J. R., Wettenhall, R.
Australian Commonwealth Administration 1983: Essays in Review, C.C.A.E., 1984.

Krishnamurthy, S.
Impact of social legislations on the criminal law in India, Bangalore, R. R. Publishers, 1985

Lamoureux, L.
Selected decisions of speaker Lucien Lamoureux 1966–1974, Ottawa, Canada, 1985

Lucy, Richard
The Australian Form of Government, South Melbourne, Macmillan, 1985

McAuslan, Patrick and McEldowney, John (eds)
Law, legitimacy and the constitution: essays marking Dicey's Law of the Constitution, London: Sweet & Maxwell, 1985

McGee, David
Parliamentary Practice in New Zealand, Government Publishing, 1985

McWhinney, Edward
Supreme courts and judicial law-making constitutional tribunals and constitutional review, Dordrecht; Boston: M. Nijhoff, 1985

Madden, Frederick and Fieldhouse, David
Select documents on the constitutional history of the British Empire and Commonwealth, Vol. 1, The Empire of the Bretaignes, 1175–1688, Westport, Conn.: Greenwood Press, 1985

Moore, R. J.
Escape from Empire: The Attlee Government and the Indian Problem, Oxford University Press, 1986

Nethercote, J. R.
Parliament and Bureaucracy: Parliamentary Scrutiny of Administration: Prospects and Problems in the 1980's, Hale and Iremonger, 1982.

Norton, Philip (ed)
Parliament in the 1980s, Oxford: Blackwell, 1985

Nwabueze, B. O.
Nigeria's presidential constitution: the second experiment in constitution democracy, London: Longman, 1985

Oberst, Robert
Legislators and representation in Sri Lanka: the decentralization of development planning, Boulder: Westview Press, 1985

Pachauri, P. S.
Democracy and the Second Chamber, New Delhi, National Publishing House, 1985

Pandey, Ram Darshan
Fundamental rights and constitutional amendments, Delhi: Capital Pub. House, 1985

Parker, Glenn
Factions in House committees, Knoxville, Tn.: University of Tennessee Press, 1985

Parliament of India, the seventh Lok Sabha, 1980–84: a study New Delhi: Lok Sabha Secretariat, 1985

Pimlott, Ben
Hugh Dalton, Cape, 1985

Prasad, Anirudh
Centre-state relations in India: constitutional provisions, judicial review, recent trend, New Delhi: Deep & Deep Publications, 1985

Robinson, Donald (ed)
Reforming American government: the bicentennial papers of the Committee on the Constitutional system, Boulder: Westview Press, 1985

Rumble, Wilfrid
The thought of John Austin: jurisprudence, colonial reform and the British constitution, London, Athlone, 1985

Sawer, M. and Simms, M.
A Woman's Place: Women and Politics in Australia, Allen and Unwin, 1984.

Siwach, J. R.
The Dynamics of Indian Government and Politics, New Delhi, Sterling Publications, 1985

Smith, Rogers
Liberalism and American constitutional law, Cambridge, Mass.: Harvard University Press, 1985

Steiner, Gilbert Yale
Constitutional inequality: the political fortunes of the Equal Rights Amendment, Washington, D.C.: Brookings Institution, 1985

Thomas, George, 1st Viscount Tonypandy
Mr. Speaker: the memoirs of the Viscount Tonypandy, Century, 1986

Tynwald, the
The Thousand Year Old Parliament, Isle of Man Government, 1985

Ulmer, S. Sidney
Supreme court policymaking and constitutional law, New York: McGraw-Hill, 1986

Valeo, Francis and Morrison, Charles (eds)
The Japanese Diet and the U.S. Congress, Epping: Bowker, [1985]

Venkata, Subbarao

Varadachari, V. K.
The President in the Indian Constitution, New Delhi, Deep & Deep Publications, 1985
Legislative powers in Indian constitutional law: a critical and comprehensive analysis of the Indian federal system, based on a comparative study of Indian, American, English and Commonwealth judicial precedents, Hydrabad: Law Academy, [1985]

Von Beyme, Klaus
Political Parties in Western Democracies, Gower, 1986

Weller, P.
First Among Equals: Prime Ministers in Westminster Systems, Allen and Unwin, 1985.

