# The Table

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**THE TABLE**
The Journal of The Society of Clerks-at-the-Table in Commonwealth Parliaments

# EDITORIAL

The continuing debate over the limits of parliamentary privilege is vividly illustrated in this year's *Table*. In a major article entitled "An Opportunity Missed: the Joint Committee on Parliamentary Privilege, *Graham-Campbell* and Internal Affairs", Charles Robert of the Canadian Senate tackles head on the principle that Parliament enjoys "exclusive cognisance" over its internal affairs. This principle is widely interpreted to mean that Acts of Parliament do not extend to the precincts of Parliament unless there is express provision to that effect. However, Robert argues convincingly that the 1934 judgment by the Court of King's Bench upon which this interpretation is based was ill-founded, and that its application since the 1960s onwards has been unnecessary and unwarranted. He argues further that the Joint Committee on Parliamentary Privilege, which reported in 1999, failed to grasp the fragile legal basis for exclusive cognisance over internal affairs, and so missed an opportunity to demonstrate categorically that "laws passed by Parliament do apply to both its Houses unless there is an explicit exemption on account of privilege".

This interpretation of "exclusive cognisance" has far-reaching implications. For instance, in his article on "A New Joint Department at Westminster" Richard Ware describes the complicated events and discussions which have led to the establishment of a joint House of Commons and House of Lords ICT service. One of the issues that emerged late in the day was the legal conundrum that those employed jointly by the two Houses would enjoy no employment rights, as existing legislation is framed so as to refer to employees of one House or the other. The temporary solution adopted is for the House of Commons to employ all staff working in the joint service, while at the same time their contracts make it clear that they serve both Houses equally. We currently await legislation to regularise the position, as soon as parliamentary time allows. But would this expedient have been required had there been a general presumption—as Robert argues there

should be—that all relevant legislation applied to parliamentary staff unless they were specifically exempted?

Robert's argument receives powerful support from a 2005 judgment of the Canadian Supreme Court, in which the Court concluded that it could not accept the 1934 case as "authoritative". The Judge continued: "I conclude that British authority does not establish that the House of Commons at Westminster is immunised by privilege in the conduct of *all* labour relations with *all* employees." Unfortunately this case is not separately reported in this year's *Table*. It will be fascinating to see whether other jurisdictions take up the Court's conclusions in coming years.

In a very different context, the report from the New Zealand House of Representatives on the outcome of the *Jennings* case demonstrates the jealousy with which parliamentarians continue to protect privilege when it directly concerns "proceedings in Parliament". In this case, appealed to the Privy Council, the courts held that privilege did not protect a Member from being sued for defamation in respect of a comment to a journalist that he "did not resile from" comments earlier made in the course of a parliamentary debate. The court concluded that this was "effective repetition" of the earlier claims, for which the Member was legally liable. In considering the implications of this judgment, the Privileges Committee of the House of Representatives recommended the radical solution of legislation to abolish the concept of "effective repetition", so that "no person may incur criminal or civil liability for making any oral or written statement that affirms, adopts or endorses words written or spoken in proceedings in Parliament where the oral or written statement would not, but for the proceedings in Parliament, give rise to criminal or civil liability". It remains to be seen whether legislation to put this recommendation into effect will be forthcoming.

## MEMBERS OF THE SOCIETY

### *Australia Senate*

**Anne Lynch** retired as Deputy Clerk of the Senate on 8 July 2005, having joined the staff of the Senate in 1974. She had a long association with the Senate Committee of Privileges, going back to 1975 when she acted as adviser and research officer to the committee during its very complex and contentious inquiry into the then government's claim of executive privilege in relation to what became known as the overseas loans affair. As secretary of the committee, she wrote 109 reports, which are known around the world for their clear and succinct exposition of matters of parliamentary privilege. She

conducted a long campaign against the government practice of having acts of Parliament passed and then not proclaiming them to come into effect for months and sometimes years. This resulted in a new statutory provision whereby acts which are to commence on proclamation automatically come into effect six months after their passage. Many senators paid warm tribute to Anne on her retirement.

### *Northern Territory Legislative Assembly*

**Ian McNeill**, Clerk of the Assembly, was awarded the Public Service Medal (PSM) in 2005 for outstanding public service. Mr McNeill has served the Legislative Assembly of the Northern Territory with distinction over a period of some twenty years from 1985 to 1993 as Deputy Clerk and since 1993 as Clerk of the Legislative Assembly, having previously served for 19 years in the Australian Senate.

**Helen Allmich**, Serjeant-At-Arms, was recognised for 20 years of service as the Serjeant in December 2005.

### *New South Wales Legislative Council*

**Mike Wilkinson** retired from the position of Clerk Assistant – Corporate Support on 17 June 2005, after 14 years of dedicated service. Mr Wilkinson joined the Department of the Legislative Council in 1991 as Clerk Assistant – Committees after 18 years in the Commonwealth Public Service.

**David Blunt** was appointed Clerk Assistant – Corporate Support on 20 June. Mr Blunt has served in a range of positions with the Legislative Council since December 1995: Director – Procedure and Usher of the Black Rod, Director of General Purpose Standing Committees, and inaugural Director for the Standing Committee on Law and Justice. He had previously worked in the Legislative Assembly as a senior research officer to the NSW Public Accounts Committee and the Parliamentary Joint Committee on the Independent Commission Against Corruption. Mr Blunt has qualifications in law (LLB Hons) and government (MPhil) from the University of Sydney.

**Steven Reynolds** was appointed Director – Procedure and Usher of the Black Rod on 31 August. Mr Reynolds has served in a range of positions with the Legislative Council since 1999: Director – Committees and Senior Project Officer. He had previously been Grants Manager for the NSW Law Foundation. Mr Reynolds has qualifications in Economics (B.Ec), Law (LLB) and Policy Studies (MPS).

In September 2005, **Warren Cahill**, Clerk Assistant – Committees, commenced a 12-month secondment to a United Nations Development

Program project working with the National Parliament of the Solomon Islands.

### *Victoria Legislative Council*

Dr **Ray Wright** retired in May 2005 after 22 years with the Parliament of Victoria, including five years as Usher of the Black Rod and earlier periods working with the Library and with a joint parliamentary committee. Ray also made a valuable contribution to the study of Victorian parliamentary history, with several publications including two books, *A People's Counsel* and *A Blended House*.

As foreshadowed in last year's *Table*, the Department of the Legislative Council implemented an organisational restructure during 2005 with two new Table officer positions being created. Dr **Stephen Redenbach** was appointed Assistant Clerk – Procedure and Usher of the Black Rod in May 2005 following the retirement as Usher of Dr Ray Wright. At the same time, **Andrew Young**, who was recruited from the Legislative Assembly in Western Australia, was appointed Assistant Clerk – Committees.

### *Western Australia Legislative Council*

**Laurence (Laurie) Bernhard Marquet** resigned as Clerk on 8 August 2005, and died 22 April 2006. He received a Parliamentary Services Award in recognition of services to the Parliament on 23 June 2005 (on his 23rd anniversary as Clerk). He was the longest serving Clerk of the Legislative Council.

**Malcolm Peacock**, previously Usher of the Black Rod, was promoted to Deputy Clerk on 23 May 2006.

**Christopher (Chris) Hunt**, previously Parliamentary Officer (Procedure), was promoted to Usher of the Black Rod on 23 May 2006.

### *Bangladesh Parliament*

Dr. Md. **Omar Faruque Khan**, former Secretary of the Bangladesh Parliament Secretariat, retired from Government service in 2005.

### *Canada House of Commons*

In late September 2005, **William C Corbett**, Clerk of the House of Commons for the preceding five years, made known his decision to retire, effective 30 November 2005. By unanimous consent, the House, "desiring to record its deep appreciation of the distinguished and faithful service of William Corbett, Esq., as Clerk of the House of Commons", designated him

an Honorary Officer of the House of Commons with an entrée to the Chamber and a seat at the Table.

On 7 October the House adopted a motion approving the appointment of **Audrey Elizabeth O'Brien** as Clerk of the House of Commons. This appointment is of particular importance for the House of Commons as Ms O'Brien is the first woman to occupy the position of Clerk. Ms O'Brien had been Acting Clerk since May 2005 and Interim Head of Parliamentary Precinct Services since March 2005.

By Order-in-Council, **Marc Bosc** was appointed Deputy Clerk, replacing Ms O'Brien in this capacity, and Ms **Marie-Andrée Lajoie** was appointed Clerk Assistant.

In addition, **Eric Janse** and **André Gagnon**, heretofore Principal Clerks, were appointed Clerks Assistant and Mrs **Beverley Isles** was appointed to the position of Principal Clerk.

Three new Table Officers (Deputy Principal Clerks) were also appointed: Ms **Marie-Danielle Vachon**, **Ian McDonald** and **Pierre Rodrigue**.

### *British Columbia Legislative Assembly*

**E. George MacMinn**, QC, Clerk of the House, was awarded the Order of British Columbia at a ceremony on 29 June 2005 for his distinguished career in the legal profession, his outstanding contribution to Parliament and public service and his continuing commitment to community services. The Order of British Columbia is the province's highest honour for outstanding achievement.

### *Québec National Assembly*

**Michel Bonsaint** is now Secretary General Assistant for Parliamentary Affairs.

### *Malaysia Sabah State Legislature*

The former Clerk **Ahmad Shah** was transferred to the Cabinet Division of the Chief Minister's Department in early February 2005.

### *Swaziland Parliament*

**Ben Zwane**, formerly Clerk to Parliament and a Member of the Society, has been promoted. His replacement is Ms **Sanele Nxumalo**.

# AN OPPORTUNITY MISSED: THE JOINT COMMITTEE ON PARLIAMENTARY PRIVILEGE, GRAHAM-CAMPBELL AND INTERNAL AFFAIRS

CHARLES ROBERT
*Principal Clerk, Procedure, Senate of Canada*

In 1999, almost two years after receiving its remit, the United Kingdom Joint Committee on Parliamentary Privilege published its much anticipated Report.[1] It constitutes the most comprehensive attempt yet to 'modernise' the concept and practice of parliamentary privilege. The task of updating privilege was not an easy one. As the Joint Committee noted, privilege is deeply rooted in history and its boundaries are unclear in several important areas.

Among the elements of privilege reviewed by the Joint Committee, several were linked to Article 9 of the Bill of Rights 1689, guaranteeing freedom of speech and the inviolability of parliamentary proceedings. The Joint Committee addressed, for example, some of the difficulties that have arisen through the adoption of the Defamation Act 1996,[2] which allows individual parliamentarians to selectively waive the protection of Article 9.[3] It also looked at the increasing use of parliamentary debates by the courts when interpreting Acts of Parliament.[4] On both issues, the Joint Committee proposed useful recommendations. With respect to still another problem associated with Article 9, the Joint Committee was less successful. Its response to claims of exclusive cognisance and control over internal affairs was not entirely satisfactory. As a result, the Joint Committee missed an opportunity to correct a misunderstanding about the proper limits of parliamentary privilege.

The basic difficulty of the Joint Committee in understanding exclusive cognisance and the scope of Parliament's control over internal affairs is rooted in the 1934 decision by the Court of King's Bench in *R. v. Graham-*

[1] United Kingdom Parliament, Report of the Joint Committee on Parliamentary Privilege (Session 1998-99, HL Paper 43-I, HC 214-I). Hereafter referred to as the 'Report'.

[2] Defamation Act 1996, s. 31.

[3] Report, para. 69, p.25.

[4] Report, paras. 55, 59, p. 22.

*Campbell (ex parte Herbert)*.[5] This decision, poorly made and poorly understood, obscured the dividing line between those areas of internal affairs that ought to be protected by parliamentary privilege from those that do not deserve protection. The *Graham-Campbell* case involved the question of whether the law with respect to the sale of alcoholic beverages applied to the House of Commons. The Court determined that it did not. As stated in the Report, "Since then, Acts of Parliament have been taken not to apply within the precincts of either House in the absence of express provision that they should apply."[6] The Joint Committee found this to be an unsatisfactory situation. Only a few Acts in recent years were written to apply explicitly to the House of Commons while others were applied voluntarily, either in the House of Commons and the House of Lords. Among these non-applied Acts are ones dealing with employee unions, health and food safety, and data protection. As a consequence, the precincts of Parliament have effectively become, for some purposes, a statute-free zone.

The dissatisfaction expressed in the Report about Parliament's immunity from statute law even in instances when the laws would clearly assist in the management of its internal affairs is well founded. It is right to complain that parliamentary privilege ought not to prevent the application of laws in matters far removed from the core activities of Parliament. It is counter-intuitive to the fundamental purpose of privilege, which is to enable Parliament and its members to carry out their functions and responsibilities. It cannot be that Parliament must be a 'statute-free zone' as a matter of privilege. In fact, the analysis explaining the Joint Committee's understanding of this privilege is flawed in some critical respects. It overlooks and confuses several important details. The right to manage internal affairs is not really a distinct privilege. It is a variant of the privilege over 'proceedings in Parliament' guaranteed in the Bill of Rights 1689 and the necessary control through exclusive cognisance over those proceedings. And while it is true, as the Joint Committee notes, that 'proceedings in Parliament' have never been thoroughly defined, it is also true that neither Parliament nor the courts have ever actually asserted or confirmed privilege of statutory immunity over internal affairs. The purpose of this article is to explore how this misunderstanding has come about. First, it is necessary to re-examine the case of *Graham-Campbell*. [7]

In 1933, A. P. Herbert, the satirist who would become an MP two years later, had complained about the fact that alcohol was sold in the refreshment

[5] *R. v. Graham-Campbell; Ex parte Herbert*, [1935] 1 K.B. 594.
[6] Report, para. 15, p.11.
[7] Herbert, A.P., *Independent Member*, London, 1950 ('Herbert 1950'), pp. 1-21.

rooms of the House of Commons without a licence, an act contrary to the law and constituting a criminal offence. He thus began an effort to compel the House of Commons to apply for a licence under the provisions of the Licensing Act 1910.[8] As it happens, this was not the first time that the issue of a licence had come before the courts. Almost forty years earlier, in 1897, a charge had been brought against a House of Commons barman. The charge was rejected by Lord Chief Justice Russell in the case of *Williamson v. Norris*,[9] but not because of any claimed privilege. Russell dismissed the case explaining that the wrong party, the barman, was being accused. In his judgment, Russell seemed to reject any notion that the Commons was exempt from the law. As he put it:

> "I think it right to say that I am far—very far from being satisfied that no offence has been committed. I am not at all impressed by the argument that because many provisions of the Licensing Acts cannot be worked with reference to the House of Commons, therefore the Acts do not apply."[10]

Thereafter, until *Graham-Campbell*, the status of these refreshment rooms within the precincts of the House of Commons had remained uncertain. *Parliament Past and Present*, published c. 1903, included a photo of the strangers' bar which was captioned "'The Illegal Bar' at which refreshments are sold to visitors without the sanction of a licence."[11]

In May 1934 Herbert made an application before Sir Rollo Graham-Campbell, the Chief Metropolitan Magistrate at the Bow Street Police Court. The application was against the manager of the House of Commons Refreshment Department and the fifteen MPs who served on the Kitchen Committee. The Magistrate refused to take the case, claiming that he had no jurisdiction. Herbert then decided to pursue the matter before the Court of King's Bench, seeking an order in the nature of *mandamus* to compel the Magistrate's Court to take action. Presiding over the court were three judges: Lord Chief Justice Hewart, Mr Justice Avory and Mr Justice Swift. Hewart, who had been an MP, had enjoyed a brilliant reputation as an advocate, though he was regarded much less favourably as a judge.[12] As a young

[8] Licensing Act 1910, s. 24.

[9] *Williamson v. Norris*, [1899] 1. Q.B. 7.

[10] *Ibid.*, p. 9.

[11] Wright, A. and Smith, P., *Parliament Past and Present*, London, 1903, p. 76.

[12] See the entry in the *Dictionary of National Biography 1941-1950*, Oxford, 1959, p. 383; see also Jackson, Robert, *The Chief: The Biography of Gordon Hewart Lord Chief Justice of England, 1922-1940*, London, 1959, pp. 270-72.

barrister, Avory had assisted the then Attorney General in preparing arguments on behalf of the House of Commons in *Williamson v. Norris*. [13]

In its assessment of the outcome, the Joint Committee stated:

> "Motivated no doubt by a desire to be circumspect and not trespass upon matters properly belonging to Parliament, Lord Chief Justice Hewart decided the courts would not hear a complaint regarding sales of alcohol in the precincts of Parliament without the necessary licence because the House of Commons was acting collectively [through its Kitchen Committee] in a manner which fell within the area of internal affairs of the House."[14]

This reason, in effect, supported the proposition of the Magistrate that he lacked jurisdiction to intervene.

In making his ruling, Hewart relied mainly on a passage from *Stockdale v. Hansard*,[15] in which Lord Denman stated that the House of Commons is possessed of all the powers necessary to carry out its functions which the courts concede "without a murmur or a doubt".[16] In this landmark case, the Court denied a claim of the House of Commons, based on a resolution, that its printer was protected as a matter of privilege from liability for any defamatory statements contained in reports published by its order. The Court ruled against the House of Commons stating that there was no evidence of practice or necessity to justify its claim to this supposed privilege and that the House of Commons could not assert it on its own authority.

Geoffrey Lock, a former researcher in the UK House of Commons Library who has written several articles on the application of law within Parliament and who gave written evidence to the Joint Committee, has pointed out that "the meaning assigned to this citation by Lord Hewart was the opposite of the originally intended meaning."[17] In fact, Lord Denman was attempting to illustrate the type of imaginary illegal behaviour by the Commons which the courts would seek to prevent. Had Hewart properly used the passage from Denman, which was suggested to him by Avory,[18] the flavour of his ruling would likely have been much different.

[13] Herbert 1950, p. 18.

[14] Report, para. 249, p. 67.

[15] *Stockdale v. Hansard* (1839), 9 Ad. & E. 1, 112 E.R. 1112.

[16] *Ibid.*, p. 1156.

[17] Lock, G. F., "Labour Law, Parliamentary Staff and Parliamentary Privilege" (1983), 12 *Industrial Law Journal* 28 ("Lock 1983"), p. 32.

[18] Herbert 1950, p. 17.

In addition, Hewart expressed some concern that if the point were conceded, the matter could be appealed to the House of Lords. This, according to Hewart, would not be desirable because it would make the Lords the arbiters of the privileges of the House of Commons. However, this overlooks the fact that any difficulty in applying the Licensing Act in the House of Commons would be shared in all likelihood by the House of Lords which also operated refreshment rooms. More importantly, to the extent that Hewart was attempting to recognise any privilege at all with respect to internal affairs, it would necessarily be one that the House of Lords possessed as well.

Despite Hewart's faulty reasoning, there was probably good cause not to apply the Licensing Act 1910 to the House of Commons. In his concurring judgment, Avory indicated that it would not be possible for the House of Commons or one of its officials to apply for the licence as required under section 65(1) of the Act.[19] Presumably, this was because, at that time, the House had no legal status as a 'person'. Consequently, no one could act on its behalf in securing a licence, including the Kitchen Committee. Avory went on to state that many other provisions of the Act were equally inapplicable. It is important to stress that Avory's finding had nothing to do with any alleged privilege; it was rather a matter of interpreting the application of the law.

On this specific point of legal personality, what was true in 1934 is no longer true today. When Parliament enacted the Parliamentary Corporate Bodies Act 1992,[20] it established two positions, the Corporate Officer of the House of Lords and the Corporate Officer of the House of Commons, each having the power to enter into contracts, to sue and be sued. There is nothing to prevent these officers from seeking the required licences on behalf of their respective Houses, thereby allowing the parliamentary bars and restaurants to sell alcohol legally.

As he subsequently explained, A. P. Herbert did not have the financial resources to appeal the judgment and so it stood.[21] In an acerbic comment, he complained that the implications of the judgment were quite outrageous:

> "If they can sell liquor without regard to Licensing Acts, they can sell milk or cream without regard to the Sale of Food and Drugs Act; they can sell bad meat and adulterated bread; they can sell morphine without a certificate and opium without a licence. All these matters might equally be said to 'fall within the scope of the internal affairs of the House'".[22]

[19] *Gordon-Campbell*, p. 604.
[20] Parliamentary Corporate Bodies Act 1992, s. 27.
[21] Herbert 1950, p. 19.
[22] Herbert, A. P., *Uncommon Law: Being 66 Misleading Cases*, London, 1955, p. 421.

Despite the satiric tone of Herbert's comment, it begs the question whether Hewart would have been so sanguine in his judgment had he considered its possible implications. More likely, it is reasonable to suppose that his decision was limited to the issue of whether the Licensing Act applied and nothing more. As it turned out, the practical consequences of the judgment, as it was used in subsequent years, were not far off of Herbert's fears. Both Lock and the Joint Committee have pointed to numerous instances dating from the mid-1960s where there has been reluctance to apply the provisions of a law when it involved either House of Parliament.[23]

That none of the instances mentioned by Lock are earlier than 1966 underscores the probability that the implications of the *Graham-Campbell* decision with respect to parliamentary privilege were not immediately apparent or acknowledged. While the case was reported in the 1934 annual volume of the *The Table*[24] and was referenced in Abraham and Hawtrey's *Parliamentary Dictionary* published in 1956,[25] it remained absent from *Erskine May*, the comprehensive authority on parliamentary practice, for almost thirty years, not appearing in either the text or the Table of Cases until the publication of the 17th edition in 1964.[26] It is absent from the 14th edition of 1946,[27] prepared under the then Clerk, Sir Gilbert Campion. This is quite remarkable given that the 14th edition contained an extensive revision of the chapters on privilege. That *Graham-Campbell* was treated this way belies the statement of the Joint Committee that Acts of Parliament were taken not to apply to either House following the *Graham-Campbell* judgment. Even when it did finally appear in *Erskine May*, *Graham-Campbell* was cited as evidence to confirm the proposition that exclusive cognisance covered matters beyond what happened in the Chamber. It was not used to assert explicitly a privilege of the non-application of statute law.