Whitlam, G.
The Whitlam Government, 1972–1975, Ringwood Viking, 1985.

Williams, Sandra
Conflict of interest: the ethical dilemma in politics, Aldershot: Gower, 1985

Wilson, J. O.
New Zealand Parliamentary Record 1840–1984, Government Printer, Wellington.

Winterton, G.
Parliament, The Executive and the Governor-General: a Constitutional Analysis, Melbourne University Press, 1983.

Wolfe, Christopher
The rise of modern judicial review: from constitutional interpretation to judge-made law, New York: Basic Books, 1986

Woodward, D., Parkin, A. and Summers, J.,
Government, Politics and Power in Australia: An Introductory Reader, 3rd ed., Melbourne: Longman Cheshire, 1985.

Zander, Michael
A Bill of Rights, London, Stewart Maxwell, 1985

XXI. RULES AND LIST OF MEMBERS

Name

1. The name of the Society is 'The Society of Clerks-at-the-Table in Commonwealth Parliaments'.

Membership

2. Any Parliament 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 a subscription payable to the Society in respect of each House of each Legislature which has Members of the Society.

(b) The minimum subscription of each House shall be £20 per Member, 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 £3.00 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 £7.00 a copy.

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.

LIST OF MEMBERS

Antigua

L. Dowe, Esq., Clerk to the Parliament, St John's.

Australia

*A. R. Cumming Thom., Esq., B.A., LL.B., Clerk of the Senate, Canberra, A.C.T.

H. C. Nicholls, Esq., Deputy Clerk of the Senate, Canberra, A.C.T.

H. Evans, Esq., B.A., Dip Lib., Clerk Assistant (Procedure), The Senate, Canberra, A.C.T.

P. N. Murdoch, Esq., B.A., Clerk Assistant (Table), The Senate, Canberra, A.C.T.

T. H. G. Wharton, Esq., B.Ec., Clerk Assistant (Management), The Senate, Canberra, A.C.T.

Miss Anne Lynch, Clerk Assistant (Committees), The Senate, Canberra, A.C.T.

A. R. Browning, Esq., Clerk, House of Representatives, Canberra, A.C.T.

L. M. Barlin, Esq., Deputy Clerk, House of Representatives, Canberra, A.C.T.

I. C. Harris, Esq., First Clerk Assistant, House of Representatives, Canberra, A.C.T.

B. C. Wright Esq., Clerk Assistant, House of Representatives, Canberra, A.C.T.

J. W. Pender, Esq., Clerk Assistant, House of Representatives, Canberra, A.C.T.

I. C. Cochran, Esq., Senior Parliamentary Officer, House of Representatives, Canberra, A.C.T.

Mrs B. L. Simons, Serjeant-at-Arms, House of Representatives, Canberra, A.C.T.

L. A. Jeckeln, Esq., Clerk of the Parliaments and Clerk of the Legislative Council, Sydney, N.S.W.

J. D. Evans, Esq., Clerk-Assistant, Legislative Council, Sydney, N.S.W.

D. K. Carpenter, Esq., Usher of the Black Rod, Legislative Council, Sydney, N.S.W.

D. L. Wheeler, Esq., Clerk of the Legislative Assembly, Sydney, N.S.W.

G. H. Cooksley, Esq., Clerk-Assistant, Legislative Assembly, Sydney, N.S.W.

*Barrister-at-Law or Advocate

R. D. Grove Esq., Second Clerk-Assistant, Legislative Assembly, Sydney, N.S.W.

A. R. Woodward, Esq., Clerk of the Parliament, Brisbane, Queensland.

R. D. Doyle Esq., Deputy Clerk (Procedure), Parliament House, Brisbane, Queensland.

P. J. Byrnes, Esq., B.A., S.T.L. (Rome), Grad. Dip. Lib. First Clerk-Assistant, Parliament House, Brisbane, Queensland.

D. G. Randle, Esq., Clerk-Assistant and Serjeant-at-Arms, Parliament House, Brisbane, Queensland.

I. W. Thompson, Esq., Clerk-Assistant, Parliament House, Brisbane, Queensland.

C. H. Mertin, Esq., Clerk of the Legislative Council, Adelaide, South Australia.

Mrs J. M. Davis, Clerk-Assistant of the Legislative Council and Usher of the Black Rod, Adelaide, South Australia.

B. M. Sergeant, Second Clerk-Assistant, Legislative Council, Adelaide, South Australia.

T. R. Blowes, Esq., Parliamentary Officer, Legislative Council, Adelaide, South Australia.

G. D. Mitchell, Esq., B.A., Clerk of the House of Assembly, Adelaide, South Australia.

D. A. Bridges, Esq., B.Ec., Clerk-Assistant and Serjeant-at-Arms of the House of Assembly, Adelaide, South Australia.

G. R. Wilson, Second Clerk-Assistant, House of Assembly, Adelaide, South Australia.

A. J. Shaw, Esq., J.P., Clerk of the Council, Legislative Council, Hobart, Tasmania.

R. J. S. McKenzie, Esq., Clerk-Assistant and Usher of the Black Rod, Legislative Council, Hobart, Tasmania.

D. T. Pearce, Esq., B.A., Second Clerk-Assistant, Legislative Council, Tasmania.

P. T. McKay, Esq., B.A., Dip. P.A., Clerk of the House of Assembly, Hobart, Tasmania.

P. R. Alcock Esq., Clerk-Assistant and Serjeant-at-Arms, House of Assembly, Hobart, Tasmania.

Miss J. C. Cunningham, Second Clerk-Assistant, House of Assembly, Hobart, Tasmania.

P. M. Bennison, Esq., Third Clerk-at-the Table, House of Assembly, Hobart, Tasmania.

R. K. Evans, Clerk of the Legislative Council, Melbourne, Victoria.

A. V. Bray, Esq., Clerk-Assistant and Clerk of Committees of the Legislative Council, Melbourne, Victoria.

W. R. Tunnecliffe, Esq., Usher of the Black Rod and Clerk of the Records, Legislative Council, Melbourne, Victoria.

R. K. Boyes, Esq., Dip. P.A., Clerk of the Parliaments and Clerk of the Legislative Assembly, Melbourne, Victoria.
J. G. Little, Esq., Deputy Clerk, Legislative Assembly, Melbourne, Victoria.
P. J. Mithen, Esq., Assistant-Clerk and Clerk of Committees, Legislative Assembly, Melbourne, Victoria.
Mrs Elke Barbian, Second Assistant Clerk (Resource Management), Legislative Assembly, Melbourne, Victoria.
P. N. Bramley, Esq., Serjeant-at-Arms, Legislative Assembly, Melbourne, Victoria.
Laurie Marquet, Esq., Clerk of the Legislative Council and Clerk of the Parliaments, Perth, Western Australia.
L. A. Hoft, Esq., A.A.S.A., Clerk-Assistant and Usher of the Black Rod, Legislative Council, Perth, Western Australia.
J. L. Allnut, Esq., Second Clerk Assistant, Legislative Council, Perth, Western Australia.
B. L. Okely, Esq., Clerk of the Legislative Assembly, Perth, Western Australia.
L. G. C. Farrell, Esq., Clerk-Assistant of the Legislative Assembly, Perth, Western Australia.
D. S. Green, Esq., Second Clerk-Assistant of the Legislative Assembly, Perth, Western Australia.
B. S. Calderbank, Esq., Serjeant-at-Arms, Legislative Assembly, Perth, Western Australia.
H. G. Smith, Esq., Clerk of the Legislative Assembly, Darwin, Northern Territory.
I. B. McNeill, Esq., Deputy Clerk, Legislative Assembly, Darwin, Northern Territory.
G. P. Gadd, Clerk Assistant, Legislative Assembly, Darwin, Northern Territory.
I. F. McKendry, Esq., Acting Clerk of the Legislative Assembly of the Australian Capital Territory, Legislative Assembly, Canberra, A.C.T.