Lock notes that when the Industrial Relations Act 1971 was before Parliament, Speaker's counsel used *Graham-Campbell* to argue that the courts would probably exempt the House of Commons from the application of the law. The memorandum to the Speaker stated:

"Unless some express provision to the contrary is made, it must be

[23] Lock, G.F. "Statute Law and case law applicable to Parliament", in *Law and Parliament*, Dawn Oliver and Gavin Drewry, eds., London, 1998, p. 57.

[24] "Bars at the House of Commons", *Journal of the Society of Clerks at the Table in Empire Parliaments*, vol. 3 (1934), pp. 32-33.

[25] Abraham, L. A. and Hawtrey, S. C., *A Parliamentary Dictionary*, London, 1956, p. 145.

[26] *Erskine May*, 17th edition, Sir Barnett Cocks, ed., London, 1964, pp. 60, 1089.

[27] *Erskine May*, 14th edition, Sir Gilbert Campion, ed., London, 1946.

> assumed that a court would hold on the authority of the case of R v. Graham-Campbell, ex parte Herbert [1935] 1 K.B. 594, that the Bill does not apply to things done by the Officers of either House discharging their official duties in the service of the House and that the Courts or Tribunals referred to in the Bill could not assume jurisdiction to adjudicate in questions arising between the authorities and the staff of either House."[28]

This proposition, more than anything else, illustrates how the *Graham-Campbell* decision has exercised a persistent influence with respect to understanding the nature and scope of parliamentary privilege over internal affairs. In fact, the attitude reflected in this memorandum together with the assumed exemption of Parliament from various laws enacted during these years contributed to the identification of internal affairs as a distinct area of privilege that was previously unknown. Yet if Lock, a non-lawyer, could realise that the rationale provided by Hewart, in accepting the position put forward by the House of Commons, was based on a bad reading of Lord Denman, then surely the Speaker's legal counsel should have been able to do the same. Instead, counsel offered advice that in effect kept the *Graham-Campbell* judgment from being questioned and overturned. Rather than advising that the laws should be assumed to apply to the non-core operations of the House of Commons and have that proposition tested in the courts, counsel advised the Speaker that the courts or tribunals would invariably decline jurisdiction and thus the improperly extrapolated conclusions of the *Graham-Campbell* decision would be preserved. Like the Speaker, the Joint Committee seems to have been persuaded by this doubtful reasoning.

Attempts were made to improve the legal status of House of Commons staff, following the repeal of the Industrial Relations Act in 1974, by providing them with some statutory protection. Writing of the problem in 1983, Lock noted that "staff had the benefit of considerably less labour law than the civil service, and the staff of the House of Lords had nothing at all on a statutory basis."[29] The House of Commons (Administration) Act 1978[30] provided conditions of service "broadly in line" with those applied to the service of the Crown. In the Lords, when action was taken, it was to apply certain Acts by analogy as if the staff of the Lords were Crown employees.[31] Despite these efforts, it hardly gave to staff of either House the full benefit and protection of the law.

[28] Lock 1983, pp. 32-33.
[29] Lock 1983, p. 34.
[30] The House of Commons (Administration) Act 1978, s. 36.
[31] Lock 1983, pp. 34-35.

Based on its assessment of *Graham-Campbell*, the Joint Committee recommended that "there should be legislation clarifying that, as to activities which are not [related closely and directly to proceedings in Parliament], there should be a principle of statutory interpretation that, in the absence of a contrary expression of intention, Acts of Parliament bind both Houses."[32] The net result of this proposal would have been to restore the situation that existed before *Graham-Campbell* and its subsequent interpretation. However, since the report of the Joint Committee has not been adopted, this recommendation remains to be implemented and presumably statute law is still assumed not to apply to Parliament.

The Joint Committee could have been more forceful in its recommendation dealing with the unsatisfactory practical consequences of *Graham-Campbell*. In doing so, it would have adhered more closely to the principles and objectives which motivated its entire review of parliamentary privilege. At the outset of its report, the Joint Committee recited the standard definition of parliamentary privilege as the rights and immunities possessed by the two Houses of Parliament, its members and officers which enable them to carry out their parliamentary functions.[33] At the same time, the Joint Committee recognised that "the protection afforded by privilege should be no more than Parliament needs to carry out its functions effectively and safeguard its constitutional position. Appropriate procedures should exist to prevent abuse and ensure fairness."[34] This, as the Joint Committee noted, is especially true in respect of exclusive cognisance. In not effectively dealing with the unsatisfactory consequences of the *Graham-Campbell* decision, the Joint Committee did not meet the test that it had set for itself. It departed from its laudable objective and failed to establish the proper balance between the needs of Parliament and the rights of individuals, including especially parliamentary staff.[35]

Equally telling in reviewing the unsatisfactory aspects of privilege with respect to internal affairs, the Joint Committee did not stress sufficiently the contrast with the narrower, more restricted understanding applied to 'proceedings in Parliament' as it pertains to parliamentarians themselves. Freedom of speech, for example, is limited to words spoken in the Chamber or in committee. Communications with electors or with the press are not treated as privileged. The Joint Committee never asked itself how it is that

[32] Report, para. 251, p. 67.
[33] Report, para. 3, p. 8.
[34] Report, para. 32, p. 15.
[35] Report, para. 232, p. 62.

privilege can be so narrowly defined in areas that closely relate to parliamentary business and yet have a much broader meaning with respect to internal affairs far removed from the core activities of Parliament.

In the end, the Joint Committee seems to make much of the fact that *Graham-Campbell* was never appealed. As a result, this decision remains somehow binding despite its unsatisfactory consequences. This helps to explain why those who are critical of the judgment feel unable to simply ignore it. Strictly speaking, however, the case involved only the Licensing Act and nothing more and, as it has already been pointed out, the wider consequences of the decision became evident only later. Obviously, there would be a significant benefit in limiting the judgment to the question of licencing the sale of alcohol within the parliamentary precincts. But there is another reason why the decision should be confined to this narrower scope. In supposing that the decision had wider ramifications, as the Speaker's counsel did in 1971 and as the Joint Committee seems to accept, it would follow that the courts have the capacity to create a new privilege or expand an existing one. This cannot be right.

Although the Joint Committee did not examine the extent of a court's capacity to confirm privilege and preferred not to consider *Graham-Campbell* with respect to earlier cases, there is no doubt that this kind of statutory immunity did not exist prior to *Graham-Campbell*.[36] It came into existence only as a consequence of this decision. The creation or extension of privilege at the initiative of the courts is inconsistent with parliamentary sovereignty and is contrary to the history and traditions of Parliament and its relationship with the courts. It violates the intent of the parliamentary resolution of 1704 that holds, in effect, that no new privilege can be created, or existing privilege expanded, except by legislation, a principle that has also been respected by the courts since the 1839 decision of *Stockdale v. Hansard*.[37] The House of Commons accepted that judgment and, in keeping with the principle of the 1704 resolution, adopted in 1840 the Parliamentary Papers Act that gave Hansard protection from liability. How then can *Graham-Campbell* be taken to have established, as a matter of privilege, that no statute law is applicable within the parliamentary precincts and that there is no competent judicial body to determine the question?

One possible answer may be that the Joint Committee did not see the problem because of its understanding of exclusive cognisance and internal affairs. Exclusive cognisance is the right of either House of Parliament to

[36] Report, para. 251, p. 67.
[37] Report, para. 17, p. 12.

determine and control its core functions. In the strictest sense, this means control over its parliamentary proceedings. As the Joint Committee rightly notes:

> "Parliament must have sole control over all aspects of its own affairs: to determine for itself what its procedures shall be, whether there has been a breach of its procedures and what then should happen … Indeed, acceptance by the executive and the courts of law that Parliament has the right to make its own rules, and the unquestioned authority over the procedures it employs as legislator, is of scarcely less importance than the right to freedom of speech."[38]

After accepting this more limited definition, the Joint Committee subsequently shifts its approach and expands the scope of exclusive cognisance to consider a wider range of matters like management and administrative operations. It does this, in part, because it seems to accept a meaning of internal affairs that goes beyond proceedings in Parliament. In the chapter of the Report dealing with control over internal affairs, the Committee states: "Each House has the right to administer its internal affairs within the parliamentary precincts. The courts have accepted this principle in full measure."[39] It then proceeds to acknowledge that internal affairs or equivalent phrases as a heading for this privilege are unsatisfactory because they are "loose and potentially … wide in … scope."[40]

While the problem of determining the scope of privilege over proceedings in Parliament is admittedly challenging, it might be less difficult if it excluded internal affairs. The concept of control by Parliament over matters occurring within its walls, understood to be internal affairs or other like phrases, goes back to *Stockdale v. Hansard* in 1839 and to *Bradlaugh v. Gossett* in 1883.[41] In both cases, however, the language was used in relation to recognised privileges, notably freedom of speech and exclusive cognisance applied to the core activities of Parliament. In neither case did the courts suggest or acknowledge that Parliament had control over internal affairs, understood to apply to management as a matter of privilege. That question was simply not addressed.

The passages sometimes cited in *Stockdale* and *Bradlaugh*, when reviewed in context, do not support the proposition that the courts expanded the

[38] Report, para. 13, p. 10.
[39] Report, para. 240, p. 64.
[40] Report, para. 241, p. 64.
[41] *Bradlaugh v. Gossett* (1884), 12 Q.B.D. 271.

meaning of Article 9 of the Bill of Rights to include non-core activities as a kind of derivative of proceedings in Parliament. As Hewart acknowledged, though he misunderstood the meaning of the phrase, Lord Denman, in *Stockdale*, conceded that the Commons had no more power and dignity than that which they need in the performance of their legislative responsibilities: "All the privileges that can be required for the energetic discharge of the duties inherent in that high trust are conceded without a murmur or a doubt."[42] Similar passages were written by two of the other Justices who ruled in the case.[43]

In *Bradlaugh v. Gossett*, a case involving a challenge to a House of Commons decision to deny a seat to an elected member who refused to take the prescribed parliamentary oath then in effect, Mr Justice Stephen described different scenarios outlining the respective roles of Parliament and the courts in interpreting and applying the law.[44] Without going into these scenarios, the point to be made is that the court did not accept that Parliament was entirely beyond the reach of the law. While Stephen recognised the right of the House to interpret a statute involving a right to be exercised within the House itself, the Court did not concede any jurisdiction with respect to interpreting the law in matters regarding rights to be exercised out of, and independently of, the House.

The Joint Committee seems to take a similar position when it states that "management functions relating to the provision of services in either House are only exceptionally subject to privilege."[45] In examining, for example, the activities of the House of Commons Commission, created under the authority of the House of Commons (Administration) Act of 1978, the Joint Committee recognises that "the resolutions and orders of the Commission are proceedings in Parliament, but their implementation is not." It is this kind of distinction, however, that the Joint Committee fails to apply in evaluating *Graham-Campbell*. The fact that analogous voluntary regimes have been put in place to provide a limited form of application for laws governing the workplace is, as the Joint Committee acknowledges a cause for criticism that is "forceful".[46] It is a criticism that the courts, following *Stockdale* and *Bradlaugh*, would likely have recognised as well had they been given the proper opportunity.

[42] *Stockdale v. Hansard*, p. 115.
[43] *Stockdale v. Hansard*, pp. 209, 233.
[44] *Bradlaugh v. Gossett*, pp. 281-82.
[45] Report, para. 248, p. 66.
[42] *Stockdale v. Hansard*, p. 115.

Because the United Kingdom Parliament retains an influence in many other Commonwealth countries with respect to understanding privilege, it is not too surprising to learn that, once *Graham-Campbell* had found its way into *Erskine May* and various laws were held not to apply to Parliament in the United Kingdom, this expanded view of privilege with respect to internal affairs was eventually shared with results that were equally unsatisfactory. The Joint Committee specifically cites a 1981 decision from Australia. In this case, *Bear v. State of South Australia*,[47] the Industrial Court of South Australia addressed a claim for compensation by a waitress who had suffered an injury while working in the restaurant at Parliament House in Adelaide. Even though the parliamentary authorities were willing to waive any privilege that might prevent the payment of compensation, Mr Justice Russell felt bound to review the *Graham-Campbell* decision. After explaining the ruling of Hewart, Russell nonetheless decided that the waitress was entitled to compensation under the Workers Compensation Act. He came to this conclusion because "[T]he plain fact of the matter is that her relationship with Parliament is not part of the internal business of Parliament but rather it is the relationship between Parliament and a stranger."[48] Consequently, the judge determined that it was unnecessary to consider the offered waiver of privilege.

Several years later, in 1987, the Commonwealth of Australia decided to legislate its parliamentary privileges. According to the Joint Committee which also recommended legislating privilege, the Australian law[49] is a model of its kind. Among its provisions is section 15, Applications of Laws to Parliament House, which made it clear that with few exceptions, the law did apply to Parliament and its precincts.

In Canada, the right to regulate internal affairs, as a matter of privilege, free from interference, was clearly acknowledged in *Parliamentary Privilege in Canada*,[50] written by Joseph Maingot, a former Law Clerk of the House of Commons in Ottawa. As he put it, Parliament had the right to administer its affairs within the precincts, beyond the debating chamber, and to appoint and manage staff:[51]

> "[I]t seems that the natural reluctance of the courts to interfere with matters related to the internal affairs of the House would include

[47] *Bear v. State of South Australia* (1981), 48 S.A.I.R. 604.

[48] *Bear v. State of South Australia* (1981), p. 623.

[49] *Parliamentary Privileges Act 1987* (Cth)

[50] Maingot, Joseph. *Parliamentary Privilege in Canada*, Toronto, 1982 ("Maingot 1982"); 2nd ed., Ottawa, 1997 ("Maingot 1997")

[51] Maingot 1982, p. 157; Maingot 1997, p. 183.

> employee-employer relations in the House where it could be demonstrated that in effect the House was acting collectively in a matter which fell within the area of the internal affairs of the House."[52]

This approach to privilege was invoked in at least two provincial cases, one in Manitoba, decided in 1990,[53] and another in British Columbia, decided in 2003,[54] several years after the publication of the Report by the Joint Committee. In the latter case, the British Columbia Labour Tribunal ruled in favour of the Legislative Assembly in rejecting an application of Hansard staff to form a union. As the judgment put it:

> "The privilege in question is the ability to regulate internal affairs and it includes the control over staff … control over internal affairs, including the retention and direction of staff has been found to be necessary to the dignity and efficient functioning of the Legislative Assembly. That privilege has an *unimpeachable pedigree* and the fact that it includes control over staff has long been recognised by the deference given by courts in various decisions and their reluctance to intrude in this area."[55] (Emphasis added).

Ironically, this view of privilege over internal affairs exempt from statute law, derived from *Graham-Campbell*, was categorically rejected by the Supreme Court of Canada, relying in large measure on the Report of the Joint Committee. In 2005 the Supreme Court ruled in a case between, among others, the House of Commons and the Canadian Human Rights Commission.[56] The dispute involved a charge of constructive dismissal of the former Speaker's driver allegedly motivated by discrimination and the jurisdiction of the Canadian Human Rights Commission to investigate the complaint. The Court decided unanimously that the Canadian Human Rights Act[57] applies to Parliament and its employees.

In assessing the argument of the House of Commons that its privilege over the management of employees immunised it from interference by any outside body, the Supreme Court agreed with the Joint Committee's view "that management functions relating to the provision of services in either

[52] Maingot 1982, p. 158; Maingot 1997, p. 184.

[53] *MGEA v. Manitoba (Legislative Assembly Management Commission)* [(1990), 63 Man.R. (2d) 37, [1990] M.J. No. 72 (Q.B.) (QL).

[54] *British Columbia (Legislative Assembly) (Re),* [2003] B.C.L.R.B.D. No. 202 (QL).

[55] *Ibid.*, para. 151, p. 24.

[56] *Canada (House of Commons) v.Vaid,* [2005] 1 S.C.R. 667, 2005 SCC 30.

[57] *Human Rights Act (Canadian),* R.S., 1985, c. H-6.

House are only exceptionally subject to privilege."[58] The Supreme Court went on to consider the justification of the claimed privilege over internal affairs. After reviewing the *Graham-Campbell* decision of Hewart and the assessment of it by the Joint Committee, Mr Justice Binnie, writing for the Court, concluded by stating:

> "In my view, with respect, we should not accept as authoritative the *Ex parte Herbert* case as establishing an immunity covering all rights of all employees 'in their relations with the House of Commons or Senate' as Maingot contends This is a point that Lord Hewart did not purport to decide and, given the criticism that *Ex parte Herbert* decision has received in the UK by Parliamentarians themselves (in some sense an admission against interest) I do not think that it should be accepted here as resolving the point in dispute. I conclude that British authority does not establish that the House of Commons at Westminster is immunised by privilege in the conduct of *all* labour relations with *all* employees irrespective of whether those categories of employees have any connection (or nexus) with its legislative or deliberative functions, or its role in holding the government accountable."[59]

Seeking to establish the proper boundaries of privilege over internal affairs, the Joint Committee proposed a recommendation that seemed inspired, at least in part, by the legal solution developed by Australia. The Joint Committee did not appear to consider appropriate a more direct challenge to the *Graham-Campbell* decision, similar to what eventually occurred in Canada. Unfortunately, the recommendation of the Joint Committee is based on an incomplete understanding of *Graham-Campbell* and its subsequent ramifications. The Joint Committee accepted the Hewart decision in *Graham-Campbell* at face value. It did not acknowledge or appreciate that Hewart's reasoning was based on a misreading of *Stockdale*. It did not suggest that it was possible to confine the 1934 case to the matter of the Licensing Act, but rather accepted the proposition that the decision established a privilege of immunity from the application of law related to the management and administrative operations of both Houses of Parliament. The Joint Committee seemed not to know about the role played by Speaker's counsel in broadening and distorting the reach of *Graham-Campbell*.

In addition to the shortcomings of its assessment of *Graham-Campbell*, the Joint Committee seemed to operate on some assumptions that may have

[58] Report, para. 248, p. 66.

[59] *Canada (House of Commons) v.Vaid*, paras. 69-70.

misguided its analysis. Though it acknowledged the 1704 resolution and recognised the importance of *Stockdale* and *Bradlaugh*, the Joint Committee did not seem to realise that both, in fact, effectively limit the role of the courts to confirming the existence of a privilege while allowing the courts sufficient authority to interpret the law with respect to Parliament. The courts have no legitimate capacity to create or expand a parliamentary privilege. Moreover, while the Joint Committee did seem to regard internal affairs as a variant of 'proceedings in Parliament', it did not always keep this connection in view. Thus the Joint Committee did not fully exploit the gap in theory and practice between the very narrow scope allowed to 'proceedings in Parliament' and the very broad scope given to 'internal affairs'. It acknowledged that the term 'internal affairs' was potentially open to misunderstanding, but the Joint Committee did not even consider the possibility that it ought not to exist at all as a separate privilege.

The Report of the Joint Committee on Parliamentary Privilege represents a significant achievement in addressing the challenge of modernising privilege, "of matching parliamentary privilege to the current requirements of Parliament and present-day standards of fairness and reasonableness."[60] With respect to the problem of privilege and internal affairs, the Joint Committee properly recognised the evident problem which limits the application of law over operations and staff within the parliamentary precincts. The Joint Committee also admitted that attempts to apply such laws either explicitly or by analogy are not particularly satisfactory. Its recommendation to consider a legal remedy that would limit the privilege to administer internal affairs to activities that are closely related to proceedings in Parliament is sensible. But it is a recommendation, not a solution. It would have been better for the Joint Committee to come to terms more forcefully with the history of the *Graham-Campbell* decision, and the subsequent misuse made of the judgment which did more to create the problem that the Joint Committee sought to correct. Had the Joint Committee done this, it might have concluded simply that laws passed by Parliament do apply to both its Houses unless there is an explicit exemption on account of privilege. In the end, the recommendation of the Joint Committee represents an opportunity missed.

[60] Report, para. 32, p. 15.

# A NEW JOINT DEPARTMENT AT WESTMINSTER

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## Introduction

While the House of Commons and the House of Lords have shared the Palace of Westminster for many centuries, and their corridors meet in the Central Lobby, each House has traditionally maintained its separate administration, services and staff. The creation from 1 January 2006 of a joint department of both Houses is therefore an innovation of significance. The Parliamentary ICT service (henceforth 'PICT') is not the first shared service, but it is the first to be established as a wholly joint subsidiary, recognised as a 'department' simultaneously in both Houses, with symmetrical governance.

What led to this innovation? The reasons why may be subdivided into 'why ICT?" and 'why now?' Why, of all the services in which the two Houses have a strong and potentially joint interest start with ICT as the first joint department?

## The development of information technologies in Parliament

The answer to the first question—why ICT—is relatively straight forward. In the early days of computerisation, in Parliament as elsewhere, computers were used essentially for local data processing and data retrieval. The Culham laboratory of the UK Atomic Energy Authority assisted the Commons Library with a trial database of current affairs references in 1968-9. Other experiments followed, culminating in the appointment of a permanent computer officer in the Commons Library (1974) and the preparatory work on what was to become the Parliamentary On-Line Information System.[1] For most other departments, interest in computer applications came somewhat later, with the arrival of word processing in the late1980s and financial systems in the early 1990s, but use of computers remained local and limited in scope. There was loose coordination by a central computer office for the Commons, based in the Department of Finance and

[1] D Menhennet, *The House of Commons Library: A History* HMSO 1991 110-112.

Administration, but the initiative and the resources lay with the separate departments.

Individual Members of both Houses were also beginning to use computers, but for many years, there was no standard approach. Only with the widespread adoption of word processing at the end of the 1980s did usage grow, but even then computers were rarely linked into a network outside an office, so there was little incentive to create a common infrastructure for Members' computing. The Commons Information Committee in 1992-93 had rejected the recommendation of the SSRB in favour of central provision[2] and did not return to the issue until the 1998-99 session.

Responsibility for developing a parliamentary network passed to the Commons Serjeant's Department in 1995-96 with the creation of the Parliamentary Communications Directorate (PCD), but the mission was narrowly defined. The six largely autonomous departments of the House of Commons continued to fund and recruit separate technical teams of varying sizes, while a separate Computer Office served most of the House of Lords. While most areas connected to the parliamentary network for e-mail, the majority retained separate local networks for their business applications.