Bahamas

P. O. Saunders, Esq., Chief Clerk of the House of Assembly, P.O. Box 3003, Nassau.

Barbados

G. E. T. Brancker, Esq., Clerk of Parliament, Bridgetown, Barbados.
N. R. Jones, Esq., Deputy Clerk of Parliament, Bridgetown, Barbados.

Belize

F. M. Monsanto, Esq., Clerk to the National Assembly, National Assembly Building, Independence Hill, Belmopan.
J. Ken, Esq., Deputy Clerk to the National Assembly, National Assembly Building, Independence Hill, Belmopan.

Bermuda

J. T. Gilbert, Esq., Clerk of the Legislature, Hamilton.
Mrs. M. Y. Roach, Assistant Clerk of the Legislature, Hamilton.

Botswana

C. G. Mokabi, Esq., Clerk of the National Assembly, P.O. Box 240, Gabarone.

Canada

C. A. Lussier, Esq., LI.L., Clerk of the Senate, Ottawa, Ont.
Richard Greene, Esq., Clerk-Assistant of the Senate, Ottawa, Ont.
C. B. Koester, Clerk of the House of Commons, Ottawa, Ont.
*Marcel R. Pelletier, Q.C., Law Clerk and Parliamentary Counsel, House of Commons, Ottawa, Ont.
Mary Anne Griffith, Clerk Assistant (Research), House of Commons, Ottawa, Ont.
Philip Laundy, Clerk Assistant (Administration and Procedural), House of Commons, Ottawa, Ont.
Robert Marleau, Clerk Assistant (Legal), House of Commons, Ottawa, Ont.
Claude L. DesRosiers, Principal Clerk (Committees and Private Legislation), House of Commons, Ottawa, Ont.
Michael B. Kirby, Principal Clerk (Journals), House of Commons, Ottawa, Ont.
Nora S. Lever, Principal Clerk (Private Members' Business), House of Commons, Ottawa, Ont.
Camille Montpetit, Principal Clerk (Table Research), House of Commons, Ottawa, Ont.
*Roderick Lewis, Esq., Q.C., Clerk of the Legislative Assembly, Parliament Buildings, Toronto, Ont.
A. McFedries, Esq., Legislative Assembly, Parliament Buildings, Toronto, Ont.
D. Callfas, Esq., Legislative Assembly, Parliament Buildings, Toronto, Ont.
*A. S. Forsyth, Esq., Legislative Assembly, Parliament Buildings, Toronto, Ont.

*Barrister-at-Law or Advocate

Pierre Duchesne, Esq., Secretary-General of the National Assembly, Parliament Buildings, Quebec.

*Gérard Laliberté, Esq., Assistant Secretary-General of the National Assembly, Parliament Buildings, Quebec.

Mathieu Proulx, Director of Table Research of the National Assembly, Parliament Buildings, Quebec.

*David, L. E. Peterson, Esq., Clerk of the Legislative Assembly, Fredericton, New Brunswick.

Jean Martin, Clerk Assistant (Committees), Legislative Assembly, Fredericton, New Brunswick.

*Loredana Catalli Sonier, Clerk Assistant (Procedural), Legislative Assembly, Fredericton, New Brunswick.

*H. F. Muggah, Esq., Q.C., B.A., LL.B., D.C.L., Chief Clerk of the House of Assembly, Halifax, N.S.