As the 1990s wore on the whole world began to harness computers to the much broader tasks of communication within and beyond the organisation. As electronic communication began to replace letters and administrative memos internally, and electronic publication became the primary means of communicating to the world outside Parliament, the Parliamentary Network and networked applications became vital tools and, although constitutionally separate organisations, it soon became clear that the House of Lords and the separate departments of the House of Commons were rapidly becoming cohabitees in a single electronic information community.

Why then did it take another decade to create an effective structure for joint management of such systems?

## The governance conundrum

An explanation may be found in the complex governance of the House of Commons. The House as such is not a corporate entity; indeed it has been likened to a business park supporting 646 small businesses. Moreover, despite the efforts of Sir Robin Ibbs in 1990[3] to streamline the system of Member committees overseeing House services, there was still no clear

[2] Information Committee, First Report, HC 1992-93, 737.

[3] *Report on House of Commons Services by a team led by Sir Robin Ibbs*, HC 38 1990-91

responsibility during the 1990s for managing these services in a strategic or corporate manner. Ibbs had identified the problem, and had suggested some solutions, but when the review team led by consultant Michael Braithwaite returned to the Ibbs recommendations almost a decade later they found that some of these had either not been implemented, or had barely taken hold.

A detailed analysis of Ibbs implementation may be found in the body and annexes of the Braithwaite review.[4] In summary, and concentrating on the factors that are relevant to ICT, Braithwaite found:

- that the hoped for improvement in the clarity of decision-making had not occurred;
- that the House of Commons Commission was not yet providing strategic direction;
- that the Finance and Services Committee had only partially fulfilled its intended role;
- that the Board of Management had not emerged as the supra-Departmental body expected by Ibbs and was serving as a forum for discussion and compromise rather than strategy and decision (4.68);
- and that "departments have been able to pursue different policies in the same or closely related fields, with inadequate coordination or strategic direction" (4.53).

Braithwaite devoted only a few pages specifically to Information Technology as such, but noted two salient facts at the outset: that IT in the Commons was handled through "complex Departmental arrangements" and that it was "a source of considerable dissatisfaction among Members". The report went on to describe the complex governance arrangements then in place, including three separate committees of officials coordinating strategy: one for each House, and one for the two combined. Recommending a more corporate structure, Braithwaite observed drily that "progress has been painfully slow under the federal structure" (8.24).

Although it led to significant change in many areas, the Braithwaite review did not attempt a solution to the IT governance problem. It called for a central authority on technical infrastructure and standards, to reside in the Parliamentary Communications Directorate (which it envisaged remaining within the Serjeant's Department); for service level agreements between PCD and the Departments; and concluded that all recommendations should be taken forward "in close collaboration" with the House of Lords.

[4] *Review of Management and Services: Report to the House of Commons Commission*, HC 745 1998-99.

Shortly after the publication of the Braithwaite review, Professor Richard Ormerod was invited to investigate the feasibility of a joint IS strategy for both Houses. He strongly recommended the appointment of a single IS Director for both Houses, but also noted prophetically that "general support for such a move cannot be assumed".[5] The Braithwaite review had by now been published, but the House of Commons Commission had yet to take a view on its central recommendations. Implementation, with a new stronger role of Chief Executive for the Clerk of the House, came too late to rescue the Ormerod proposals. Instead, in early 2001, the two administrations settled for a much watered down version of Ormerod in the form of a joint initiative to coordinate information architecture through a small joint House facilitative unit specially created for the purpose, the Information Architecture and Support Unit (IASU).

While intended to bring coherence to a confused picture, this new free-standing unit actually added to the complexity of governance. A number of significant new projects were now under way, led by the departments, to manage, search and publish data using the new web-enabled technologies. IASU was intended to guide the overall architecture and data standards, but without executive powers it could achieve little. Accountability and budgets lay with the departments and project boards: a high-level programme board struggled to maintain coherence—with only moderate success.

Meanwhile, with a former IT professional in the chair (Richard Allan MP) the Commons Information Committee had finally given cautious approval in the 1998-99 session to the central purchasing of computer equipment for Members, and decided to return to the question of fully standard central provision, in time for this to be implemented immediately following the 2001 general election.

This decision reflected a growing mood of frustration among Members which had been detected by both Braithwaite and Ormerod. Many Members now felt that the combination of a free-for-all in purchasing personal computers and software, combined with an unstable parliamentary network and unreliable telecommunications links, left Parliament well behind other organisations in harnessing the potential of IT.[6]

[5] Unpublished report held by the author.

[6] Information Committee, *The Supply of Members' Information Technology Equipment, Software and Associated Services*, 18 December 1998, HC 76 1998-99; *Information Technology provision for Members*, 30 November 2000, HC 758 1999-2000

## Parliament and the new digital technologies

With central provision in place after the 2001 election, the Information Committee in the next Parliament turned its attention to the wider issue of how Parliament could be using digital technologies to serve and communicate with the public.[7] It would be followed by the Modernisation Committee in 2004[8] and the Puttnam Commission (a Hansard Society Commission with the participation of Members from both Houses) in 2005.[9] All three inquiries called for the overhaul of the parliamentary website, demanding that it should become the combination of electronic shop-window, news medium and open forum that other influential high-profile organisations have developed.

These developments posed a significant challenge to the administrations of both Houses. In the absence of a central structure, in-house expertise in web technology and information management tools to support it was dispersed across the six Commons departments as well as the House of Lords. External consultancy advice could be bought, but there was no central point of contact and ownership. There had always been a good deal of discussion and cooperation within the small parliamentary IT community, but the new technologies demanded focus and accountability: progress by committee was painfully slow and easily set back.

Against this troubled background the Clerks of both Houses decided during 2003 that the time had come to take a fresh look at the governance of both IS (information systems) and IT (information technology) for Parliament as a whole.

## The IS/IT (Cummins) Review

The IS/IT Review of 2003-04 was carried out by a team under the leadership of the then Serjeant at Arms of the House of Commons, Sir Michael Cummins, and it quickly became known unofficially as the Cummins review. It differed from the earlier reviews already mentioned in several key respects. Firstly, though receiving expert external advice from a former director of IT at J Sainsbury plc, this review exercise was internally led by a senior serving official. Personally sponsored by the Clerks of both Houses, it had a degree

[7] Information Committee, *Digital Technolog: Working for Parliament and the Public*, 15 July 2002, HC 1065 2001-2002

[8] Modernisation Committee. *Connecting Parliament with the Public*, 16 June 2004, HC 368 2003-04

[9] *Members Only: Parliament in the Public Eye*, Hansard Society, 24 May 2005

of internal authority that the previous consultant-led reviews had lacked.

Secondly, the terms of reference set by the two Clerks had been crafted to steer the outcome in the direction of a coherent and more unified management structure. The team was asked:

> "To make recommendations to the Clerks of both Houses by the end of February 2004 on possible models for a coherent and more unified management structure for parliamentary information systems and information technology, taking into account the need for secure and reliable services responsive to the needs of all parliamentary users; full transparency and accountability in the management arrangements; awareness of new developments in IS and IT; a clear focus for project management expertise; value for money.
>
> The review should cover all the existing central structures with responsibilities for IS/IT; the relationship between these structures and departmental teams; and options for new central functions and structures."

This meant that a range of solutions was allowable, but they must all support this primary objective.

Thirdly, the review team were given a tight timetable to gather information and opinions, analyse and report back. Starting in November 2003 they were to report to the two Clerks by the end of February 2004. Despite the scale and complexity of the subject matter, the target was met: by the end of February the two Clerks had been briefed on the emerging findings, and on 22 March, with the consent of the Clerks, Sir Michael issued a 50-page consultation document.[10]

## The 'Cummins' consultation document

All of these circumstances indicated a degree of focus, urgency and determination. The consultation document was made available in full to interested Members and staff in both Houses and published on the parliamentary intranet. It was considered by each management board in turn and commended with covering advice from each to its respective political governing body: the House of Commons Commission in the lower House; the House Committee in the upper.

The consultation document is remarkably clear, logical and incisive in its analysis. The team had adopted a simple, but powerful method of inquiry: it

[10] *IS/IT Review: Report to the Clerk of the Parliaments and to the Clerk of the House of Commons*, 22 March 2004, Consultation Document.

developed a set of criteria by which all solutions should be judged and proceeded to test a range of options, including the status quo, against these criteria:

- clarity and transparency
- consistency of service provided
- effectiveness and efficiency
- value for money
- potential for staff development
- strong correlation between business strategy and IS/IT strategy
- senior and robust management structure
- strategic approach to risk management. (para 17)

Four options were tested and all but the last found to be unsatisfactory:

- the status quo
- increasing the scope and resources of PCD
- Outsourcing
- A unified management structure.

The remainder of the report fleshes out the concept of a unified management structure with a combination of prescriptive and illustrative recommendations. On some points the recommendations are very clear: "all current IS/IT roles and functions in both Houses … would be subsumed into the new ICT service" (para 26); "a new post of 'Chief Information Officer' will be responsible for the whole service and sit as a member of the management boards of both Houses" (para 29); "the solution we recommend requires 'business liaison managers' … to be closely associated with each office and department in both Houses" (para 31).

One key point had already been strongly implied by the terms of reference: the solution would be a joint service for both Houses. Hence the recommendation summarised in the previous paragraph that all existing IS/IT functions should join the new structure and that its head should sit on both management boards.

The recommendation was clear, but the implications less so. Three sentences in paragraph 65 of the consultation document hint at the significant work that remained to be done in this area before the solution could be implemented:

> "The legal, funding and HR implications of a unified management structure for IS/IT governance will be significant. There are a number of

> options for the creation of the joint ICT Service, and these will need to be considered in the light of practicality and cost. The change period will provide an opportunity to create a Service with an innovative and bicameral culture, and a unique identity and ethos, from the outset." (para 65)

Some options for implementation are sketched in the following sections of the report, but not in detail. The preferred option was "to set up the ICT service as both a department of the House of Commons and an office of the House of Lords".

To note that the Cummins review is thin on detail in the area of practical implementation is not to criticise. The team had produced a report of striking quality in a short space of time. The important task at this stage was to clear the undergrowth and gain support for a few key principles: a single joint House service; a single accountable Director; and a continuing close relationship with all parts of the parliamentary 'business'. These were strategic recommendations put convincingly and with sufficient clarity for both Members and officials to reach a decision.

## Implementation

By July 2004 both the House of Commons Commission and the House of Lords House Committee had considered the Cummins consultation document and had given their respective officials the green light to proceed with implementation.

The impending change programme would involve the largest ever reorganisation of the parliamentary administration, involving a total of 205 staff, and budgets, if new projects and Members' IT provision were included, totalling around £22 million. As the Cummins team had correctly foreseen there would be issues of identity and ethos to resolve. The question of staff terms and conditions would also occupy much time and energy.

The first step was to establish a Change Board of senior officials drawn from both Houses, with an external advisor on change management. This began to meet monthly from September 2004. A Change Director was appointed[11] and a small change team to plan the reorganisation. IT staff had now been in a state of uncertainty for almost a year, so an early priority was to involve as many of them as possible in the change process.

[11] The present author.

## The legal issues

Staff of the House of Commons are employed by the House of Commons Commission (chaired by the Speaker) under the House of Commons Administration Act 1978. Staff of the House of Lords are employed by the Clerk of the Parliaments under powers conferred on him as corporate officer under the Parliamentary Corporate Bodies Act 1992. Who then should be the employer of staff employed by a joint department?

Various theoretical solutions were examined by the Change Board, before it identified as the most straightforward that such staff should be employed jointly by the two corporate officers, using the symmetrical powers already available in the Parliamentary Corporate Bodies Act. The alternative of a joint company limited by guarantee, with the two corporate officers as directors, was rejected as too cumbersome. In the course of the investigations, however, an inconvenient fact came to light. There are already a significant number of references to the staff of the two Houses in various employment and other acts and they are defined by reference to the current separate employment arrangements, which, in the case of the Commons means 'staff employed by the House of Commons Commission'. Staff employed jointly by the corporate officers would not be caught by these definitions and would therefore not enjoy the same employment and related rights.

This realisation led the Change Board to the reluctant conclusion, at the end of 2004, that the full implementation of the Cummins proposals on a stable long-term basis would require a fresh Act of Parliament. Given that this would inevitably take more time, a decision was made, and endorsed by both the House of Commons Commission and the Lords House Committee early in 2005, that the joint department should be set up on an interim basis, and the need for legislation pursued on a separate track.

The interim basis was to use the existing legal framework. Existing staff of the Commons who were transferred to the new joint service would remain employed by the Commission; existing staff of the Lords (a much smaller group) would be formally 'on loan'. The head of the new service would be appointed jointly by the Clerks of both Houses, but would be formally a Commons employee, as would other new employees, but with contracts providing for a future change to joint status. Everything would be done in the mean time to make the service fully 'joint' in structure and ethos.

At the time of writing (June 2006) legislation is still pending. The need for it has been endorsed by the Leaders of both Houses. Contributing to a

debate in Westminster Hall on 3 November 2005, the Leader of the House of Commons, Geoff Hoon MP, said:

> "The Commission's annual report notes that the new service is to be established initially using the present employment structures of the two Houses 'pending legislation to create a firmer basis for joint services in the future.'
>
> I must give the usual Government health warning on matters of legislation, and tell hon. Members that the Government can give no undertaking that a place can be found for a Bill to implement that in the near future. I realise that it will be difficult for the joint service to operate fully and effectively under present legal arrangements, and therefore see the case for a Bill. We will, of course, look for opportunities to introduce such a Bill, but I reiterate that I can give no guarantees."

There has been preparatory work on a bill and there is a possibility of introduction in the 2006-07 session. The bill will need to specify how and on what authority joint departments can be set up, apply to their staff the same status as enjoyed by the staff of the Houses separately (rights under the employment acts, safeguards in the House of Commons Administration Act) and make provision for continuity of employment contracts when staff transfer to a joint department. The intention is that the bill should be technical and uncontroversial. While there may be arguments for reforming the administration of either or both Houses in other respects (and a House of Lords reform bill could again feature in 2006-07), such matters would require separate and more detailed consideration.

## Creating a new organisation

Once the decision had been taken to proceed on an interim basis, the emphasis in the planning shifted from relatively arcane legal considerations to living and working people. How to take nine separate groups of busy people, each with its own management hierarchy and essential day to day work in support of the two Houses, and move them more or less willingly into a new structure, with the minimum of disruption?

A start had already been made, in the autumn of 2004, with open meetings and briefings of all concerned on the need for the change (which had been set out reasonably starkly in the Cummins consultation document) and the risks or issues that would have to be tackled along the way. Of these there were naturally many. Terms and conditions of employment differed not only

between the two Houses, but also between the various departments of the House of Commons. Informal working arrangements, cultures and styles also varied enormously, reflecting the differing traditions and professional disciplines of the departments. For example, working in support of Hansard (heavily customised IT, working to the rhythms of the parliamentary calendar) was not like working in support of the refreshment departments or payroll (proprietary systems, operating all the year round).

As the transitional year of 2005 unfolded, workshops and conferences were organised on every aspect of the change, both technical and human. For many the key issue was about trust and responsiveness. The small IT teams embedded in departments knew their business area well and were personally known to most of the staff there. A larger and more centralised organisation, benefiting from knowledge sharing, systems rationalisation and joint procurement might seem logical and efficient, but would it also be remote and impersonal? How could it avoid the criticism so frequently leveled at centralised IT departments in other organizations—that they are technology-led and detached from the pressures and priorities of the front line?

## Maintaining links to the departments and offices

Cummins had recommended that there should be a business director and a set of business liaison managers (BLMs) in the new structure to counter this tendency. This seemed a promising start, but how many BLMs should there be and how would they work in practice? This was the subject of the first of four change programme conferences with the participation of a good cross-section of the staff most concerned and the advice of a range of external experts and practitioners. The conference concluded with a surprising degree of consensus: the BLMs (soon to be re-named Business Relationship Managers) should be few in number, strategic in approach, and they should span both Houses. The last point was crucial. Almost every parliamentary function from Clerks and Hansard to finance and refreshments is mirrored across the Houses. What sense does it make for these parallel functions, quite modest in terms of the numbers of their staff and customers, to plan and procure separate and incompatible information systems, on separate servers, with separate back-up arrangements?

## A new management team

The next step was to agree a job description and recruit a person to head the new service. Cummins had described the role as Chief Information Officer

(CIO), a designation now commonly found in larger companies and public sector organisations. The two Houses of Parliament, however, both had senior officers known as Librarian (both now with much wider information management responsibilities than that title traditionally implied). Would it not be confusing to introduce a 'CIO' alongside the two Librarians? It was quickly agreed that the new job description should emphasize the technical aspects of information systems and architecture, rather than the content, which would continue to be the responsibility of others. Cummins had referred consistently to a 'new ICT service'—ICT being the now standard curriculum term covering the *transmission* of information by any electronic means, as well as its storage and processing. The director, following common Westminster administration conventions, would therefore be D-ICT—an acronym with an awkward glottal stop. But, the essence of the job would be *parliamentary* ICT, so an advertisement was drafted for an easier-to-pronounce D-PICT, and, almost by accident, the new service became known as PICT.

In the second half of 2005 work progressed on a new organisational chart. The new service would need to be strong in *operational* management, focused on future *development*, and highly effective in managing its combined *resources*; so, reporting to D-PICT it would have a director of operations, a director of development and a director of resources, plus three business relationship managers spanning the business requirements of both Houses. Reporting to the Director of Operations would be two Members' Computing Officers, one for each House, ensuring that the Members' needs for desktop equipment, connectivity (including to constituency offices) and technical support were effectively met. Other new management roles were slotted on to the chart, covering the key areas where the new service would stand or fall: customer services, application services, enterprise architecture, programme management, risk management, technical planning, business management.

A 'big bang' change had never been in the plans. Critical systems and services would need to be maintained throughout the changeover and the risk of confusion if everyone were to change jobs on a single date was too great. The new organisation therefore launched into formal existence on 1 January 2006 with many functions relatively undisturbed. A further phase of re-organisation under the new PICT umbrella continues at the time of writing and should be complete by October 2006.

## Conclusion and the future

At the time of writing the new joint ICT department for Parliament is up and running, but it is early days, and the full strategic benefits are still to be realized. Joint governance has been established: at the political level D-PICT now reports to the Administration Committee in the House of Commons and the Information Committee in the House of Lords; at the official level she sits on both management boards and agrees her strategies and plans with a Joint Business Systems Board consisting of senior officials drawn from both management boards. Pending the passage of legislation, the staff of the new joint department remain on the existing separate employment arrangements with either the Commons or the Lords: for all practical purposes the two groups already operate as a single integrated service.

Subject to joint department legislation being passed relatively quickly, a model has been established which could, if the Houses wished, be extended to other existing joint services, or to the proposed new Parliamentary Visitor Centre. Other areas could follow, depending on the extent to which the Members of both Houses feel that joint services are compatible with the distinctive cultures of the two Houses and their inclination to be self-reliant. Early indications are that there will be no immediate rush towards further 'jointery'.

Whatever may happen in other areas of service it would be difficult now to return to the fragmented IT management of earlier years. The creation of a joint ICT department has shown that the parliamentary administration can manage major organizational change with confidence when necessary and that two institutions which in other respects remain proudly separate are fully capable of combining forces in the interests of Parliament as a whole.

# A COMMUNICATIONS PLAN FOR THE NATIONAL ASSEMBLY OF QUÉBEC

PATRIK GILBERT[1]

Since the late 1970s the National Assembly of Québec has put into place a number of communications vehicles intended to bring citizens closer to their elected representatives. Among them are the televising of the debates, numerous parliamentary simulations, a variety of publications, and an internet site.

More recently the Members of the Assembly themselves revisited this preoccupation in the context of two proposals for parliamentary reform, one by the government House leader, Jacques P. Dupuis, the other by the Speaker, Michel Bissonnet. One of the four axes of reform identified in the latter document is entitled 'Bringing the National Assembly Closer to Citizens'; it proposes concrete, forward-looking measures to that end.

Despite these efforts, however, the National Assembly of Québec, like other parliamentary institutions, remains insufficiently known, especially to young people. That fact emerges from a poll on the perceptions citizens have of this institution: 30 percent of Quebeckers say they have no knowledge of the Assembly. The proportion of respondents in this category rises to 44 percent among students and to 53 percent among those 18 to 24 years old.

This poll led the National Assembly to reflect upon the suitability of its communications programme. In the interests of sound management, before developing its communications further the institution needed to put into place a rigorous plan that would both set priorities for any communications activities to be conducted in relation to the resources available for them and maximize the sums to be invested in this area. In June 2004 the Speaker therefore announced his intention to provide the National Assembly with a genuine comprehensive communications plan. The salient features of the National Assembly's *Public Communications Blueprint 2005-2009* are outlined in the present article.

[1] Mr Gilbert is responsible for public relations services at the communications branch of the National Assembly of Québec (Canada).

## Overview of the current situation

In order to establish its plan on a solid foundation, the Assembly held a series of consultations to complement its reflection on the improvements that needed to be made to its communications efforts. Consultations were held with users of the internet site, Members of Parliament, and managers of administrative units as well as with employees in the political and administrative sectors of the Assembly. Separate studies of young people and of the new information technologies were also taken into consideration. These consultations attested to the need to make both the Assembly and the role of parliamentarians better known.

Before attempting to craft a strategy to that end, however, the Assembly also performed an assessment of its communications activities in recent years. The results of that assessment follow.

### *Citizen participation in the work of Parliament*

Year in, year out, approximately 600 groups or individuals express their views and propose solutions to Members in parliamentary committees. Between June 2000 and June 2005 citizens were also invited to participate in on-line consultations on five occasions. Finally, as is customary, any person or association of persons may always address a petition to the National Assembly of Québec for the redress of some grievance with respect to which it is competent to intervene.

The two proposals for parliamentary reform noted above include measures designed both to intensify the recourse to on-line consultations and to offer citizens the opportunity to comment on any matter under consideration before a committee (clause-by-clause consideration of a bill, surveillance of a ministry or a public agency, etc.). They would also allow citizens to initiate and sign petitions to the Assembly by electronic means; and they seek to promote the use of videoconferencing to hear witnesses in isolated regions, a practice that has been tried to good effect on several prior occasions.

### *An educational mission*

The Assembly organizes a variety of parliamentary simulations and a competitive quiz for students at the primary, secondary, collegiate, and university levels as well as a parliamentary simulation for senior citizens. These activities bring more than 12,000 young people to the Parliament Building every year. In each of the past three years the Speaker has also conducted a tour of educational establishments in an effort to foster in young

people fundamental values of democracy, freedom, justice, equality, solidarity, participation, and respect for public institutions.

Despite these activities the interest that young people manifest in parliamentary institutions remains extremely low. Many are familiar neither with the Assembly nor even with the name of their local Member, and their rate of participation in elections is inferior to that of the rest of the population.

### *A television channel for the National Assembly of Québec*

The mission of the National Assembly's television channel is to broadcast in their entirety the proceedings of the House and of certain committees as well as press conferences, educational activities, and other events to as many households in Québec as possible. It broadcasts 2,000 hours of content every year. The Assembly is, however, dependent upon the willingness of television broadcasters to offer its signal to their subscribers; in those areas where they do not citizens have limited access to this medium of parliamentary information.

## An internet site

The Assembly's internet site is visited more than 1.8 million times every year. Created in 1995 with only 200 files, it now contains more than 45,000, and both its technological underpinning and its informational structure have reached their limits. In order to expand the site further and to accommodate the multiplicity of web projects now under consideration, high-performance solutions for managing the site and updating its contents must be found.

### *Publications*

The Assembly distributes free of charge to the general public a variety of publications, some of which are more than 20 years old. These documents were created over the years as particular needs were perceived, and the public would be better served if they were recast to articulate a coherent, all-encompassing vision.

### *Visitor reception and public activities at the Parliament of Québec*

Visitors to the Parliament Building can attend parliamentary proceedings, take guided tours, dine at the parliamentary restaurant, and shop in its boutique. The further development of these activities remains subject, however, to the building's capacity to accommodate visitors, which has now been practically reached.

### *Signature and visual image*

The image of the Assembly would be easier to recognize were there a common visual thread among its most important media of communication, such as the National Assembly channel, the internet site, the intranet portal, the CD-ROM, the videos, the annual report on activities, and its other institutional publications.

## Objectives

Each of the communications media and activities canvassed above contributes to the overall objective of bringing the Assembly and its Members closer to citizens. Nevertheless, to reach this goal more efficaciously and to better orient and intensify our efforts, the Assembly has chosen to set itself three further, more specific objectives:

- The Assembly wishes to increase the proportion of the citizenry who are aware of its mission.
- The Assembly wishes to promote a better understanding of the role and the parliamentary duties of its Members.
- The Assembly wishes to foster increased participation by citizens in its parliamentary deliberations and other activities.

## Messages and Client Groups

### *Messages*

Each of the above objectives affords the Assembly the opportunity to send precise messages and to demystify certain facets of its mission and its Members' work.

Our reflections on the first objective led us to ask ourselves which aspects of the Assembly's mission in particular we wished to make better known. We considered it essential in the first instance to dissipate the confusion that exists among the population between the concepts of 'government' and 'Parliament', which all too often are misperceived to be synonyms. We have thus decided to enunciate clearly the fact that *the National Assembly exercises the legislative power, which is one of the three powers of the government of Québec, and carries out surveillance over the activities of the executive*.

Furthermore, we were cognizant that in the context of globalization citizens no longer regard parliaments as the sole venue in which democratic debates are conducted; in addition, the appearance of new communications

technologies has given the population unprecedented tools for conducting these debates themselves. Accordingly, we have deemed it necessary to emphasize that *the National Assembly is the ultimate venue in which matters of public interest are debated and laws are passed*. It is indeed the only place in which, once the rules that are to govern the citizenry in their daily lives have been debated, a decision may be reached that is binding upon all.

Finally, since these rules derive their legitimacy from the decisions taken by our Parliament, and since the Assembly, through the votes of its Members, articulates the sole legally binding expression of the popular will, we intend to remind the population that *it is through the National Assembly that the citizens of Québec proclaim their identity and declare how they wish to live*.

The second objective is that the National Assembly wishes to promote a better understanding of the role and the parliamentary duties of its Members. Members of Parliament are much closer to the population than the institution itself ever can be. That is why they are at the very core of our communications strategy. In the years ahead we will place increased emphasis on the following aspects of the Members' work:

- *Members of Parliament act in the public interest.* Members strive for social justice and contribute to improving the social and economic circumstances of all Quebeckers.
- *Members of Parliament are the representatives of their constituents, intermediaries between them and the public administration.* Members represent the citizens of their respective electoral divisions and give expression to their hopes and aspirations.
- *Members of Parliament exercise the important responsibility of voting the laws that orient the evolution of our society.* The social, cultural, legal, and economic measures they adopt shape our society and often make Québec a model and a precursor for others.
- *Members of Parliament call the government to account for its activities before the population.* The proliferation of government responsibilities in the majority of fields of human endeavour has led to a broadening of this surveillance function; what is more, the mechanisms for rendering accounts have been considerably refined. Accordingly, now more than ever the Members' role as the overseers of the executive needs to be fully explained to the population.
- *The work that Members of Parliament do in parliamentary committees is of fundamental importance*. This facet of the Members' work is insuffi-

ciently known and needs to receive greater emphasis, particularly since committee work is assuming ever greater importance in parliaments around the world.

The third objective is that the National Assembly wishes to foster increased participation by citizens in its parliamentary deliberations and other activities. The new information technologies open up fresh avenues for citizens to take part in parliamentary activities without being required to travel to the Parliament Building: on-line consultations, e-petitions, on-line comments regarding matters under consideration by committees, and the presentation of briefs before committees through videoconferencing. More than ever the population needs to know that *the National Assembly offers citizens a unique forum for participating in our democratic life and expressing their views to parliamentarians.*

What is more, the Parliament Building itself—an historic site as well as a focal point of democracy—is a veritable jewel of our collective heritage; the guided tours, exhibits, and special events held within it enable Quebeckers both to practise enlightened citizenship and to achieve a better understanding of the role of the Assembly and the work of its Members. *The National Assembly thus encourages citizens to visit the Parliament Building and to participate in the social and cultural activities that take place within it.*

Finally, *the National Assembly reaches out to citizens in their own communities* by organizing activities outside its walls, such as the Speaker's tour of schools and travel by parliamentary committees across Québec to permit broader consultation of citizens. The television channel, the internet site, and the Assembly's publications are other means for reaching out to citizens.

### *Client Groups*

Owing to its mission, the Assembly will naturally seek to convey these messages to the population at large. To maximize the efficacy of its communications efforts, however, it must target certain sectors of the public:

- *Young people, schools, and teachers.* The relative ignorance of young people regarding parliamentary institutions is deepening while their rate of participation in elections plunges at an alarming rate. The action plan envisaged in the present blueprint is thus targeted particularly at those 12 to 17 years old.[2] Furthermore, it is through the efforts of teachers and in the context of the courses they give that young people may most easily be reached.

[2] In Canada one acquires the right to vote at age 18.

- *Citizens in the cultural communities.* Newly arrived in Québec, members of Québec's ethnic minorities are often unfamiliar with our public institutions, including the National Assembly and the work of their local Member of Parliament.
- *Professionals with a special interest in the parliamentary proceedings.* Public servants, jurists, and government-relations specialists need to acquire a better understanding of the Assembly's mission and have access to high-quality information, particularly on bills before the Assembly.
- *The national, regional, and ethnic media.* Nearly 80 representatives of the national media work at the press gallery and report on parliamentary current events. Because of their closeness to local issues, the regional and ethnic media provide excellent pipelines for transmitting information on the work of Members of Parliament.
- *Visitors to the national capital.* Each year five million tourists, 3.6 million of whom are Quebeckers, visit the national capital. They constitute an important segment of the larger public, since they are already present in the capital, are easy to reach, and are potentially interested in the city's main institutions.

## Strategy

To attain its objectives and transmit these messages to the population, the Assembly has put into place a nine-point strategy that brings all its media of communication into play.

### *A strong and distinctive institutional signature*

The Assembly intends to adopt both a message and a visual image that will give expression to its communications objectives and allow citizens to identify it readily. This signature will revolve around Members of Parliament and their work and will be present in all its media of communication.

### *Promotion by event*

The Assembly will heighten the visibility of its Members, of the institution itself, and of its services by organizing high-profile activities and associating itself with events of note such as the 400$^{th}$ anniversary of the founding of the city of Québec in 2008.

### *Communications adapted to the experiences of young people*

The Assembly will increase its visibility to young people at the secondary-school level, that is to say from ages 12 to 17, and will provide increased

support to teachers in the field of democracy studies, especially at the secondary level, in particular through a complete redesign of its internet site. The Assembly will also couch its messages in a form and in language that are comprehensible to young people. These initiatives toward the schools will be amplified through the creation of school parliaments in collaboration with the Jean-Charles Bonenfant Foundation.

Established in 1978 by an act of the Parliament of Québec, the Jean-Charles Bonenfant Foundation seeks to increase, improve, and disseminate knowledge of political and parliamentary institutions and to promote the study of and research into democracy. Since its creation it has contributed more than a million dollars for parliamentary internships and fostered a better knowledge of political and parliamentary institutions among young university students in Québec. Nearly one hundred young people have benefited from these parliamentary internships, and they have put this experience to further use in their subsequent careers. The foundation also provides financial assistance to young people who wish to take part in the educational activities of the National Assembly.

### *Properly vetted, better-publicized communications vehicles*

The Assembly will ensure that the content of its messages is both coherent and accessible to the various publics to whom they are addressed; in this way citizens will be encouraged to conceive a greater interest in the work and the role of its Members. It will also publicize its media of communication and consultation through advertising campaigns. Finally, all its communications vehicles will be evaluated before they are unveiled to users in a given client group, and their effect on the population will be monitored.

### *Optimal use of the Assembly's television channel*

The programming on the Assembly's television channel will be enhanced through the addition of new productions (interviews, short clips on relevant themes), and it will be made more stable during peak hours. A scrolling banner at the bottom of the screen will inform listeners of both current proceedings and future programming.

### *An internet site that responds to clients' needs*

The Assembly's internet site will be completely redesigned on new technological, graphic, and informational bases. This large-scale project, to be executed over a period of three years, will make it easier to locate and assem-

ble information on one's local Member or on any given subject. The new site will also simplify access to documents and offer secure and reliable information services and opportunities for participation. Information in popularized form and lively graphics will better reflect the dynamism of the Assembly. Finally, we will strive for greater convergence between the content of the Assembly's internet site and that of its television channel.

### *Personalized and expanded reception services*

A number of initiatives will be taken to improve the reception of visitors to the Parliament Building: a new reception area and new reception procedures, the creation of a sector exclusively for young people, better access to the Assembly's boutique, etc. Programming will be developed that includes an uninterrupted series of exhibits at the Parliament Building during the next four years on themes related to the parliamentary system.

The Assembly will also create vehicles that better meet the information needs of tourists and visitors, in particular by promoting its mission and its activities outside the Parliament Building.

### *A comprehensive and well-targeted publications programme*

The Assembly will re-evaluate its publications in their entirety. The brochures offered to the public will be adapted to the needs of the various client groups by means of a thematic approach with up-to-date content presented in easily comprehensible language. They will place greater emphasis on explaining the importance of the Members' work, and each will contain a section on the information services offered to citizens (television channel, internet site, etc.).

Finally, in addition to republishing certain existing works, the Assembly will produce an entirely new deluxe book on the Parliament Building as well as a reference work on the history of parliamentary institutions.

### *Better tactical support for Members of Parliament and the Assembly administration*

The National Assembly will develop communications strategies for promoting a better understanding of the work of Members in the House, in parliamentary committees, and on the international scene. The sections of the internet site devoted to these important subjects will be revised during the redesigning of the website.

Finally, the Assembly will make more frequent and more intensive use of advertising to publicize its institutional activities. To this end we will develop

a more general, comprehensive strategy of placement for advertising about the Assembly's mission and the work of its Members.

## Conclusion

With this communications plan in place the National Assembly of Québec will be better equipped to confront the challenges of the contemporary information market—a market that, as everyone knows, is flooded with information of all kinds at an ever-accelerating pace 24 hours a day. The extraordinary development of the new information technologies entails radical changes in methods of communication. Within this continually evolving context, and in the face of the preponderance of the communications activities conducted by governments, parliamentary assemblies must find a way to stand apart, to distinguish themselves, and to give expression to their own personality. The creation of a comprehensive communications plan such as that which the National Assembly of Québec has adopted can certainly contribute to attaining these objectives.

# PARLIAMENTARY COMMITTEES AND NEGLECTED VOICES IN SOCIETY

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## Introduction

A modern democratic parliament attempts to provide representation for all the adult citizens of a country. While such representation is a necessary condition for active participation in democracy, it may not be sufficient.

Parliamentary committees can provide opportunities for more groups and individuals to be engaged in the policy questions before parliaments. Historically, one of the main ways committees have done this is by looking at issues in more depth than can parliament as a whole. They have drawn on the expertise and views of organised interests, specialists and researchers, to provide parliaments with valued information, advice and policy proposals.

A further, vital way in which parliamentary committees give citizens an active role in policy is by ensuring that marginalised groups and individuals without a voice can gain the attention of parliament and discuss issues that are important to them. This has been a prominent theme in recent inquiries initiated by the Australian Senate. Through these inquiries, committees have brought neglected issues into the public arena, and in doing so have both demonstrated strengths of the committee system and encountered procedural challenges to be overcome. This paper sketches four such inquiries and the issues they have raised.

## Inquiry into child migration to Australia

Throughout the 1980s and 1990s, a growing number of concerns about the welfare of children who had been, or were still, in institutions and other child care arrangements were investigated. During this period, details of the history of a unique group of children who had been in care in Australia were gradually coming to light. That group was child migrants from both Britain and Malta.

Some early parliamentary work had occurred with a select committee of the Western Australian Legislative Assembly tabling an interim report into

child migration to Western Australia between the early 1900s and 1967 in November 1996, and a UK Health Committee inquiry into child migration reporting in July 1998. These were followed by calls from different groups and individuals for an independent national inquiry into child migration to Australia. Some groups were calling for a full judicial inquiry to thoroughly investigate all aspects of child migration policy and the treatment of children in the receiving institutions, while others wanted a joint or select parliamentary committee inquiry. The outcome was for the issue to be referred to the Senate Community Affairs Committee on 20 June 2000.

The committee's inquiry focused on the history and treatment of unaccompanied children generally under the age of 16 years who were brought to Australia from the United Kingdom, Ireland and Malta under approved child migrant schemes during the 20th century. The committee estimated that 6,000-7,500 child migrants were sent to Australia during the 20th century, with a total child and youth migration of upwards of 10,000, the majority arriving after World War II.

The committee received over 250 mostly individual submissions that contained the most disturbing stories of abuse and torment. Nearly 100 submitters requested that their story remain confidential, an unusual number given that most Senate inquiries are almost totally public. Hearings were held around Australia to enable as many child migrants as possible to have the opportunity of telling their story. The international implications of the child migration schemes also led to the unique situation of committee members being given formal delegation status to travel to London and Ottawa to hold meetings with a range of groups and individuals involved with child migrants.

The inquiry revealed stories of child exploitation, virtual slave labour, criminal physical and sexual assault and profound emotional abuse and cruelty. Evidence was given that depersonalisation occurred through the crushing of individual identity and changing of names and, often when children told of their terrible experiences, they were either not believed or merely sent back to the institution where the matter would be covered up.

Two of the most important issues that recurred during the inquiry were that, whether the children were beaten, whether they were sexually abused or not, every one of the children suffered a loss of identity; and that many of the migrant children, now adults, felt it was important to have the opportunity at last to tell their story, to be heard and to be believed.

For many former child migrants, their sense of dislocation and not belonging, loss of family and of emptiness profoundly affected their lives and that of

their partners and children. Much evidence reported child migrants having a much higher incidence of relationship and marital breakdown, drug and alcohol abuse, suicide and other anti-social behaviours. However, on a positive note, despite the abuse, the pain and damage, the committee heard stories of many who had gone on to make a very successful adult life.

The committee's report, *Lost Innocents: Righting the Record*, was tabled on 30 August 2001 and contained recommendations directed to the support of the most damaged former child migrants. However, with loss of identity and a sense of belonging and the loneliness of being far from home having affected all child migrants, many other recommendations addressed the issue of dealing with identity through access to records, family tracing, travel and reunion that aimed to assist all former child migrants, their families and descendants who wish to access such information and services.

The inquiry had also attracted submissions from Australian-born children who had been in institutional care, many of whom lived in the same institutions as the child migrants. Whilst they were not removed from their country and culture, many suffered the same abuse and deprivations as child migrants in these and other institutions. They too had lost families and were deprived of loving homes. These people possibly numbered in the hundreds of thousands.

Their story was to be the subject of the committee's next major inquiry.

## Inquiry into children in institutional or out-of-home care

In March 2003 the Senate referred to the Community Affairs Committee what was to become an extensive inquiry relating to children in institutional or out-or-home care, including whether, in relation to any government or non-government institutions or fostering practices, any unsafe, improper or unlawful care or treatment of children occurred; as well as the extent and impact of the long-term social and economic consequences of child abuse and neglect on individuals, families and Australian society as a whole.

The inquiry was given contemporary relevance by including an examination of the changes to professional practices employed in the administration and delivery of care compared with past practices and whether any changes were required in current policies, practices and reporting mechanisms to ensure that there was an effective and responsive framework to deal with child abuse matters.

The committee received over 740 submissions of which 210 remained confidential. The extensive nature of the inquiry was demonstrated by

submissions being received from care leavers who had been in government and non-government institutions or foster homes across all States in Australia and spanning the period from the 1920s to the 1990s.

As with the child migration inquiry many hundreds of the individual submissions contained graphic and harrowing accounts of traumatic childhood events. Some people were actually telling their personal story to another person, including family, for the first ever time. For some their memories and their life story remained so distressing that they asked for their name to be withheld, to be identified only by their first name or for their submission to remain confidential. All of these people desperately wanted the committee to read and hear what they had experienced in childhood and the impact that those events have had throughout their life.

The content of many of these submissions was well beyond that which committees were used to receiving and led to considerable deliberation within the committee as to their procedural acceptability. The committee determined that in order to enable these people finally to have their voice heard a flexible and transparent approach would be adopted.

The inquiry received many stories which echoed the instances of appalling emotional, physical and sexual abuse and assault received during the child migrant inquiry. The committee heard how the negative impact of these experiences had flowed through to also affect the families and children of care leavers. The impact that these issues have had for care leavers and their families is substantial. In addition they have created a significant impact for Australian society in general, including the costs of providing the support necessary to help people deal with many broad-ranging ongoing problems.

The committee tabled its first report, *Forgotten Australians*, on 30 August 2004. As the report describes, children were for many reasons hidden in institutions and forgotten by society when they were placed in care and again when they were released into the outside world.

The second report, *Protecting Vulnerable Children: A National Challenge*, was tabled on 17 March 2005. The report discussed the structure, services and processes that make up the contemporary framework for Australia's child protection system. The report also discussed foster care, including information from earlier times but with its main focus on contemporary foster care issues; children and young people with disabilities in care; and children and young people in juvenile justice and detention centres.

## Inquiry into military justice

In June 2005 the Senate Foreign Affairs, Defence and Trade References Committee tabled its report on Australia's military justice system. Overall, it considered that the system was seriously flawed.

Much of the evidence came from the parents of young soldiers who had experienced harassment, intimidation and bullying. In the most extreme cases, soldiers took their own lives. The committee found worried and sometimes distraught parents had no other option but to contact the Australian Defence Force (ADF) directly about their concerns of mistreatment. In some instances, even this step was not enough to move senior officers to remedy the situation. Many people felt betrayed by a system set up to protect them. This inquiry provided an avenue for people too frightened or too traumatised by their experiences to have their voices heard at last.

The inquiry posed a number of significant procedural problems for the committee. The main difficulty was in presenting a full, balanced and accurate account of the experiences of people who believed they had suffered an injustice while upholding their rights to privacy and to procedural fairness. Much deliberation was given to questions such as whether to publish highly sensitive and personal information or material that identified or named alleged perpetrators of wrong-doing. The committee was also aware of its duty of care to people, some of whom were still suffering because of their experiences.

Senate committees prefer to place all their evidence on the public record. The inquiry into military justice, however, was an exception. The committee received 71 public and 63 confidential submissions and held 11 public and 7 *in camera* hearings.

Much of the information withheld from the public contained details of a sensitive nature involving accounts of abusive and humiliating treatment, mental anguish and suicide. In some cases the submitter requested that the material be kept confidential because of the highly personal nature of the material. A number of service personnel however, feared some form of reprisal for going public with their grievances while others did not wish to bring the ADF into disrepute by publicly airing their complaints.

In many instances the committee worked closely with submitters to find ways to place their story on the public record without jeopardising their interests or welfare or unnecessarily disclosing the identity of third parties. The number of submissions kept confidential, however, shows that this approach was not always successful.

In addition to individual requests for confidentiality, the committee in some instances deemed it inappropriate for evidence to be on the public record, particularly material that reflected adversely on named individuals or where complaints or redress of grievances were still under consideration or subject to further negotiation.

The decision to withhold information was not taken lightly and the committee gave close consideration to the material before deciding to receive it in confidence. It appreciated that withholding information could stifle public debate and deny some the opportunity to present their views on particular incidents.

It should be noted, however, that the committee took great care to ensure that those who participated in the inquiry received a fair hearing and that the report represented an accurate and full account of the evidence. The committee held a number of *in camera* sessions where it questioned those wishing to remain anonymous about the substance of their submission. It also held hearings behind closed doors in order to allow others, particularly the ADF, to respond to certain allegations or viewpoints.