R. K. MacArthur, Esq., B.A., LL.B., Assistant Clerk of the House of Assembly, Halifax, N.S.

*I. M. Horne, Esq., Q.C. Clerk of the Legislative Assembly, Victoria, B.C.

*E. G. MacMinn, Esq., Q.C. LL.B., Deputy Clerk of the Legislative Assembly, Victoria, B.C.

*I. D. Izard, Esq., B.A., LL.B., Law Clerk and Clerk-Assistant of the Legislative Assembly, Victoria, B.C.

G. Barnhart, Esq., M.A. P. Mgr., Clerk of the Legislative Assembly, Regina, Sask.

Mrs. G. Ronyk, M.A., Deputy Clerk of the Legislative Assembly, Regina, Sask.

C. H. James, Esq., B.A., M.L.S., Clerk Assistant, Legislative Assembly, Regina, Sask.

Miss Elizabeth Duff, Clerk of the House of Assembly, St John's, Newfoundland.

Miss Elizabeth Murphy, Clerk-Assistant of the House of Assembly, St John's, Newfoundland.

W. W. Reid, Esq., Clerk of the Legislative Assembly, P.O. Box 2000, Charlottetown, Prince Edward Island.

Douglas B. Boyland, Esq., Clerk-Assistant to the Legislative Assembly, P.O. Box 2000, Charlottetown, Prince Edward Island.

B. J. D. Stefaniuk, Esq., Clerk of the Legislative Assembly, Edmonton, Alberta.

Robert Bubba, Esq., Clerk Assistant of the Legislative Assembly, Edmonton, Alberta.

D. M. Hamilton, Esq., Clerk of the Council, Northwest Territories.

Patrick L. Michael Esq., Clerk of the Legislative Assembly, Whitehorse, Yukon.

*Barrister-at-Law or Advocate

Ms. Missy Follwell, Clerk Assistant (Legislative) of the Legislative Assembly, Whitehorse, Yukon.
Mrs Jane Steele, Clerk Assistant (Administrative) of the Legislative Assembly, Whitehorse, Yukon.
W. H. Remnant Esq., Clerk of the Legislative Assembly, Winnipeg, Manitoba.

Cayman Islands
Mrs E. Gay Jackson, B.S., Clerk of the Legislative Assembly, Grand Cayman.

Cook Islands
M. T. Puna, Esq., Clerk of the Legislative Assembly, P.O. Box 13, Rarotonga.

Falkland Islands
P. T. King, Esq., Clerk of Councils, The Secretariat, Stanley.

Fiji
Ratu Isoa Gavidi, Esq., Clerk to Parliament and Clerk of the House of Representatives, Government Buildings, Suva, Fiji.
D. Mahabir, Esq., Clerk-Assistant to Parliament and Clerk of the Senate, Government Buildings, Suva, Fiji.

The Gambia
E. Bright, Esq., Clerk of the House of Representatives, Banjul.

Ghana
Parliament in suspension.

Gibraltar
P. A. Garbarino, Esq., M.B.E., Clerk of the House of Assembly, Gibraltar.

Guernsey
K. H. Tough, Esq., H. M. Greffier, Greffe, Guernsey.

Guyana
F. A. Narain Esq., Clerk of the National Assembly, Georgetown.

Hong Kong
Law Kam-sang, Esq., Clerk of the Legislative Council, Hong Kong.

India
Shri Sudarshan Agarwal, Secretary-General of the Rajya Sabha, Parliament House, New Delhi.

Shrimati, K. K. Chopra, Additional Secretary, Rajya Sabha, Parliament House, New Delhi.

Dr Subhash C. Kashyap, Secretary-General of the Lok Sabha, Parliament House, New Delhi.

Shri G. L. Batra, Secretary of the Haryana Legislative Assembly, Chandigarh, Haryana.

Shri K. P. Padmanabhan, Secretary of the Kerala Legislative Assembly, Trivandrum, Kerala.