The use of confidential material also placed constraints on preparing the report. The committee was careful not to rely on this material to establish its findings. It was used to build on, and to further validate, evidence on the public record. In the end the committee was confident that the report more than adequately represented the evidence, public and private, before it.

In general, those who contributed to the inquiry welcomed the committee's findings and were satisfied that their concerns were recognised and that measures would be taken to prevent further abuse in the ADF. The committee's main focus was on identifying systemic shortcomings in the military justice system and recommending institutional reforms that would hopefully prevent abuse, neglect or harm from occurring again in the ADF.

A number of submitters, however, hoped that at long last they would be listened to and that their specific grievances would be addressed. The committee was aware of the likelihood that some people would have unrealistic expectations of what the committee could achieve. From the outset it made clear that while it welcomed submissions, it was beyond the remit of the committee to determine the veracity or otherwise of each and every claim, or to pursue individual remedies for all complainants. At the commencement of public hearings, the chair stated that whilst the committee wished to conduct its inquiry thoroughly and with fairness to all concerned, it did not intend to adjudicate on individual cases. He noted that individual circumstances, however, would be used in assessing broader issues, which were the main focus of the inquiry.

Even so, a few submitters were disappointed that the committee did not pursue their particular cases. Their expectations that the committee would inquire into, and make a determination on, the rights and wrongs of their specific grievance did not match those of the committee. As noted above, the committee's primary objective was to expose failings in the military justice system that allowed mistreatment and abuse to occur and in some cases to continue unrecorded. The many people that came before the committee to recall their experiences in the system helped the committee greatly in bringing to light deep-seated problems in the military justice system and in formulating recommendations designed to address them.

The committee was also concerned that although the report might be greeted with much fanfare, promises of change and high hopes of reform, the matter would gradually recede once again into the background. It was determined that its recommendations and the government's undertakings based on the committee's findings would not slide into obscurity. In its report, the committee recommended that the ADF submit an annual report to the Parliament outlining the implementation and effectiveness of reforms to the military justice system. The government supported this recommendation and has undertaken to provide the committee with a six-monthly progress report on the implementations of its reform initiatives to improve Australia's military justice system.

The committee has recently received the first report from the ADF and is considering the action it should take to ensure that it fulfils its monitoring role.

## Inquiry into mental health

The Select Committee on Mental Health was established in March 2005 with wide-ranging terms of reference. It looked at all aspects of mental health and mental illness, from the role of hospitals, through prevention strategies, to mental health research. Initially the committee was given six months to complete its work, but the substantial public response to the inquiry, and the extensive travel required by the committee (17 public hearings and four site visits across every state and territory), resulted in the Senate doubling the amount of time it was given, and the final report was not delivered until late April 2006.

The committee found a health care system lacking resources, with fragmented services and poor consultation mechanisms. It heard from many individuals with mental illness, as well as families and carers, and their

accounts were too often about a system that failed them, and about services that did not listen to their needs. Despite several inquiries into mental health in Australia over the preceding decade, many people were giving evidence and talking about the issues in public for the first time.

The mental health inquiry was set up as a select committee in part because the issues promised to be complex and to attract a lot of public attention. The work could have overwhelmed any standing committee's capacity to do the rest of its job. This was borne out by experience. In the first six months of 2005, the Mental Health committee received more submissions than any other Senate committee (despite only being formed in March), while in the last six months of 2005 it held more public hearings and site inspections, lasting more hours, than did any other committee.

The Mental Health Committee faced distinctive challenges in its work. These centred on how to receive and make use of evidence from consumers, people who experience mental illness, and their families and carers. committees occasionally receive submissions that are personal stories, but the peculiarity of the Mental Health Committee's work was that most of those personal submissions were about third parties. The committee received hundreds of submissions from people talking about the experiences of siblings, spouses, parents or children who had a mental illness, more than it received from people who themselves experienced mental illness.

This caused difficulties for the committee in deciding what of its evidence to publish. How would the committee know whether people referred to in submissions gave their consent? What if someone changed their mind? How much could the committee rely on the consent given by someone with a serious mental illness? These issues were made all the more important because of the stigma that people with mental illness all too frequently face. The committee wanted to avoid making life even more difficult for someone with a mental illness by publishing their identity on the Internet. It often received submissions from people who wanted to share their experiences with the committee but did not want other people, particularly employers, to find out. As a result, many submissions were accepted on a confidential basis, while many others were published with the name of the submitter withheld.

The process of accepting submissions confidentially or anonymously was not always easy. Many submitters felt they, or people they cared for, were being ignored by the health system and by those who monitor it. They often wanted their own names, and the names of those whom they believed had been neglectful, to be made public in the hope of achieving change. As one witness put it, "I wanted to attempt to ensure that my brother had a voice that he didn't

have in his life".[1] As with the other inquiries described here, the committee had to emphasise that it was not able to address individual cases in detail.

The committee's evidence was at times deeply personal and very troubling. The committee heard appalling stories of maltreatment in hospitals, psychiatric care facilities and prisons. It heard of families torn apart and of deaths through suicide and through violent encounters with police. At least one submitter's child committed suicide during the inquiry. However, the committee also heard positive accounts of innovative treatment and recovery models, and met many people who had survived often serious mental illness and made complete recoveries.

Many submitters gave positive feedback to the committee about the opportunity they had to speak publicly for the first time about their experiences. A sympathetic approach on the part of the committee members and staff was important to achieving this outcome. For staff this included participating in specialised mental health first aid training to assist them in understanding and working with people with mental illness and their carers.

The committee tabled two reports. The first, main report was tabled in March 2006 and documented a health system under serious pressure, and a reform process in need of greater energy and the application of more resources. It recommended broad changes to mental health care, and budget and policy reforms that needed to be agreed between the Australian government and the states and territories. The second, shorter report was tabled in April 2006, drawing together recommendations for action in specific areas of mental health care, such as increasing the role of consumers in health care planning and delivery, and reforms to procedures and care within the justice system.

The experience of the committee demonstrated that often the report is not the most important thing a committee provides. It can be the exposure given to issues in hearings, and the media coverage received, that is more important than the document produced months or weeks later. This inquiry, for example, facilitated government action on mental health issues. When the inquiry got underway, the federal government established a secretariat of its own within the Department of Health and Ageing. This group was charged with following the inquiry, examining its evidence and developing recommendations for Australian government action. Thus, within days of the Senate committee reporting, the government made a partial response, implementing reforms in some areas of mental health.

[1] Sharon Ponder, *Submission 84*, Senate Select Committee on Mental Health.

## Conclusions

Senate committee inquiries in the last few years have proved powerful vehicles for marginalised and often very fragile and vulnerable people to have their stories told, and to have parliament learn first hand about their histories, issues and needs. The inquiries, in contrast to many others during the same period, operated in a cooperative and bipartisan manner leading to unanimous recommendations, a very large number of which are being taken up and implemented at the federal and state level to provide positive outcomes for many Australians.

Senator Andrew Murray, himself a former child migrant and instigator of the Senate inquiries into child migrants and children in institutional care, discussed what it meant to participate in such inquiries during his tabling speech:

> "Whatever our starting point, what we learned and experienced as senators and as the committee secretariat has drawn us to common conclusions and unanimous recommendations. There is a difficult message right there: how are we going to persuade the politicians and bureaucrats who have not been through our experience of the absolute necessity of responding strongly and positively to our reports and recommendations? I do fear that only from confronting the humanity of individuals face to face, of hearing their stories and of being immersed and deeply involved in such inquiries can one really 'get it'."[2]

The opportunity for politicians to immerse themselves in an issue, and in the lives of people dealing with that issue, is one of the reasons parliamentary committees have so much potential for giving voice to marginalised people, and giving time to neglected issues. Committees have more time than parliament as a whole, they are more mobile, and they create more informal environments in which people can talk. The time, mobility and informality all serve to assist in bringing out the stories of those who are often anxious, poor, and unfamiliar with inquiries, or who have been put off by the formal settings and procedures of the courts.

The inquiries described here also showed how parliamentary committees can in some ways be more flexible and more open than a government department, They are good points of access for citizens. Most government consultation processes tend to be 'by invitation only', whereas anyone can approach a parliamentary committee inquiry.

[2] *Senate Debates*, 17 March 2005.

These opportunities to access parliament are taken up with enthusiasm. One study found that over 80 per cent of witnesses to committees were involved only once during the study period, demonstrating committees are not necessarily dominated by a small 'club' of players.[3] Inquiries that give marginalised people and issues a voice are generally inundated with far more submissions than a typical committee investigation.

At the same time, inquiries such as those described above place significant resource demands on the committees. They tend to require more hearings, more travel and result in more correspondence than an average inquiry. Nevertheless, they are making parliament—and parliamentarians—more visible and accessible, which is likely to be regarded as a positive development. A committee planning this kind of inquiry should be prepared for the demands likely to be placed on it, ensuring it has sufficient time to conduct the inquiry and, where appropriate, the capacity to hold frequent hearings and travel widely during non-sitting periods.

The demands on a committee are not only in respect of resources. Parliamentary procedures and administrative processes can require reform or adaptation to deal with the issues that arise in these types of inquiries. It was never envisaged, for example, that so much material would be kept confidential as was the case in the inquiries mentioned. Having other options, such as publishing material with names withheld, or reforming procedure to allow anonymous reference to confidential evidence, is worth considering. Committees can also face particularly sensitive questions about the consent of third parties to have information about them revealed to the committee. Parliamentary procedure may be clear about the right of the committee to receive that evidence, but whether the committee should always exercise that right can be a more difficult question.

[3] Anthony Marinac, 'The Usual Suspects? Civil Society and Senate Committees', *Papers on Parliament*, No. 42, 2004, pp 129–139.

# THE DECLARATION OF THE 2005 WORLD CONFERENCE OF SPEAKERS

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"International politics is the new frontier of parliamentarianism."
*Pier Ferdinando Casini, Speaker of the Italian Chamber of Deputies*

In September 2005, on the eve of the Summit of Heads of State commemorating the sixtieth anniversary of the founding of the United Nations, over 150 Speakers of national parliaments held a three day conference at the General Assembly of the United Nations in New York City. The purpose of the Conference, which was organized jointly by the UN and the Inter-Parliamentary Union (IPU), a multi-lateral parliamentary association representing 141 states, was to discuss UN reform from a parliamentary point of view and to define the working relations between parliaments and the UN in the years to come. Discussions held at both the plenary sessions and the panel debates focused primarily around four basic themes: 1) how important is parliamentary diplomacy and inter-parliamentary cooperation? 2) can parliaments be of assistance in making UN reform effective? 3) what new strategic partnership should there be between parliaments and the UN? and 4) how can parliaments reform themselves to ensure a better relationship and better cooperation with the UN?

This paper will review the Conference discussions and the subsequent Declaration agreed to and will try to assess its impact on providing a parliamentary dimension to the work of the United Nations.

## Background to the World Conference of Speakers

This was the second world conference of Speakers. The first conference, also convened by the IPU and held in 2000 at the United Nations in conjunction with the Millennium Assembly, adopted a declaration that called for greater involvement of parliaments in international affairs. The Declaration stated that gone were the days "when politics was a purely domestic business, if ever it had been. Whether they wanted to or not, legislatures everywhere were under mounting pressure to debate an ever more trans-national agenda.

Parliaments simply had no choice but to engage in multilateral negotiations, if only because the responsibility fell squarely on their shoulders when it came to enacting the results into domestic law."

Over the last five years the United Nations has been shaken by a series of crises. The war in Iraq, controversies over the oil-for-food programme, and the failings in the conduct of staff and peacekeepers, resulted for many in a loss of confidence in the effectiveness of the Organization and calls came from many quarters for major reform. A number of observers felt that the context within which the UN operated had changed greatly since it was founded in 1945 and that its mandate and tools must be altered. There was a strong feeling that the UN must go beyond engaging only with state leaders and bureaucracies.

Responding to these criticisms, Secretary General Kofi Annan proposed setting up a number of task forces to bring forward recommendations on UN reform. One such panel which was established in 2002 was the Panel of Eminent Persons on UN-Civil Society Relations. Chaired by Fernando Henrique Cardoso, former President of Brazil, the Panel issued a report in June 2004 entitled *We the Peoples: Civil Society, the Untied Nations and Global Governance*, which called for more engagement by the UN with elected representatives. The Panel stated that it was "of the view that enhancing United Nations relations with actors beyond its formal membership will help to address the democracy deficits in global governance that are in evidence today, which will entail engaging more strategically with those having representational mandates, such as parliamentarians and local authorities." It proposed a four-pronged strategy as follows:

- Take United Nations issues to national parliaments more systematically;
- Ensure that parliamentarians coming to the United Nations events have more strategic roles at those events;
- Link parliaments themselves with the international deliberative processes; and
- Provide an institutional home in the United Nations for engaging parliamentarians.

The Panel went on to say that it recognized that:

"The United Nations has a special relationship with IPU, hence it suggests that its proposals be seen as opportunities to build on that relationship. In particular, the proposed global public policy committees, while convened by the United Nations, could offer IPU partnership opportunities. IPU

has repositioned itself in recent years as an organization of parliaments rather than of parliamentarians."

In his response to the Cardoso Panel's report in September 2004, Secretary General Kofi Annan agreed that more should be done to strengthen the Organization's links to parliaments and parliamentarians. In his address to the Second World Conference of Speakers, Annan stated:

> "This is why your engagement with this process is so valuable and vital—to focus political attention on the reform agenda, to encourage your governments to engage with good will and follow through on commitments, to bring your citizens in close contact with the process, and, of course, to ensure that their concerns are heard. As parliamentarians, you are the embodiment of democracy, a value reflected in the Universal Declaration of Human Rights, and to which this Organization is making a growing contribution, year by year. By your engagement with this Organization, you make it more democratic, too. You also often control the purse strings. So your decisions can help determine whether your States make available the resources that this Organization needs to be effective."

## The Conference Discussions

The following is taken from the Summary Record of the Conference:

> *How Important is Parliamentary Diplomacy and Inter-Parliamentary Cooperation?* Virtually all Speakers commented upon the importance of inter-parliamentary cooperation. Italy stated: "it was time to provide parliamentary diplomacy with content. Such was the request of citizens, whose need for representation extended beyond national borders. Everyday occurrences now had global consequences. International politics was therefore the new frontier of parliamentarianism." (p. 28) Croatia stated that "International cooperation, including cooperation between parliaments at the global, regional and subregional levels, played a vital role in combating the global problems of terrorism, poverty, hunger and disease, and addressing the security issues." (p. 35) The Dominican Republic stated that "Democracy and Parliament were the mainstays of a system based on cooperation in which all parties sought to reconcile conflicts by exchanging ideas while respecting the right of debate and the dignity of the citizen" (p. 34) France noted that globalization has made inter-parliamentary cooperation "essential". (p. 42) Poland observed that

"In the twenty-first century, the need for international unity appeared much stronger than at any point in history. Only through international unity could an increasing number of common problems be solved. Unity among parliamentarians should be foundation and impetus for cooperation between countries at every level." (p. 41) Some cautioned that parliaments must ensure they play their proper constitutional role. The United Kingdom stated that "it was useful to distinguish between multilateral cooperation between parliaments themselves and multilateral cooperation between governments which parliaments monitored." (p.30) Thailand said "that there was a need to strengthen inter-parliamentary organizations within their appropriate roles, so that they could cooperate effectively with international organizations." Malaysia noted that "The Conference did not seek to usurp from the executive branches of Government their central and primary role in the conduct of diplomacy and foreign policy, nor did it threaten the principle of the sovereignty of nation-States." (p. 57)

*Can Parliaments Assist in Making the UN More Effective?* Many Speakers believed that parliaments brought views and values to the work of international affairs which differed from those of the executive. Sweden stated that "Parliaments and the Inter-Parliamentary Union, by being more active in the United Nations system, could ensure that the voice of the people was heard at the global level and that the commitments made to development were the right ones." (p. 10) Latvia said that "Parliaments were responsible for establishing the universal value of justice in their countries." (p. 10) The Ukraine stated that "the world's destiny in the twenty-first century depended heavily on the role of parliamentarianism. Where that role was reduced to window dressing, freedom and democracy ended. Where voices, particularly those of the minority, remained unheard, fear and destitution prevailed and the danger of social collisions and authoritarianism grew. While representatives of the executive power were frequently tempted to react hastily and harshly to the challenges and threats of globalization, such 'one-person' decisions were not necessarily the best solutions, especially when parliaments were excluded from the decision-making process. As the highest representative bodies, parliaments could galvanize public will and find the most effective ways to resolve and, more importantly prevent internal discord and international conflicts." (p. 27) Turkey believed that "National parliaments should make special efforts to eradicate the democracy deficit in international

relations. Success in that regard would make a valuable contribution to peace and security, reconciliation and tolerance." (p. 32) Malta stated: "Parliamentarians were well positioned to help make sure that governments kept their promises, whether in the political, economic or social sphere." (p. 34) The Council of Europe said that they were convinced "that greater involvement of national parliaments in the work of the United Nations would enhance its legitimacy and permit closer follow-up of its decisions."(p. 36) Romania believed that "better cooperation between national parliaments and the United Nations must be ensured. The key resources of the world's parliaments—legitimacy, trust, political experience, legislative knowledge—should be used to their potential." (p. 42) Thailand stated that "parliaments …truly represented the peoples of the world." (p. 46). Ireland felt that "a greater involvement of members of parliament in debates on issues such as the ongoing crises in Africa would impact on public policies and help to keep development at the top of political agendas."(p. 50)

*What New Strategic Partnership should there be between Parliaments and the UN?* Although the Ukraine suggested that establishing a "worldwide integrated parliamentary system" should be considered (p. 28), the Speakers were not in support of the creation of any parliamentary assembly at the United Nations or elsewhere. Most expressed support for the Inter-Parliamentary Union working in partnership with the United Nations and for the IPU to mobilize its expertise to work on the international agenda. Italy pointed out that "Some 40,000 parliamentarians sat in the legislative assemblies belonging to the Inter-Parliamentary Union (IPU), devoting their efforts to the promotion of peace, solidarity and development within the framework of multilateral cooperation. Those present at the United Nations Headquarters were reminded not only of the unbreakable bond between IPU and the United Nations, but also of their unease at the insufficient consideration they had been given thus far. It was unthinkable for IPU to be regarded as any other non-governmental organization. Parliaments were the source of the institutional legitimacy of the very governments making up the United Nations. IPU must therefore be the parliamentary interface of the United Nations. In the twenty-first century, the United Nations must be both an intergovernmental and inter-parliamentary organization." (p. 28) Algeria welcomed the strengthening of the relationship between the IPU and the United Nations and would encourage the development of similar relationships with regional parliamentary

organizations around the world."(pp. 33-34) Germany stated that "better use should be made of the potential of IPU to help bring the United Nations closer to the hearts of the people at a crucial moment in its history. Democratic scrutiny of international politics was the heart of international society. The challenges facing the United Nations were growing, yet there was still no form of parliamentary scrutiny of its decisions … The German Bundestag has passed a resolution calling on the United Nations to create a parliamentary dimension within the United Nations system through the development of the IPU as a platform, along with the establishment of an IPU standing committee at United Nations Headquarters."(p. 42)

In its final Declaration, the Conference noted that the IPU "is the primary vehicle for strengthening parliaments worldwide, and thus promoting democracy, and we pledge to further consolidate it … We encourage the IPU to ensure that national parliaments are better informed on the activities of the United Nations. Moreover, we invite the IPU to avail itself more frequently of the expertise of members of standing and select committees of national parliaments in dealing with specific issues requiring international cooperation. We also encourage the IPU to develop further parliamentary hearings and specialized meetings at the United Nations and to cooperate more closely with official regional parliamentary assemblies and organizations, with a view to enhancing coherence and efficiency in global and inter-regional parliamentary cooperation."

*How Can Parliaments Reform Themselves to Ensure a Better Relationship and Better Cooperation with the UN?* Following the First World Conference of Speakers in 2000, the IPU undertook a survey of best practices throughout the world regarding the manner in which parliaments had become involved in international affairs. The results of the survey were compiled in the report *Parliamentary Involvement in International Affairs* which was reviewed at the plenary session. It was noted that a good many parliaments had begun to adapt their procedures to position themselves more advantageously to tackle the international agenda. It was also pointed out that the national parliaments of the European Union have an edge over others when it comes to parliamentary oversight of international negotiating processes. Their parliaments were obliged to monitor such negotiations closely and seek to influence them. The German Bundestag had created a Subcommittee of the United Nations as part of its Standing Committee on Foreign Affairs and in order to facilitate the regular provision of information about the UN to parliament, the Federal German Government had

agreed to submit a report on cooperation between German and the United Nations every two years, including its cooperation with individual international organizations. The German Government also provides an overview of ministerial conferences to be held during the year by the UN and written reports on topics to be discussed and later on conference results. It was also noted that the Australian Parliament had expanded its role in recent years in international treaty-making. A joint standing committee on Treaties had been established. All treaties are now tabled in Parliament 15 days prior to ratification and are referred to the joint committee for review.

The review of the procedures followed by world parliaments was grouped around a number of themes including how parliaments contribute to intergovernmental negotiations, how they monitor government activities in international affairs, how they follow up on international agreements and how they gather and disseminate information on international issues. Some of the more important 'best practices' included the following:

- Plenary debates on proposed agreements before they are finalized, perhaps culminating in resolutions offering guidance to government negotiators;
- Inclusion of representatives of parliament in governmental delegations at ministerial or summit meetings;
- Special legislative-executive advisory councils;
- Mandatory ratification by parliaments of treaties and conventions;
- Committee oversight and hearings with ministers and UN officials;
- Obligations for the government to submit written reports on the activities of international organizations, such as the United Nations, the World Bank, the International Monetary Fund and the World Trade Organization;
- Officials from the Department of Foreign Affairs attached to parliaments to prepare briefing papers and other documentation on international issues;
- Meetings between parliamentarians and accredited ambassadors;
- IPU membership for all parliamentarians;
- Review of the international engagement of the parliament with guidelines to avoid duplication;
- Technical cooperation (exchange of know-how) between parliaments; and
- Reports from bilateral and multi-lateral associations being referred to the committee on foreign affairs.