Thiru C. K. Ramaswamy, B.A., B.L., Commissioner and Secretary of the Tamil Nadu Legislative Assembly Secretariat, Fort St George, Madras, 600 009.

*Shri G. S. Nande, B.A., LL.B., Secretary (I), Maharashtra Legislature Secretariat, Bombay 400 032, Manharashtra.

*Shri V. M. Subrahmanyam, B.A., LL.B., Secretary (II), Maharashtra Legislature Secretariat, Bombay 400 032, Maharashtra.

Shri T. S. Barot, Secretary of the Gujarat Legislative Assembly, Gandhinagar, Ahmedabad, Gujarat.

*Shri K. S. Singri Gowda, Secretary of the Karnataka Legislature, Bangalore, Karnataka.

Shri N. Purohit, Secretary of the Orissa Legislative Assembly, Bhubaneswar, Orissa.

*Sardar Partap Singh, M.A., LL.B., Secretary of the Punjab Vidhan Sabha, Chandigarh, Punjab.

Shri N. L. Chhangani, Secretary of the Rajasthan Legislative Assembly, Jaipur, Rajasthan.

Sri H. N. S. Bhatnagar, Secretary of the Uttar Pradesh Legislative Council, Lucknow, Uttar Pradesh.

*Shri Bhal Chandra Shukla, Secretary to the Uttar Pradesh Legislative Assembly, Lucknow, Uttar Pradesh.

*Shri E. Sadasiva Reddy, M.A., B.L., Secretary of the Andhra Pradesh Legislature Public Gardens, Hyderabad, Andhra Pradesh.

Isle of Man

*R. B. M. Quayle, Esq., Clerk of Tynwald, Clerk of Tynwald's Office, Legislative Buildings, Douglas, I.o.M.

T. A. Bawden, Esq., Clerk of the Legislative Council and Clerk-Assistant of Tynwald, Legislative Buildings, Douglas, I.o.M.

Jamaica

E. L. Deans, Esq., Clerk of the Legislature, Parliament House, Kingston, Jamaica.

*Barrister-at-Law or Advocate

Singapore
A. Lopez, Esq., Clerk of Parliament, Singapore.
Neo Seng Kee, Principal Assistant Clerk, Parliament, Singapore.
Mrs Liaw Lai Chun, First Assistant Clerk, Parliament, Singapore.

Solomon Islands
Festus Fama'aea, Esq., Clerk of the National Parliament, P.O. Box G.19, Honiara.

Sri Lanka
*S. N. Seneviratne, Esq., LL.B., Secretary General of Parliament, Colombo.
*B. S. B. Tittawella, Esq., LL.M., Deputy Secretary General of Parliament, Colombo.
*C. W. Pannilla, Esq., Assistant Secretary General of Parliament, Colombo.

Tanzania
M. Mwindadi, Esq., acting Clerk of the National Assembly, Speaker's Office, P.O. Box 9133, Dar-es-Salaam.

Trinidad and Tobago
J. E. Carter, Esq., Clerk of the House of Representatives, Port-of-Spain, Trinidad.
R. L. Griffith, Esq., Clerk of the Senali, Red House, Port-of-Spain, Trinidad.

Turks and Caicos Islands
Mrs Ruth Blackman, Clerk to the Legislature, Grand Turk.

Uganda
Parliament in suspension.

United Kingdom
Sir John Sainty, K.C.B., Clerk of the Parliaments, House of Lords, S.W.1.
*J. E. Grey, Esq., C.B., Clerk Assistant of the Parliaments, House of Lords, S.W.1.
M. A. J. Wheeler-Booth, Esq., Reading Clerk and Clerk of Outdoor Committees, House of Lords, S.W.1.
J. A. Vallance White, Esq., Fourth Clerk-at-the-Table (Judicial), House of Lords, S.W.1.