The World Conference of Speakers, in their final Declaration, stated: "We emphasize that parliaments must be active in international affairs not only through inter-parliamentary cooperation and parliamentary diplomacy, but also by contributing to and monitoring international negotiations, overseeing what is adopted by government, and ensuring national compliance with international norms and the rule of law. Similarly, parliaments must be more vigilant in scrutinizing the activities of international organizations and providing input into their deliberations."

## Significance of the Conference

The Declaration agreed to was endorsed by the 2005 Summit of the Heads of State. Section 171 of the resolution adopted to by the UN General Assembly regarding the World Summit Outcome stated the following:

> "We call for strengthened cooperation between the United Nations and national and regional parliaments in particular through the Inter-Parliamentary Union with a view to further all aspects of the Millennium Declaration in all fields of work of the United Nations and ensuring the effective implementation of United Nations reform."

The potential impact of the Conference on world parliaments cannot easily be assessed. There can be no doubt that most take their role in international affairs seriously. For example, with respect to Canada, both Senate Speaker Hays and House of Commons Speaker Milliken, who represented Canada at the World Conference, spoke of the importance of contributing to better inter-parliamentary relations and creating a better understanding among nations. While for many parliamentarians, politics demands first priority to domestic issues and second priority to international issues with direct links to domestic events, most would agree with the premise that trade is their country's life-blood and their security and well-being are inexorably tied up with that of the world as a whole. Many parliaments belong to various bilateral and multilateral associations and have active parliamentary exchanges and protocol programmes. Many individual members have made significant contributions through personal involvement and activism. Many are involved in informal world-wide groups such as Parliamentarians for Global Action and the Global Organization for Parliamentarians Against Corruption.

However, it appears there may be a need for systematic reviews of parliamentary procedures with the aim of allowing parliaments to make a greater

contribution to inter-governmental negotiations. It may be time to add to the general subject of the modernization of parliament the reform of procedures that relate to international affairs. For example, in 2001 the Standing Senate Committee on Human Rights, in its report *Promises to Keep: Implementing Canada's Human Rights Obligations*, proposed that Parliament become more involved in treaty-making. There was feeling among many senators that because about 100 treaties are signed by Canada each year, Parliament should have a more formal role to play. The committee stated:

> "Many of the expert witnesses who came before us urged a greater role for Parliament in the scrutiny of Canada's treaty commitments. Such an enhanced role for Parliament in the treaty-making process would not be designed to take anything away from the power and prerogative of the executive with regard to signing and ratifying treaties. Rather, it would be to ensure that there is a way for parliamentarians to put in a timely way their opinions about the substance of the treaty. It would also be a way for parliamentarians to question, prior to ratification, the adequacy of the government's plans with respect to legislative implementation."

As well as encouraging parliaments to review all 'best practice' procedures dealing with international affairs, the World Conference of Speakers may also entice them to re-examine their relationships with their permanent missions to the United Nations in New York and Geneva. Consideration could be given to making policy statements as to whether the UN Ambassador should regularly brief relevant parliamentary committees on the work of the United Nations or its agencies and whether there should be a systematic process for including parliamentary representation in UN delegations. Each parliament's relationship to the Inter-Parliamentary Union could also be re-examined to make its work more effective.

## Conclusion

The expectations bestowed by world leaders upon the role of parliaments in making the new millennium more secure and more democratic clearly reverse the accepted dictum first put forward by Lord Bryce in 1921, and used for many decades by those studying parliament, about "the decline of legislatures." As noted above in the recommendations put forward by the Cardoso Panel Report, the comments by the UN Secretary General, and the Summary Record of the Conference, many are of the sincere belief that it is the parliamentary part of government, not the executive, which can set the

United Nations and its mandate for world peace and justice back on the right path. This call for greater parliamentary control of international affairs should not be taken lightly for much is at stake. Nor however should it be feared since it is in keeping with the normal constitutional role parliaments play. As Bernard Crick said in his 1964 book *The Reform of Parliament:*

> "Control means *influence*, not direct power; *advice*, not command; *criticism*, not obstruction; *scrutiny*, not initiation; and *publicity*, not secrecy. Here is a very realistic sense of parliamentary control which *does* affect any government … The type of scrutiny they will get will obviously affect, in purely political terms, the type of actions undertaken. And the Civil Service will administer with the knowledge that it too may be called upon to justify perhaps even the most minute actions."

# MISCELLANEOUS NOTES

## AUSTRALIA

### House of Representatives

#### *About the House TV*

A new television current affairs programme on the work of Australia's House of Representatives is being broadcast regularly on the national Sky News network.

The 15-minute *About the House* programme features a mix of interviews with Members of Parliament, experts and interest groups to highlight committee investigations and the issues that Members are speaking about in the chamber. The TV news programme complements the *About the House* magazine, which is in its seventh year and has an estimated readership of more than 70,000 people throughout Australia. Some of the issues tackled on television have prompted the mainstream media to investigate further and also encouraged greater participation in committee inquiries. For more information email: liaison.reps@aph.gov.au.

#### *Developments in the House of Representatives Main Committee*

While the Main Committee started life conceptually as the Main Legislation Committee—a parallel legislative stream to which non-controversial bills could be referred—it did not take long for the realisation to dawn that a parallel debating Chamber offered opportunities for the referral of other kinds of business. Between the proposal and the establishment of what was to become the Main Committee (in 1994), committee and delegation reports and motions to take note of papers were included as matters that could be referred for debate. That process of widening the scope of the business of the Main Committee has continued over the years. Restrictions on Main Committee business are sometimes circumvented by the device of presenting and moving to take note of, a range of documents to enable debate or further debate on various matters. Examples of this practice include copies of motions moved (and already passed) in the House, and copies of death announcements, to provide, in effect, the opportunity for a condolence debate. The revised standing orders (in effect since November 2004) now provide that the Main Committee may consider proceedings on bills to the

completion of the consideration in detail stage, and orders of the day for the resumption of debate on any motion. The revised standing orders also made permanent the trial intervention procedure, whereby Members can interrupt each other's speeches to ask questions. This rule operates only in the Main Committee, not in the Chamber.

Since 1998 there has been provision for adjournment debates and periods for Members' three minute statements in the Main Committee. In 2005 the 20 minute periods for Members' statements at the start of proceedings on Wednesdays and Thursdays were extended to 30 minutes and, at the beginning of 2006, the periods were guaranteed against curtailment because of suspensions for Members to attend divisions in the House (previously the period had to finish by 10 a.m. despite any interruption). These opportunities for private members are now so valued that, whereas once the Main Committee would not have met without business to consider, it is nowadays not unknown for the Main Committee to commence with a period for statements and then progress immediately to the adjournment debate.

Since the Main Committee's inception its normal hours of meeting have been Wednesday and Thursday mornings, with additional sittings scheduled on Monday, Tuesday and Wednesday (late) afternoons and evenings when there is pressure of business. In November 2005 the Procedure Committee's report Procedures relating to House committees recommended that the normal sitting times of the Main Committee be extended for a regular session from 4 to 6 p.m. on Mondays for the specific purpose of debating committee and delegation reports presented earlier that day. The background to this recommendation (adopted by the House by sessional order at the start of 2006) is that during the time provided for presentation and debate of reports on Monday mornings (prior to Private Members' Business) there is usually only sufficient time for short statements (by the chair and perhaps only one other committee member) at the time of presentation. While the report could be referred for later debate in the Main Committee, it might be some days or even weeks before the debate actually occurred and in the meantime the immediacy of the report had been lost and Members' interest in it diminished. The new procedure provides time for all members of the committee to speak on their report on the day of presentation and, importantly, allows other Members of the House to participate in the debate.

For a few years now discussions have taken place on relocating the Main Committee to a purpose-built extension to the Parliament House building, adjacent to the House of Representatives Chamber. Initial architectural plans

and costings have been prepared but at this stage funding to build the extension has not been provided. On the 10th anniversary of the Main Committee in June 2004 the Procedure Committee recommended a new name 'The Federation Chamber' and that the new name should not await the new building. Since the Main Committee's establishment confusion between the House of Representatives Main Committee (located in House of Representatives committee room 2R3) and the main committee room of Parliament House (centrally located between the two Chambers) has been a problem and a cause of much bewilderment especially to new Members. However, it seems that this idiosyncrasy will continue, at least for the immediate future. The government responded at the end of 2005 that it was concerned that the proposed new name would not properly identify the role and function of the Main Committee and might lead to further confusion. Discussions are continuing.

### *20th anniversary of the Procedure Committee*

In November 2005 the Standing Committee on Procedure marked its 20th anniversary with a report *History of the Procedure Committee on its 20th anniversary—Procedural reform in the House of Representatives: 1985–2005*.

The report is comprehensive but notes the following major accomplishments:

- The adoption in 1987 of a comprehensive regime for arranging private Members' business and the presentation and consideration of committee and delegation reports;
- The establishment in 1994 of the Main Committee as a parallel chamber for debate which over time has absorbed a significant portion of the House's workload and allowed private Members further opportunities;
- The acceptance from 2000 of a number of measures to foster community involvement in the activities of the House and its committees; and
- The complete redrafting and reorganisation of the standing orders adopted by the House in 2004.

Copies of the report are available from the committee secretariat or may be downloaded from the committee's website at:
http://www.aph.gov.au/house/committee/proc/history/report.htm.

## Senate

### *Government majority*

The government party majority of one seat in the Senate, taking effect on 1 July 2005, was awaited with some trepidation to see what effect it had on the ability of the Senate to impose accountability on government (see *The Table*, 73, pp 84-85).

As expected, party discipline in the government parties has been tight. Only one government senator has voted against the government, on two issues. One involved a relatively minor bill which was then shelved; the other occasion involved a major bill on which the government was able to get the support of a senator of a minor party, so the bill passed. Other government legislation has been passed without amendment, except where the government itself has moved amendments to take account of problems discovered with bills. Only one non-government amendment has so far been accepted.

The government has used its majority to prevent committee inquiries into matters which might be embarrassing to the government, and to defeat motions for the production of documents with one exception.

The estimates hearings, which are a major accountability process in the Senate (see *The Table*, 73, pp 5-10), have functioned as before; it is thought that these hearings attract too much favourable public attention for any attempt to restrict or abolish them.

### *Estimates hearings*

The hearings on the 2005-06 estimates revealed no concerted government efforts to limit the scope or duration of the hearings, contrary to some expectations. Government senators notably joined in the questioning of some departments and agencies. There was one, ineffectual, attempt by a minister to limit questions to 'administrative' as distinct from 'political' or 'election' matters, and some refusals to provide information on the basis that it was advice to government, but no unusual level of resistance to questions. There was, however, one sticking point.

### *The wheat bribery scandal 'gag'*

The government was forced to appoint a commission of inquiry (the Cole Commission) into a matter known as the wheat bribery scandal. It appeared that a formerly publicly-owned, now privatised, company, called AWB, which has a monopoly on the export of wheat, had sold wheat to Iraq by means of bribes to the former Iraqi regime. This was exposed by the United

Nations inquiry into the Iraq food-for-oil programme, and led to great pressure from Australia's wheat exporting competitors, particularly via members of the US Congress, for an inquiry.

The additional estimates hearings in early 2006 began with a statement by the government that it had instructed all officers not to answer any questions about matters before the commission of inquiry into the wheat bribery scandal. This led to a great deal of disputation and questioning about the scope of the 'gag'. In anticipation of some resistance to questions about the matter, the Clerk had been asked at the hearing of the Senate Department's estimates and had provided advice to the effect that the Senate's *sub judice* convention has no application to executive commissions of inquiry. The government seemingly accepted that point, and explicitly stated that the 'gag' was not a claim of public interest immunity, but simply a refusal to answer based on the desirability of leaving relevant questions to the commission of inquiry.

Advice was then sought from the Clerk on precedents for the direction, and the following advice was provided:

> "You asked whether there were any precedents for the government direction referred to by the Minister for Finance and Administration, Senator Minchin, at the opening of the hearing by the Finance and Public Administration Legislation Committee of the Department of Prime Minister and Cabinet this morning. That direction was to the effect that officers must not answer any questions on matters before the commission of inquiry known as the Cole Commission.
>
> "Relying on both recollection and search, my colleagues and I have been unable to find any precedents for this direction. There have been occasions when ministers, officers and statutory office-holders have expressed some reluctance to answer questions about matters before commissions of inquiry, but no case of a general instruction by government of the kind referred to by Senator Minchin."

It was aserted by the government that there was a similar 'gag' in relation to a uranium mine in a place called Coronation Hill in 1989. The following advice referred to that occasion:

> "Reference was made in the House of Representatives to an instruction by the then government in 1989 that officers should not answer questions about the Coronation Hill uranium mine. The basis of that direction, however, as was made clear by the responsible minister in the Senate,

> Senator Richardson, was that Cabinet was deliberating on the question of Coronation Hill at the time of the estimates hearings, not that a commission was inquiring into the matter. (The need to protect the confidentiality of deliberations of Cabinet is one of the known grounds for a claim of public interest immunity.) That occasion was therefore not a precedent."

Remarks by a minister in relation to this advice were the subject of further advice, as follows:

> "Nowhere in that advice did I say that the direction by government in 1989 about Coronation Hill was justified or valid, contrary to the suggestion of Senator Minchin. The Senate at the time resolved that it was not justified, at least in part. The point of the advice was that that direction was not on the basis that matters relating to Coronation Hill were before a commission of inquiry, and therefore that direction provides no precedent for the current government direction which is on that ground."

Subsequently, ministers suggested that the commission of inquiry into a matter known as the Centenary House matter in 1994 provided a precedent. This claim required further elucidation:

> "There is no evidence of any general direction by the then government to officers not to answer questions on matters before that commission. On one occasion in an estimates hearing a minister expressed reluctance to answer questions about matters before the commission, and an Opposition senator expressed some acceptance of that position. Some questions about the commission were answered in estimates hearings and in the Senate."

The direction by the government almost immediately ran into difficulties in relation to statutory authorities. One such body, the Wheat Export Authority, has the task of supervising the pooling of wheat for export. When officers of the Wheat Export Authority appeared, the minister in attendance stated that, as that body was an independent statutory authority, it was not subject to the government's direction. His words could have been construed as applying to all statutory bodies. Officers of the authority then gave lengthy evidence of their knowledge about the wheat bribery matter, and corrected evidence they had given in November 2005 to the effect that they had no material on the subject.

Other statutory authorities, however, were treated differently. The question arose in relation to the Australian Taxation Office and other statutory

bodies. It was stated that they were subject to the direction because they employed public servants. In relation to one, attention was drawn to the provision in its statute allowing ministerial directions to be given to it, but it then appeared that no specific written ministerial direction had been issued as seemingly required by the act. On the other hand, officers of the Australian Securities and Investment Commission answered questions on the subject. It also appeared that not all agencies had received the direction in writing, but had simply heard about it.

At this stage it seemed that the application of the direction was simply a matter of statutory interpretation of the government's power over various kinds of public bodies. It was necessary to re-emphasise several times the following important point of advice:

> "The Senate, like comparable legislatures, has never conceded that, with or without any kind of statutory provision, a minister has any power to direct any person not to give evidence to a parliamentary committee. That is a question of constitutional/parliamentary law which has never been adjudicated, except by the Senate itself, not a question of statutory interpretation, and a statutory provision of the kind referred to is not sufficient to override the constitutional/ parliamentary law involved."

### *Orders for documents*

As has been noted in previous contributions, the Senate in the past has used orders for production of documents as a major means of inquiring into government activities (see for example *The Table*, 72, pp 76-77). While employing its recently-gained majority to reject motions for such orders, the government has continued to give reasons for not granting them, however implausible the reasons may be.

Five motions for the production of documents were rejected by the government on one day in August 2005. A ministerial statement offered various grounds for refusing to produce the documents: the 'longstanding convention' that legal advice to government is not produced (this cannot be true because of the many occasions on which advices have been voluntarily produced by government); cabinet documents (this ground is supposed to be confined to disclosing the deliberations of cabinet, not every document having a connection to cabinet); and the document concerned was 'not intended for public disclosure' (if a document is intended for public disclosure, presumably it would be disclosed and then there would be no point in calling for it).

It seems to be the view of the government that 'requests' for documents should be made directly to ministers' offices, but, even if such requests are met, this has the disadvantage that the documents are not tabled in the Senate and their publication thereby given the status of proceedings in Parliament. It was suggested in debate that the government intends to refuse any and all documents in the future, but it was stated that it intends to separately consider motions for documents.

An order for documents was agreed to in February 2006, breaking the drought of consistent government refusals to accept such orders since the 2005 turnover in Senate places. The order related to genetically modified foods. Some documents were produced on the following day with more promised later. Perhaps the relatively uncontroversial nature of the subject matter accounted for the passage of the order.

There were also refusals to provide information in response to committee inquiries. A report by the Finance and Public Administration References Committee on the matter of works on the Gallipoli Peninsula, presented in October 2005, included advices provided to the committee on the refusal of the government to provide relevant legal advices supplied to the government. This material disclosed an apparent very large expansion of the grounds for refusal to provide such documents. At first the Department of Foreign Affairs and Trade attempted to argue that the documents could not be provided because Senate standing orders prohibit the asking of questions seeking legal opinions at question time. It was pointed out that this has nothing to do with the provision of documents to committees, that legal advices to government have often been provided in the past, and that refusals to provide documents should be based on a ministerial claim of public interest immunity on specified grounds. The department then stated that the minister had refused to provide the material because of "a longstanding practice accepted by successive Australian governments not to disclose legal advice which has been provided to government, unless there are compelling reasons to do so in a particular case". It was pointed out that this 'longstanding practice' had in fact never been advanced before, and would have prevented most of the cases of disclosure of legal advice which had occurred in the past. The response to this was simply a reassertion of the 'longstanding practice'.

It is not clear whether this is a deliberate new declaration of government policy in relation to legal advices, or simply a one-off aberration. It will no doubt be referred to on the next occasion on which government voluntarily discloses its legal advice to support some argument it is putting forward.

### *Unanswered questions on notice*

A procedure is provided under Senate standing orders to allow a senator to seek an explanation of the failure to answer questions on notice. On any day at a particular point in the Senate's routine of business, a senator may ask for an explanation from a minister of failure to answer a question on notice within thirty days. The senator may move a motion in relation to any explanation, or non-explanation, provided by the minister. Debate on this motion is potentially unlimited. The intention of this process is to impose a penalty on government, in the form of expenditure of government legislating time, for a failure to respond to questions. Surprisingly, perhaps, the procedure is very little used. On any sitting day there are likely to be hundreds of questions outstanding for thirty days or more, but the procedure is invoked very rarely.

A Democrat senator, Senator Allison, had perhaps the most interesting unanswered question on notice, No. 29 of 2004. In April 2003 she wrote a letter to the Leader of the Government in the Senate, Senator Hill. When the letter remained unanswered in 2004 she placed a question on notice, asking when the minister would respond to the letter. The question was renewed after the general election of 2004. She twice referred to the question when seeking explanations under the standing orders, but on each occasion was not provided with either an answer to the letter or an answer to the question. Finally, in early 2006, Senator Hill resigned, the letter still remaining unanswered. The question has now been referred to the incoming minister.

### *Private Senators' Bill*

Much legislative time was taken up by a private senators' bill to remove the power of the Minister for Health and Ageing to approve the use of the drug RU486, the so-called abortion drug. A provision in the relevant legislation allowed the minister to determine whether importation (and therefore use) of the drug would be permitted, and the minister had not given such approval. This provision put the drug in a different category from other drugs, the use of which is approved by an expert medical committee. The bill was introduced by a cross-party group of senators, and was the subject of a free vote. The bill was also the subject of extensive committee hearings. The bill was given special precedence by a government motion in February 2006 and, most surprisingly, was the subject of a special motion limiting the time for debate, which was moved by leave by one of the sponsoring senators and passed without a division, only one senator recording his opposition. It

appeared that even the senators who strongly opposed the bill accepted the time limitation. If they had decided to resist the bill by all procedural means, they could have made its passage much more difficult. Having been passed by the Senate without amendment, the bill was then passed by the House of Representatives.

### *Minister censured*

In what will probably be the last censure by the Senate of a minister while the government majority remains, the Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone, was censured on 11 May 2005, as the culmination of controversy about incidents in the detention of asylum seekers, particularly the treatment of two Australian citizens who were mistakenly held in detention, one of whom was mistakenly deported.

### *Addresses by foreign dignitaries*

A message was reported to the Senate from the House of Representatives in March 2006 inviting senators to attend a special meeting of the House of Representatives later in March for an address by British Prime Minister Blair.

This invitation reflected a change to a procedure first adopted by the government in 1992, which was the subject of adverse consideration by two Senate committees in 2003 (see *The Table*, 72, pp 5-13). On four occasions simultaneous meetings of the Senate and the House of Representatives in the House of Representatives chamber were held to hear such addresses. This procedure was first adopted for visiting US Presidents on the basis that a similar honour had been extended to an Australian prime minister in Washington in accordance with the custom of the US Congress. In 2003 it was extended to successive appearances by President George W. Bush and the Chinese President, Hu Jintao. On the first of these occasions, the Speaker purported to eject two Greens senators for interjecting, in response to a purported motion that they be 'suspended from the service of the House'; thereby creating an anomalous situation of senators being excluded from what was technically a meeting of the Senate by decision of the Speaker. The two senators were then purportedly excluded from the meeting on the following day, although it was technically a separate meeting. This drew attention to the constitutionally anomalous and irregular character of the simultaneous meetings, and both the Procedure Committee and the Privileges Committee recommended that they not be employed in the future, and that, if the government wished to continue with these kinds of addresses,

they be received at meetings of the House of Representatives only. This was done with the Blair address.