*Barrister-at-Law or Advocate

Air Chief Marshal Sir John Gingell, G.B.E., K.C.B., Gentleman Usher of the Black Rod and Serjeant-at-Arms, House of Lords, S.W.1.
Brigadier D. M. Stileman, O.B.E., Yeoman Usher of the Black Rod and Deputy Serjeant-at-Arms, House of Lords, S.W.1.
Sir Kenneth Bradshaw, K.C.B., Clerk of the House of Commons, S.W.1.
C. J. Boulton, Esq., C.B. Clerk-Assistant of the House of Commons, S.W.1
D. W. Limon, Esq., Principal Clerk, Table Office, House of Commons, S.W.1
M. T. Ryle, Esq., Clerk of the Journals, House of Commons, S.W.1
J. F. Sweetman, Esq., T. D., Clerk of the Overseas Office, House of Commons, S.W.1.
J. H. Willcox, Esq., Clerk of Public Bills, House of Commons, S.W.1
Major G. V. S. LeFanu, Serjeant-at-Arms, House of Commons, S.W.1.
Major P. N. W. Jennings, Deputy Serjeant-at-Arms, House of Commons, S.W.1.

Virgin Islands

Miss Margaret Borde, Clerk of the Legislative Council, Road Town, Tortola.

Western Samoa

Isitolo Lemisio, Esq., Acting Clerk of the Legislative Assembly, Apia, Western Samoa.

Zambia

N. M. Chibesakunda, Esq., Clerk of the National Assembly, P.O. Box 31299, Lusaka.
A. C. Yumba, Esq., Clerk-Assistant of the National Assembly, P.O. Box 31299, Lusaka.
N. M. C. Tembo, Esq., Second Clerk-Assistant of the National Assembly, P.O. Box 31299, Lusaka.

Zimbabwe

Dr J. W. Z. Kurewa, Secretary to Parliament, P.O. Box 8055, Harare.
A. N. Nyarota, Esq., Under Secretary to Parliament, P.O. Box 8055, Harare.
C. K. Nyangoni, Esq., Assistant Secretary to Parliament, P.O. Box 8055, Harare.
A. M. Zvoma, Esq., Assistant Secretary to Parliament, P. O. Box 8055, Harare.

Ex-Clerks-at-the-Table

D. J. Ayling, Esq., O.B.E., J.P. (Papua New Guinea).
I. J. Ball, Esq., O.B.E., (South Australia).
O. S. Barrow, Esq., (St. Vincent).
R. H. A. Blackburn, Esq., LL.B., (Northern Ireland).
D. J. Blain, Esq., CD., (Alberta).
K. O. Bradshaw, Esq., O.B.E., (Australia).
R. E. Bullock, Esq., O.B.E., (Australia).
R. G. G. Caley, Esq., (Isle of Man).
Sir Richard Cave, K.C.V.O., C.B., (United Kingdom).
Sir Barnett Cocks, K.C.B., O.B.E., (United Kingdom).
G. D. Combe, Esq., C.M.G., M.C., (South Australia).
*H. N. Dollimore, Esq., C.B.E., LL.B., (New Zealand).
Alistair Fraser, Esq., (Canada).
Sir Charles Gordon, K.C.B. (United Kingdom).
The Lord Henderson of Brompton, K.C.B. (United Kingdom).
J. A. Holtby, Esq., (Ontario).
P. J. Hulme, Esq., (Isle of Man).
J. A. Jones, Esq., O.B.E., (Solomon Islands).
*John A. D. Kennedy, Esq., (Northern Ireland).
T. E. Kermeen, Esq., I.S.O., (Isle of Man).
M. H. Lawrence, Esq., C.M.G., (United Kingdom).
Sir David Lidderdale, K.C.B., (United Kingdom).
R. H. C. Loof, Esq., C.B.E., B. Comm., J.P., (Australia).
N. J. Parkes Esq., C.B.E., A.A.S.A., (Australia).
R. W. Perceval, Esq., (United Kingdom).
R. W. Primrose, Esq., I.S.O., M.B.E., (Hong Kong).
*A. W. Purvis, Esq., LL.B., (Kenya).
Sir David Stephens, K.C.B., C.V.O., (United Kingdom).
M. A. van Ryneveld, Esq., (Zimbabwe).
M. O. Onajide, Esq., (Oyo State of Nigeria).