## Australian Capital Territories Legislative Assembly

### *Code of conduct for Members*

Towards the end of the previous Assembly, the Speaker presented a report entitled *The appropriateness of a code of conduct for Members and their staff*. On 23 June 2005 the Speaker lodged a notice calling on the Assembly to adopt, as a resolution of continuing effect, a Code of Conduct for Members. Besides requiring Members to "agree to respect and uphold the law, not discredit the institution of Parliament, and maintain their commitment to the public good through personal honesty in all their dealings", the Code deals with issues such as:

- conflict of interest;
- disclosure of pecuniary interests;
- receipt of gifts, payments, fees or rewards;
- advocacy/bribery;
- use of confidential information;
- conduct as employers;
- use of entitlements; and
- use of public resources, property or services.

The motion was debated and agreed to upon amendment to include a section regarding conduct towards Assembly staff relating to professional courtesy, on 25 August 2005.

### *Public Sector Management Amendment Bill 2005 (No. 2)*

On 29 June 2005 the Speaker presented the Public Sector Management Amendment Bill 2005 (No. 2), the aim of which is to strengthen the 'separation of powers' between the Assembly and the Executive, and to improve administrative efficiencies within the Assembly secretariat. Features include:

- removing executive powers in relation to the Clerk's appointment, suspension, dismissal and retirement and instead vesting those powers in the Speaker on the advice of the relevant committee and in consultation with the Executive and the Leader of the Opposition;
- providing a formal legislative basis for the Legislative Assembly secretariat;

- requiring that the Public Service Commissioner seek the approval of the Speaker before a review can be conducted in relation to the secretariat;
- simplifying the provisions of the Act in relation to the appointment of an acting Clerk; and
- bringing the pecuniary interest disclosure requirements of the Clerk into line with that for MLAs and other executives of the ACT Public Service.

### *The first twelve months of majority government*

Elections were held in October 2004 and for the first time one party had claimed majority government in the Legislative Assembly. It was not the first majority government though, as the second ACT Government in 1990-91 was a loose coalition of parties.

Relative to previous years, the first twelve months of the 2005 sittings under majority government have seen:

- the Assembly adjournment motion on all but one occasion being moved by 6 p.m. each sitting, significantly reducing the number of evening sittings which in the previous year had seen a number of sittings (seven) past midnight;
- debate being adjourned on unfinished items by the time the Assembly adjournment motion is moved, rather than completing every item on the day's agenda;
- speaking entitlements and time limits set down in the standing orders being more rigorously observed, and leave refused for extensions of time;
- the Assembly meeting on three (of six) scheduled Friday morning sittings to deal only with government legislation;
- the use of the 'gag', albeit sparingly, with the Speaker retaining a discretion in the standing orders to not accept such a motion if he/she feels that adequate debate has not occurred; and
- a decrease in the number of amendments moved to bills and motions by both government and non-government Members with, not surprisingly, a perfect record of success for those proposed by the government.

Significantly, a number of practices from past Assemblies have not changed, including:

- retention of an entire day (in a three or four day week) devoted to private Members' business, with an informal agreement not to initiate matters of public importance discussions on those days;

- the office of Deputy Speaker being filled by a member of the opposition;
- continued establishment of a select committee on Estimates to scrutinise the Budget, still with a non-government majority, although now with a government chair;
- not all of the six standing committees having government majorities and government chairs (e.g. Legal Affairs and Public Accounts).

## New South Wales Legislative Assembly

### *A parliamentary investigator for New South Wales?*

In January 2005 the report of the Independent Review of the Independent Commission Against Corruption Act[1] was furnished to the Governor. This inquiry was commenced by the Honourable Jerrold Cripps QC, and concluded by Mr Bruce McClintock SC following Mr Cripps' appointment as the next ICAC Commissioner on the expiration of Ms Irene Moss's term of office.

The Review's terms of reference were broad, including whether the ICAC's functions remained appropriate, the definition of 'corrupt conduct' in the Act, the jurisdiction of the ICAC, and whether the current accountability mechanisms were adequate. Under the terms of his appointment Mr McClintock was instructed not to depart from the Government's intention to retain ICAC as a stand-alone corruption investigation body.

The review came about following a recommendation by the Parliamentary Committee on the ICAC, which wrote to the Premier in April 2004. The Committee has a statutory function of overseeing the operation of the ICAC, and conducts inquiries at regular intervals to review how the ICAC fulfils its investigative, educative and corruption prevention roles.

Since its first reported investigation in 1989, the ICAC has averaged one report a year on allegations concerning activities of a member of either the Assembly or Council, or examining systems for administration of members' entitlements. The media coverage of public hearings, coupled with the fact that a percentage of ICAC reports did not find corrupt behaviour, resulted in some tension between members and the ICAC. The relationship between ICAC and the Parliament became particularly strained in October 2003, when the unprecedented use of a search warrant to seize documents and a computer from a NSW members' Parliament House office, resulted in a dispute as to the ICAC's authority to seize documents or things that fell within the scope of 'proceedings in parliament'.

[1] For a copy of the full report see www.cabinet.nsw.gov.au/pdfs/icac.pdf

The commissioning of the review inquiry did not alleviate tensions—indeed, half way through the review, the ICAC upped the ante by issuing a summons to the then Premier, the Hon Bob Carr MP. The summons required the Premier to show cause as to why he should not be dealt with for contempt under the Act, in relation to comments he had made in a press conference that his Minister had been vindicated by the ICAC of allegations of intimidating nurses complaining of hospital maladministration.

The Premier subsequently withdrew his comments and expressed his regret at making them, having no wish to be seen to prejudge the outcome or deter witnesses. This issue drew attention to problems with aspects of the contempt provisions in the Act, and consequently recommendations were made for changes in how and when contempt could be certified.

The major findings of the review that directly concern members of Parliament include:

- That the ICAC should direct its attention towards corruption that is serious or systemic;
- That consideration be given to the establishment of a Parliamentary Investigator or Parliamentary Committee to investigate minor matters involving members of Parliament so as to permit ICAC to focus on serious and systemic allegations;
- The Investigator or Committee would also be able to investigate allegations of corruption that ICAC was unable to investigate because of Parliamentary Privilege (s122 of the ICAC Act preserves the rights and privileges of Parliament in relation to Parliamentary proceedings);
- That the Act be amended to rename 'public hearings' as 'public inquiries' and that public inquiries only be held when the ICAC is satisfied that the public interest in public exposure and awareness outweighs the potential for prejudice or privacy infringements;
- That an independent Inspector of ICAC be established, to audit the operations of ICAC, the role and functions of the position being modelled on the Inspector of the Police Integrity Commission.

Mr McClintock's report includes some interesting history on the jurisdiction of the ICAC over members of Parliament, and the decision to introduce Codes of Conduct for Members of the NSW Parliament. McClintock cites a recent speech of the first ICAC Commissioner, Ian Temby, who had recommended that, in the case of constitutional office holders such as judges, MPs and the Ombudsman, the ICAC be required to find facts, but not categorise conduct as being corrupt or otherwise. Temby is quoted as saying it was a

matter of "great regret that this recommendation was not followed … Parliament played around with the issue and in the end opted for a Code of Conduct which has proved less than useful in practice". (p81)

At para 7.7.39 Mr McClintock notes:

> "The decision of the NSW Parliament to permit enforcement of ethical standards of Parliament by ICAC (an organ of the Executive) represents a greater loss of sovereignty than is usually tolerated by Parliaments".

However, while maintaining reservations about the appropriateness and effectiveness of ICAC enforcing the ethical standards applicable to MPs, he recommends that the ICAC continue to have jurisdiction to enforce parliamentary codes of conduct.

The report also recommends that the Parliament consider establishing a parliamentary investigator to examine minor allegations involving Parliamentarians. Reference is made to the Private Member's Bill introduced in the Legislative Council for a Parliamentary Commissioner for Standards, and submissions received from a number of members supporting such an office. An alternative suggestion put forward by the Legislative Assembly Committee on Parliamentary Privilege and Ethics is for a parliamentary committee to have such functions, when required. This suggestion was made in the Committee's report responding to an ICAC proposal that Parliament adopt a mechanism for appointment of an independent third party to investigate allegations involving parliamentary proceedings where privilege might attach.

Mr McClintock reported that he did not form any final conclusions as to the precise form that a parliamentary investigator should take, or whether it would be preferable to establish a parliamentary investigator or parliamentary committee: "These are matters for the Parliament itself to determine, bearing in mind the fundamental principle of Parliamentary sovereignty over its own affairs". (p.86)

Legislation was passed in April 2005 implementing the vast majority of the recommendations made by Mr McClintock SC. However, the recommendations to clarify the circumstances in which the ICAC may investigate members of Parliament or Ministers have not been adopted and a parliamentary investigator has not been established to investigate allegations of corruption involving members or Ministers. Rather, the ICAC will continue to conduct this role.

The *Independent Commission Against Corruption Amendment Act 2005* (NSW) introduced changes to strengthen the accountability of the ICAC by

establishing an independent Inspector of the ICAC that will be responsible for auditing the operations of the ICAC, deal with complaints of abuse of power and other forms of misconduct or maladministration. The Inspector will also report on any matters affecting the ICAC, including its operational effectiveness. The parliamentary joint committee on the ICAC will monitor and review the functions of the Inspector.

The legislation has replaced the term 'public hearings' with 'public inquiries', and 'private hearings' with 'compulsory examinations'. The legislation has introduced changes requiring the ICAC to consider a number of factors when considering whether it is in the public interest to hold a public inquiry, including the benefit of making the public aware of corrupt conduct; the seriousness of the allegation; any risk of undue prejudice to a person's reputation; and whether the public interest in exposing the matter is outweighed by the public interest in preserving the privacy of the persons concerned.

Changes have also been introduced in relation to contempt as it applies to the ICAC. The problems that were identified in relation to the process of certification of contempt have been addressed. Under the changes the certificate is to set out the relevant facts that the Commissioner is satisfied constitute contempt.

### *Censure of a member*

On 19 November 2005 the Legislative Assembly censured a Member for physically assaulting the Minister for Roads. The incident occurred during a heated debate concerning the upgrading of the Pacific Highway.

The censure motion agreed to by the House suspended the Member for eight sitting days and noted that his actions had seriously reflected upon the honour and dignity of the House. The censure motion agreed to was in the following terms

"That this House:

(1) Condemns and expresses disgust at the actions of the member for Coffs Harbour in the House on Tuesday 18 October 2005 and censures the member accordingly;
(2) Abhors the action of the member for Coffs Harbour in physically threatening and assaulting the Minister for Roads and, by this action, seriously reflecting upon the honour and dignity of the House; and
(3) Suspends the member for Coffs Harbour from the service of the House for a period of eight sitting days."

This is not the first instance of a Member assaulting another Member in the Legislative Assembly of New South Wales. However, it is the first time that a censure motion has been moved in relation to such behaviour and the suspension of eight sitting days is longer than the action that has occurred in similar incidents.

Previous incidents between members have usually resulted in the member who has physically attacked another being removed from the House for the remainder of the sitting after an explanation and apology was offered to the House. On a couple of occasions the House has held the members to be in contempt and on one occasion resolved for the Attorney General to prosecute both members involved for their actions. The following table sets out the details of previous incidents:

| Date | Members involved | Incident and action taken by the House |
|---|---|---|
| 26 February 1868 | The Member for West Maitland (Mr Benjamin Lee) and the Member for Central Cumberland (Mr Allan Macpherson) | The Speaker's attention was called to the fact that Mr Lee had committed assault upon Mr Macpherson. A motion was moved that the conduct of Mr Lee in striking Mr Macpherson within the precincts of the House was disorderly, disgraceful and reprehensible. The motion was not put to the vote.<br><br>The following day a motion was agreed to that both members had each committed assault—one on a Member in the presence of the House and the other on a Member in the immediate precincts of the House—and are both guilty of a high offence against the dignity of the House. The House also directed the Attorney General to prosecute both members for their actions. It appears that both members were never convicted and remained as members of the House. |
| 27 April 1878 (am) | The Member for Upper Hunter (Mr John McElhone) and the Member for Illawarra (Mr Samuel Gray) | Mr McElhone crossed the Chamber during the committee of the whole stage and in a threatening manner and with clenched fist, assailed Mr Gray. The Speaker called upon Mr McElhone to |

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|---|---|---|
| | | explain. Following an explanation the House agreed to a motion finding Mr McElhone guilty of contempt. Mr McElhone then apologised to the House and a further motion was agreed to by the House that Mr McElhone be released from his contempt. |
| 31 January 1884 | The Member for Morpeth (Sir Robert Wisdom) and the Member for Mudgee (Mr David Buchanan) | Mr Wisdom assaulted Mr Buchanan in a room adjoining the Chamber. A member brought it to the Speaker's attention and due to Mr Wisdom's absence from the House the matter was deferred until the next sitting day. On 5 February 1884 Mr Wisdom spoke in explanation and offered an apology for his behaviour and the House accepted his apology—no suspension was given. |
| 22 March 1888 (am) | The Member for Newcastle (Mr James Fletcher) and the Member for Mudgee (Mr John Haynes) | Mr Fletcher walked across the Chamber and assaulted Mr Haynes while he was addressing the Chair. The Chairman of Committees directed the Serjeant-at-Arms to remove Mr Fletcher. The Speaker took the Chair to deal with the disorder whereupon Mr Fletcher was brought back to the Chamber to explain his behaviour and he apologised for his conduct. The House agreed to a resolution suspending Mr Fletcher for the remainder of the sitting as it was deemed to be sufficient punishment given that he had apologised. |
| 25 June 1903 | The Member for Northumberland, (Mr John Norton) and the Member for Sydney-King (Mr Ernest Broughton) | Mr Norton committed personal assault on Mr Broughton. Both members were named for disorderly interrupting the conduct of business of the House. Both members were also adjudged to be guilty of contempt, Mr Norton for the assault and Mr Broughton for the use of language calculated to provoke a breach of the peace. Mr Norton was suspended for the remainder of the sitting and no action was taken against Mr Broughton following an apology to the House. |

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|---|---|---|
| 3 February 1927 | The Member for Western Suburbs (Mr Carlo Lazzarini) and the Member for Balmain (Mr Albert Lane) | Both members were considered to be disorderly—Mr Lane for having attributed unworthy motives to the Chief Secretary Mr Lazzarini in connection with his votes upon a bill under consideration, and Mr Lazzarini for having crossed the floor of the House and attempted a personal assault upon Mr Lane. The Speaker ordered the Serjeant-at-Arms to remove both members. Mr Lazzarini intimated that he wished to apologise so was readmitted by the Speaker and having apologised was allowed to resume his seat in the House. No further action was taken. |

### *Recall of the House by the Government*

The House was recalled by the Government on 15 December 2005—two weeks into the summer recess—in accordance with Standing Order 53 of the House, which provides:

> "The Government, in the public interest, may in writing to the Speaker, or in the absence of the Speaker the Chairman of Committees, request the House meet at an earlier time than set down on adjournment. If satisfied, the Speaker shall:
> (1) Fix a day and time; and
> (2) Communicate the day and time to all Members."

The recall was instigated to enable the Parliament to pass legislation providing the police with additional powers to deal with large-scale public disorder in any area for the purposes of securing public safety.

The legislation was deemed urgent following riots that occurred in Sydney beachside suburbs between different ethnic groups. The new powers provided to police are designed to prevent or defuse large-scale public disorder. They include emergency lockdown powers, including the power to set up a roadblock, the power to stop and search vehicles without a warrant, the power to stop and search people without a warrant and anything in the person's possession. The police also have the power to ask people in a lockdown area to identify themselves and to seize and detain for up to a week any vehicle, mobile phone or similar device if it will assist in preventing or controlling the public disorder. In addition, any police officer has the power

to stop a vehicle on a road without authorisation being in force providing the officer has reasonable grounds to believe a large-scale public disorder is occurring or about to occur. A lockdown can last for 48 hours or longer if extended by the Supreme Court.

The Act passed through both Houses of Parliament and was assented to that same day. The Ombudsman is to monitor and report on these new powers and will report to the Attorney General and Minister for Police after 18 months. The legislation places a two-year sunset clause on these powers and the Ombudsman's report will in assist the Government in determining whether the powers need to be continued in the same or another form or at all.

### *Report on the inquiry into the administration of the 2003 election and related matters*

The Joint Standing Committee on Electoral Matters tabled its report on the inquiry into the administration of the 2003 election and related matters on 15 September 2005. The terms of reference for the inquiry were quite broad, which provided an opportunity for a range of issues on electoral administration, procedures and legislation to be considered.

The report noted that the Parliamentary Electorates and Elections Act 1912 had been in place for almost 100 years but that during this time it had not been comprehensively reviewed even though it had been amended substantially. This had resulted in a complex piece of legislation, and a number of deficiencies in the Act were identified. The Committee considered the current legislation needed to be reviewed and amended to ensure that it reflected the way elections are administered and conducted in the 21st century.

Comments were also made on the concerns raised by political parties and the public about the service provided by the State Electoral Office (SEO) during the 2003 election campaign. In particular concerns were raised about the consistency in advice given by polling officials and staff of the SEO and the difficulties that were encountered with postal voting. The Committee made a number of recommendations primarily aimed at improving the service provided by the SEO including the need for administrative procedures in place at State elections to be consistent with those that apply at Federal elections where appropriate.

A significant aspect of the Committee's inquiry related to a computer problem that was experienced by the SEO when the votes for the Legislative Council 2003 election were being counted. It was found that the problems

encountered during the counting process stemmed from a lack of appropriate risk management and that the SEO should have picked up the problems prior to polling day. However, on the balance of probabilities the Committee saw no reason to believe that the problems had any impact on either the data or the outcome of the election. The report did however outline steps to assist the SEO in its management of future IT projects to ensure that risk management issues are given due consideration.

The Committee also considered the method used to count and transfer surplus votes for the Legislative Council. New South Wales currently uses the random selection method to transfer votes and is the only jurisdiction in Australia, and one of only two in the world, to still random sample votes rather than count all preferences. These provisions are entrenched in the Constitution Act 1902 (NSW) and can only be changed with the approval of the voters.

The Committee recommended a referendum be conducted to remove the administrative detail in relation to the method for counting the votes from the Constitution Act 1902. If agreed to, the Committee was of the view that the random selection method should be abolished.

The Committee's report can be accessed from the Parliament's website at the following link: http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/14686B8D6997A60BCA25707E000E23E1

### *Replacement of the Legislative Assembly sound system*

During the 2005 winter recess the Legislative Assembly sound system that had been in place since June 1980 was replaced.

The history of the 'amplification' of the Chamber proceedings starts in late 1946. Robert Lawrie, the Parliamentary Archivist, has unearthed the following pertinent facts from the Assembly records:

- In November 1946 there was a question to the Speaker in the House by Mr Sheahan regarding amplifying equipment.
- Speaker Clyne referred this question to the Minister for Public Works who replied on 12 December 1946 that a proposal that Parliamentary proceedings be broadcast was then being investigated and that any such scheme would be linked with installation of amplifying equipment.
- On 19 November 1947 Premier McGirr stated in answer to a question in the House that he had no intention of considering the broadcasting of proceedings.
- Later, in 1948, Speaker Lamb arranged for a trial installation of a sound

reinforcement system; the test was unsatisfactory and the system was not installed.

- In 1952 the Clerk, Mr Harry Robbins, wrote to the Steane Sound and Television Co. (who installed the trial in 1948) informing them that it was not proposed at that time to install any sound amplification system in the Legislative Assembly Chamber.
- In April 1959 another amplification system was proposed; a quotation was tendered by AWA in November 1959.
- This quotation was apparently accepted (though no documentary evidence has yet been uncovered); the original quotation document was handed to the House Secretary and Parliamentary Accountant on 5 January 1960.
- On 16 June 1966 the Clerk, Mr Allan Pickering requested the House Secretary to replace the public address system in the Chamber.
- In June 1980, the existing sound system was upgraded and 'computerized'. This system, which had been further upgraded over the years, was replaced last year.

## New South Wales Legislative Council

### *Inspector of the Independent Commission Against Corruption*

The Independent Commission Against Corruption Amendment Bill 2005 was introduced in response to the findings of an independent review of the Independent Commission Against Corruption Act 1988. The bill sought to improve the operation and accountability of the Independent Commission Against Corruption (ICAC) by setting out the principle objects of the ICAC Act, reforming contempt laws and clarifying the findings that the ICAC may make. One of the key changes made by the bill was the establishment of an independent inspector of the ICAC to consider complaints about the ICAC and its officers and to oversee the exercise of the ICAC's powers. While the joint parliamentary Committee on the Independent Commission Against Corruption is responsible for monitoring and reviewing the exercise of the ICAC's functions, it is prohibited from examining decisions made by the ICAC. The ICAC itself had acknowledged the absence of adequate accountability mechanisms in the Act. The Act commenced in June 2005.

### *Consultation with people with disabilities*

In December 2004, General Purpose Standing Committee No. 2 self referred an inquiry into changes to the post school funding programmes for young people with a disability. Although the committee received a large number of submissions from parents, service providers and community groups it received only two submissions from participants in the programmes being reviewed. To ensure the perspective of those with a disability was considered the committee resolved to employ a consultant with experience working with the target group. Forums were held in Sydney, Wollongong and Newcastle with groups of five to ten programme participants with an intellectual or physical disability, who had been contacted through service providers and parent networks. At the request of the facilitators, the number of committee members was kept to a maximum of three per consultation. The authority of the House was required before these subcommittees could be formed. To ensure effective communication with the target groups, committee members asked questions which had been drafted with the assistance of the facilitators. A report of each consultation was prepared and subsequently published by the committee.

### *Recall of the House*

On 1 December 2005 the House sat for the last scheduled sitting day of the year and adjourned until Tuesday 28 February 2006 at 2.30 p.m. Following several days of public disturbances in southern Sydney, the House was recalled on 15 December 2005 in order to consider amending legislation relating to the prevention and control of public disorders. The House met at 11.30 a.m. on 15 December 2005, being the date and time fixed by the President according to standing order, and at the joint request of the Leader of the Government and Acting Leader of the Opposition, being an absolute majority of members required by standing order 36.