Office of the Society

Palace of Westminster, London, SW1A OPW.
Editors for Volume LIV of THE JOURNAL: B. P. Keith and Mrs J. Sharpe.

*Barrister-at-Law or Advocate

XXII. MEMBERS' RECORDS OF SERVICE

Note. – **b.** = born; **ed.** = educated; **m.** = married; **s.** = son(s); **d.** = daughter(s).

Members who have not sent in their Records of Service are invited to do so, thereby giving other Members the opportunity of knowing something about them. It is not proposed to repeat individual records on promotion.

Shri G. L. Batra – Secretary, Haryana Legislative Assembly (India): b. 20 September 1937, in village Rodu Sultan, District Jhang (West Punjab – now Pakistan); belongs to a most respectable progressive agriculturist family, now permanently settled at Village Arya Nagar, District Hissar (Haryana); passed Matriculation Examination from H. R. Hindu High School, Hissar; F.Sc., from Brijindra Government College, Faridkot; B.A. from D.N. College, Hissar; and LL.B. from Punjab University Law College, Chandigarh; enrolled as an Advocate in November, 1962 and practised at the Bar fom 1963 to 1972, both at District level and High Court level; joined Government service in 1972 as Public Prosecutor; worked as Deputy District Attorney and District Attorney till September 1981; appointed Senior Deputy Advocate General, Haryana, in the Punjab and Haryama High Court, on 1 October 1981 and worked as such till 31 October 1983, when appointed as Secretary, Haryana Vidhan Sabha; attended all the Conferences of Presiding Officers and Secretaries of Legislative Bodies in India since January 1984; Secretary of the Haryana Branch of the Commonwealth Parliamentary Association and Indian Parliamentary Association; has distinguished record of practice as the Barasan Advocate, Government pleader and Public Prosecutor from 1963–83.

BARBIAN, Elke, B.A. (Hons.) – Second Assistant Clerk (Resource Management), Legislative Assembly, Victoria; b. 10 December, 1942, West Germany; ed. High School, West Germany; B.A. Hons. 1978 Melbourne University; joined Victorian Public Service 1978; Secretary to Victorian Dried Fruits Board 1981–82; appointed to Parliamentary Staff December 1982; Secretary to Economic and Budget Review Committee December 1982–85; Second Assistant Clerk (Resource Management) 1985.

BRAMLEY, Peter Norman, D.P.A. – Serjeant-at-Arms, Legislative Assembly, Victoria; b. 18 October 1945; married 1975 to Geraldine Boyle; 1 d.; ed. Melbourne; D.P.A. (R.M.I.T.) 1968; joined Parliamen-

tary Staff 1966; Secretary various Parliamentary Committees 1969–85; 1969–85 Clerk of Papers (LA) 1970–85; Serjeant-at-Arms 1985.

McNEILL, Ian Bruce – Deputy Clerk of the Legislative Assembly of the Northern Territory of Australia; *b.* 28 February 1947; *m.* 1975, Kathryn Kerrisk; 2 *s.* 1 *d*; *ed.* Essendon Grammar School (Melbourne, Victoria), A.N.U., C.C.A.E. (Canberra, ACT), graduated Bachelor of Arts (Social Sciences); joined Commonwealth Public Service 1966; Department of the Australian Senate 1967; Senior Parliamentary Officer (Table Office) 1981; Secretary, Senate Estimates Committee 1981; Secretary, Joint Committee on Foreign Affairs and Defence Middle East and African Affairs Sub-committee 1982; Secretary, Joint Parliamentary Committee on Publications 1983; appointed Deputy Clerk of the Legislative Assembly of the Northern Territory 1985.

Printed in England/Kinnaird Print