As the Law Enforcement Legislation Amendment (Public Safety) Bill was still being considered in the Legislative Assembly when the Council met, at the suggestion of the Leader of the House, the President left the Chair until the ringing of a long bell. At 12.10 p.m. the House reconvened and finally passed the bill, with one government amendment, at 3.38 p.m. The bill was assented to later that day.

Two interesting procedures were adopted for consideration of the bill. Firstly, the House agreed, without amendment or debate, that government business would take precedence of all other business, including question time

for that day. This was only the second time in recent years that a sitting day has not included question time. The earlier occasion was on Wednesday 12 September 2001 following the attacks on the World Trade Centre in New York. On that occasion, that House met at 11.00 a.m. and adjourned at 11.10 a.m.

The second matter of note was the imposition of speech times for debate on the bill. While private members' business in the Legislative Council is subject to time limits, and has been for a number of years, Government legislation and motions are not. The application of time limits in the Legislative Council to speeches on Government business has traditionally been considered undesirable, the principal reason being that not only do members have a right to place their views on record without being unduly restricted by time, but as a House of Review, scrutiny of Government legislative proposals in the Legislative Council should not be hindered. Conversely, however, other upper Houses including the Senate and the Western Australian Legislative Council, have time limits on all debates, generally in recognition that the time of the House may be better used if lengthy speeches or filibustering are not allowed.

In 1987 a sessional order imposing time limits on speeches on government bills, except for the Minister and member of the Opposition first speaking, was introduced in the Council. The motion, introduced by the Leader of the Government, was strongly opposed. The Leader of the Opposition stated: "If government supporters tonight vote to take away a right that has existed in this Chamber for 162 years, it will be a significant step towards downgrading the lustre, prestige and traditions of this very proud House". An attempt by cross bench members to refer the issue to the Standing Orders Committee was defeated on division, as was an amendment to allow unlimited time for a member not a Government or Opposition member.[2] The sessional order had effect for the remainder of the session, a total of 18 sitting days, and was not proposed by the new Government in the next session.

### *Terrorism (Police Powers) Amendment (Preventative Detention) Bill 2005*

On 27 September 2005 the Council of Australian Governments (COAG) agreed that States and Territories introduce legislation to allow the detention of persons for up to 14 days to prevent terrorist acts or preserve evidence following a terrorist act. In response to the COAG agreement, the Government introduced the Terrorism (Police Powers) Amendment (Preventative Detention) Bill 2005. The passage of the bill on Wednesday 30 November and into the early hours of Thursday 1 December saw the

[2] *(1986-88) 178 Legislative Council Journal*, p. 1112/4.

opponents of the bill use a number of procedures in an attempt to defeat or delay the consideration of the bill.

Firstly, divisions were called on the motion for the first reading and printing of the bill and the motion for the suspension of standing orders to allow the bill to pass all stages in one sitting. Those motions being agreed to, the Minister moved that the second reading stand an order of the day for a later hour of the sitting, to which Ms Rhiannon of the Greens moved an amendment for the second reading to stand an order of the day for the first sitting day in 2006. The amendment was defeated on division and the second reading subsequently commenced later in the sitting.

During the second reading debate, several procedural tactics were used to attempt to delay or defeat the passage of the bill. A motion to adjourn the debate to the first sitting day in 2006 was negatived on division. A reasoned amendment to the second reading declining to give the bill a second reading because of stated reasons was also negatived on division. Amendments that the bill be read a second time "this day six months" and that it be referred to a committee for inquiry and report were also defeated on the voices. The second reading was ultimately agreed to on division 26 votes to 6.

The committee of the whole agreed to 13 government amendments, and on 1 December 2005 at 2.08 a.m. the third reading was carried on division and the bill returned to the Legislative Assembly for consideration of the Council amendments.

On 1 December 2005, the last scheduled sitting day of the year, six cross bench members signed a protest against the passing of the bill and lodged it with the Clerk of the Parliaments before the rising of the House. According to standing order the protest was entered in the minutes of proceedings and a copy forwarded to the Governor by the President.

The protest was also recorded in the official 'Protest Book', held by the Clerk. A protest was last lodged in 1986, when opposition and cross bench members lodged a protest against the passing of the Judicial Officers Bill, which established the Judicial Commission. Prior to that instance, the procedure had not been used since 1899, although there had been 35 protests about the passing of legislation between 1857 and 1899. The Protest Book makes interesting reading. In 1890 a protest against the passing of a Divorce Bill, which made allegations about the motives of certain members of the House in advocating the passage of the bill, was later expunged from the Minutes of Proceedings on the grounds that it contained offensive material.

### *Order for papers—Cross City Tunnel*

The Cross City Tunnel dominated orders for papers in the second half of 2005, with the opening of the tunnel in August 2005 generating considerable community concern and activity in the House about road closures surrounding the tunnel and the tunnel toll charge.

The first order for the production of state papers relating to the Cross City Tunnel was made in June 2003. The order specifically related to contract negotiations for the financing, construction, operation and maintenance of the Cross City Tunnel. At the time, a dispute of the validity of the claim of privilege on documents resulted in the independent legal arbiter, Sir Laurence Street, upholding the claim of privilege on the majority of documents and only a small selection of privileged documents were made public.

The Cross City Tunnel opened on 28 August 2005 to considerable media scrutiny, with reports stating that usage levels of the tunnel were significantly lower than predicted, road closures were impacting upon small businesses in the area and causing severe traffic congestion, and that patrons were highly critical of the imposed toll. On 13 October Ms Rhiannon, a member of the Greens, moved that the documents received in response to the 2003 order for papers upon which a claim of privilege remained be tabled and made public. The motion was defeated 18 votes to 17.

The following day standing orders were suspended to allow Ms Rhiannon to move a further motion that, in view of the public interest in matters concerning the Cross City Tunnel, an independent legal arbiter reassesses those documents upon which privilege was upheld in 2003. The motion being agreed to, the documents were again released to Sir Laurence Street. This was the first time the House had resolved that privileged documents be reassessed by an arbiter.

In his second report, Sir Laurence Street stated that a number of significant things had happened since 2003: the Cross City Tunnel had been completed and was operating and had attracted a high degree of public concern in relation to a number of its aspects. He further stated that a major consideration in favour of the public interest in disclosure of the documents was that the continued non-disclosure had the potential to diminish public confidence in the Roads and Traffic Authority's handling of the project, and in the Authority itself. In conclusion he stated:

> "There are not within the mass of disputed material any individual documents which justify exemption from the global denial of privilege. My determination accordingly is that the privilege granted in September 2003

to some of the documents produced by the RTA is no longer justified in the public interest and should now be denied."

The documents were consequently tabled in the House on 20 October 2005 and, anticipating high levels of media and public interest in the documents, searchable electronic copies were made available.

Ensuing media interest in the documents focused on the contractual arrangements for road closures, reimbursement for loss of earnings by the contractor and toll changes. This also coincided with the Chief Executive of the Roads and Traffic Authority being removed from his position and placed on the unattached employees list.

On 18 October 2005 the House agreed to an order for the production of further documents relating to the Cross City Tunnel that had been created since the resolution of the House of 24 June 2003, with particular emphasis on the contracts, financial arrangements and consent deeds relating to the project. In response to this resolution the Clerk received 45 boxes of documents on 1 November 2005. Due to the high level of interest from members and their staff, the media and a number of interest groups, access to the documents was arranged late into the evening. The documents were tabled in the House on 8 November.

In the following days newspapers reported that staff of the Shadow Minister for Roads and Leader of the Nationals, Andrew Stoner MP, had come across correspondence amongst the tabled documents from the then Minister for Roads to the then Minister for Planning alleging that Cabinet minutes setting out the cost of relocating the tunnel's ventilation stacks in Darling Harbour had been leaked to the Cross City Motorway Consortium, potentially impacting on the Government's negotiating position. The matter led to wide-ranging accusations and was ultimately referred by Mr Stoner to the Independent Commission Against Corruption on 4 November.

On 4 November the Clerk received correspondence from Ms Rhiannon disputing the validity of the claim of privilege on documents received on 1 November. According to standing order, the documents were released to Sir Laurence Street for assessment.

In line with his earlier report, Sir Laurence Street noted that the financial arrangements, the negotiations and administration of the tunnel project were all of public interest. He consequently determined that, in the interest of full and completely informed public discussion, and in light of the demands of open government, transparency and accountability, the public interest in the material being made public outweighed the grounds advanced in support of

the claim of privilege. The Clerk subsequently tabled the documents on 16 November.

Given the public attention and controversy surrounding the Cross City Tunnel, it was not surprising that General Purpose Standing Committee No. 4, with a non-government majority and responsibility for the roads and planning portfolios, had scheduled a meeting for 10 November 2005 to discuss a self-reference into issues related to the Cross City Tunnel.

On 10 November, in order to circumvent that possibility, the Honourable John Della Bosca, Special Minister of State, gave notice of a motion to establish a joint select committee on the Cross City Tunnel, which included an instruction to General Purpose Standing Committee No. 4 that it not undertake any inquiry into the Cross City Tunnel or related matters. At a meeting held during the lunch adjournment later that day, General Purpose Standing Committee No. 4 agreed to inquire into the matter.

On the next sitting day, 15 November, the Chair of the committee advised the House of the self-reference. Later that sitting, the House considered the Government's motion to establish the joint select committee. The motion caused considerable debate in the House as it included the instruction to General Purpose Standing Committee No. 4, and, contrary to standing orders, proposed the Chair.

A number of amendments to the motion were proposed. Two amendments to the terms of reference to include the communication and accountability mechanisms between the RTA and Government and the role of Government agencies in entering into major public-private partnerships were both agreed to 21 votes to 16. An amendment that leave be given to members of either House to appear before and give evidence to the committee was agreed to on voices, and an amendment to allow a member of either House who is not a member of the committee to take part in the public proceedings and question witnesses but not vote or be counted for the purposes of a quorum or division was agreed to on division. An amendment to ensure that it only be an instruction to General Purpose Standing Committee No. 4 to not undertake its inquiry if the Legislative Assembly agreed to the appointment of a joint select committee was agreed to on voices. The motion as amended was agreed to on division 20 votes to 17. The Legislative Assembly subsequently agreed to the resolution on 17 November 2005.

Committee hearings commenced on 6 December and included the testimonies of a number of high profile political figures, including two former Premiers and former member of the Legislative Council and Treasurer Michael Egan.

The committee tabled its first report on matters specifically related to the Cross City Tunnel in February 2006 and is due to report on public-private partnerships at the end of May 2006. After an amendment to the terms of reference was agreed to by both Houses, a third report regarding the Lane Cove tunnel and other matters is due by the first sitting day in September 2006.

## Northern Territory Legislative Assembly

### *Outback regional sitting*

The week leading into the 2005 Easter long weekend was busy for the antipodean Northern Territory Legislative Assembly, which uprooted from its regular home in Darwin to take parliament to the people of central Australia.

This was the second regional sitting of the Assembly and saw the Alice Springs Convention Centre transformed into a parliamentary chamber, complete with galleries and prep-rooms for school groups. It was a massive logistical undertaking, particularly in respect of the communications technology required for the Assembly to run smoothly, but staff were well prepared, given their experience of the first regional sitting in 2003.

Again, Hansard staff remained in Darwin, sound and vision being piped up an ISDN line allowing staff to transcribe proceedings as though they were occurring in the chamber below. Members received exactly the same service and had a printed Daily Hansard in their hands by 10 a.m. the next day.

A Youth Parliament was convened for secondary school students, who debated several bills and two Matters of Public Importance. The then Speaker of the Legislative Assembly, the Honourable Loraine Braham, MLA, summarised the Youth Parliament thus:

> "The bills reflected a range of issues: drugs, murder, depression and air-conditioning. They passed the Random Breath Testing Bill to include party drugs, the Compulsory Air-conditioning in All Schools Bill, and they amended the NT *Criminal Code* regarding murder convictions. Interestingly, the one bill that was not passed dealt with preventative measures for youth mental health problems. The two MPIs made for interesting debate and reflected the maturity of the students. They dealt with education and the youth of the NT, and bullying and harassment."[3]

[3] The Hon Loraine Braham, MLA in NT *Parliamentary Record*, 24 March 2005.

Younger students were also involved by participation in *Parliament of the Birds*, a programme devised by the Education Unit of the Australian Parliament. In addition, a stream of school groups, estimated to be 1,250 students, undertook tours of the precinct and observed the politicians at work. Some of these were from remote communities in the central Australian region. This gave rise to some interesting questions, including this about the Speaker:

> "One asked her mother why I was wearing the bib, reminded her mother that she wore a bib once upon a time, and asked whether I dribble! That was her impression of the Speaker in her gown."

In the true spirit of democracy, there were two rallies: one in relation to heritage issues in Alice Springs and the other by members of the Australian Education Union in relation to an Enterprise Bargaining Agreement that was under negotiation at the time.

As was the case in 2003, Question Time was scheduled at different times each day to allow as many locals as possible to view the event of particular public interest.

By far the most controversial debate of the sittings occurred during the second reading of the Standard Time Bill, which sought to replace statutory references to 'Greenwich Mean Time' with 'Co-ordinated Universal Time' and attracted this contribution from the Member for Araluen:

> "We are, as the Attorney-General said, legislating for computers … I cannot possibly conclude my remarks without referring to the immortal words of poet, song writer, protest singer and, in my view at least, living legend, Bob Dylan, from his song 'The Times They Are A-Changin'. I used to know the song off by heart, but had to look it up for today. People in the gallery will be delighted to know I do not propose to quote the entire song, nor will I sing it. When I looked at the song, I thought that of the five or six verses, the last verse was probably the most appropriate one, and I quote, without singing:
>
> 'The line it is drawn / The curse it is cast / The slow one now / Will later be fast / As the present now / Will later be past / The order is / Rapidly fadin'. / And the first one now / Will later be last / For the times they are a-changin'.'
>
> Indeed, they are, Madam Speaker. We [the Opposition] support the bill."

The government has indicated that it will continue with a three-day regional sitting of the Assembly in Alice Springs every two years, and preparations are now underway for 2007.

## Tasmania House of Assembly

### *Restoration of House of Assembly Long Room (2003-05)*

When it comes to legislative tradition it is often claimed that the New South Wales Parliament is the 'mother of Australian Parliaments'. Being just one year younger, the Parliament of Tasmania is second in antiquity in Australia, and also has the second oldest Parliament House in Australia. The largest room in the original building was known as the Long Room and it was used as a Chamber from 1841 to 1940. It is therefore one of the most historic rooms associated with the development of parliament and democracy in Australia.

Parliament House was constructed between 1835 and 1840 using convict labour to a design of Colonial Architect John Lee Archer. The Long Room was used briefly (1840-41) by the Customs Department to process paperwork for clearing bonded goods.

In 1841 Lieutenant-Governor Sir John Franklin arranged for the Legislative Council of Van Diemen's Land to move to the Long Room from their old chamber which had been added to old Government House. The Council occupied the Long Room until 1856, when it was moved to its present Chamber.

In 1856 the newly created House of Assembly took over the Long Room and used it as its Chamber until 1940. The original barrel vaulted ceiling was replaced by a lantern in 1859. Many of the momentous decisions which shaped this island were made during the 99 years this room was used as a Parliamentary Chamber.

In the late 1930s extensive modifications to Parliament House as a Great Depression relief project by the Ogilvie Government saw a new House of Assembly Chamber built and from 1940 the Long Room became a Members' Lounge. The main internal wall was moved narrowing the room by 1.3 metres, the lantern removed and a flat ceiling installed. Shorn of much of its character it existed in a sort of twilight zone for many years. In the mid 1990s cracks in the plaster and cornice of the room became quite noticeable and some cornice fell off. Temporary bracing was installed to prevent damage to the portrait of former Premier Sir Richard Dry.

In May 2003 a full structural assessment and conservation management

plan was undertaken for the project. The report recommended the restoration of the room, and the installation of a barrel vaulted ceiling closely resembling the original ceiling (1840-59). The flat ceiling installed in 1940 was considered unsympathetic to the historic importance of the room. Major plasterwork and conservation were required as well as rearrangement of the roof beams above to allow for the extra height.

When work began in late 2003 a large swath of the 1940 cornice and part of the plaster ceiling collapsed before they could be demolished. This demonstrated the wisdom of installing the temporary bracing earlier.

While building works were underway the portrait of Sir Richard Dry by Conway Hart with its frame made by Robin Lloyd Hood was taken down, conserved by Tasmanian Museum and Art Gallery, and packed in a large wooden crate as it was too large to be taken from the room. It had to be shifted around the room during restoration works.

Brass chandeliers were computer-generated as replicas of the original whale oil chandeliers from an 1852 Ludwig Becker sketch of the old Legislative Council. This ground breaking design, casting and fabrication was carried out by APCO Engineering at Prince of Wales Bay. The lamp shades were hand blown by James Dodson of Tasmanian Glass Blowers at Evandale. The chandeliers weigh over 100 kilograms each and are held in place by winches. The frieze around the wall was hand stencilled and applied to a late Georgian 1850s pattern.

Amid much festivity, the Long Room was reopened by the Speaker of the House of Assembly on 24 May 2005. It is used as an example of Tasmania's rich Georgian built heritage for tour groups, for meetings, functions, and on occasion as a major Committee Room.

### *Tasmanian House of Assembly Speakers' precedents*

The treatment of rulings of Speakers of the Tasmanian House of Assembly has been mixed over the last 50 years. The last indexed consolidation of rulings covered the period 1950 until 1968. From 1968 until the early 1990s, rulings were collected and filed for reference, and then, with the introduction of information technology in 1992, reliance upon the searchability of Hansard and the Votes and Proceedings databases became the standard.

With three quite distinct management regimes, the need to consolidate and index all the precedents was acknowledged with the commencement of a database project. The project was comprised of three stages: application design; data collection and transcription; and data input and indexing.

The Speakers' Rulings application is written in Borland Delphi 2005 and

uses ADO to connect to a Microsoft SQL Server 2000 Desktop Engine (MSDE 2000) database. The database resides on the Parliament's MS Windows 2003 servers with log on controlled via the user's log on credentials used to access the workstation.

The data collection and transcription phase was the most labour-intensive component of the project. The precedents contained in the 1950-68 volume were extracts of the Votes and Proceedings and accordingly cited the edition number, date and page number. These extracts were simply copy typed into a Word document for future database input. The rulings from 1969-91, whilst filed, often did not contain all three reference citations and most were not contained in an extract, so that the full context of the ruling was not always immediately obvious. For this period, resort was had to the Journals where the Votes and Proceedings were searched page by page with each ruling and its context being extracted and then copy typed. A similar methodology was employed for the period 1992 to the present, as whilst the existing databases are searchable, the reliability of searches is obviously dependant upon the coverage that 'keywords' will hit. A manual search was the only reliable method of ensuring every ruling was captured.

The database input phase of the project entailed the preparation of a subject index. The index has 51 subject categories, 44 of which have been used. Each extract was then copied from the Word document and pasted into the database, a subject category was then assigned to the ruling and the following fields completed: Date; Ruling by [name of Speaker/Deputy Speaker]; Vote Number; Page Number; and any number of relevant keywords to assist future searches. The number of any Standing Order cited in the ruling was also entered into the last-mentioned field.

The result is a collection of rulings from 1950 until the present which is fully searchable. A range of search and report options are available, ranging from: subject specific enquiries; rulings by particular Speakers; date range searches; or keyword searches. Such reports may of course be printed for appropriate use.

The project has been a very worthwhile exercise and the database is expected to be a valuable reference for the Table of the Tasmanian House of Assembly.

### *E-Petitions*

On 27 May 2004 Report No. 12 of the Working Arrangements of the Parliament was tabled in the House. The Report recommended the implementation of e-petitions as part of the proceedings of the House. Included in

the Committee's consideration of e-petitions, one of the Members visited the Queensland Parliament to investigate the operation of e-petitions there. The Member's report to the Committee was the catalyst for the Committee's recommendation that the system, as operating in Queensland, be adopted.

The Committee recommended that the Queensland procedures be followed, particularly as the Queensland Parliament offered to assist the Tasmanian Parliament with the provision of the software they developed and staff training in its use. The Sessional Orders were prepared, but not implemented until the system could be established and staff appropriately trained.

Sessional Orders were agreed to by the House on 26 August 2004 to bring e-petitions into effect as follows:

"73A. Electronic petition ("E-Petition")

(1) An e-petition is a petition:
   (a) in the correct form, stating a grievance and containing a request for action by the House;
   (b) sponsored by a Member and lodged with the Clerk for publication on the Parliament's Internet Website for a nominated period ("posted period");
   (c) persons may elect to indicate their support of ("join the petition") by electronically providing their name, address (including postcode) and signifying their intention to join the petition.

(2) The posted period for an e-petition is to be a minimum of one week and a maximum of six months from the date of publication on the Parliament's Internet Website.

(3) The member sponsoring the e-petition must provide the Clerk with the details of the petition in the correct form; the posted period and a signed acknowledgment that they are prepared to sponsor the e-petition.

(4) Once published on the Parliament's Internet Website an e-petition cannot be altered.

(5) Only one e-petition dealing with substantially the same grievance and requesting substantially the same action by the House shall be published on the Parliament's Internet Website at the same time.

(6) Once the posted period for an e-petition has elapsed, a paper copy of the petition shall be printed by the Clerk in full (including the details of the persons who joined the petition) and presented to the House by the Member who sponsored the e-petition.

(7) An e-petition published on the Parliament's Internet Website, but not

presented to the House prior to the dissolution of the Parliament, may be presented to the subsequent Parliament to become a petition of the subsequent Parliament.

(8) An e-petition cannot be sponsored after the dissolution of the Parliament and until the new Parliament has been summoned and members sworn.

73B. General Rules for E-Petitions

(1) Persons must join an e-petition by filling out their correct details and personally agreeing to join the e-petition, and by no one else, except in case of incapacity from sickness.

(2) A person cannot sign or join the same e-petition more than once.

73C. Duties and powers of the Clerk and Speaker regarding e-petitions

(1) The Clerk may decline to publish an e-petition on the Parliament's Internet Website not in conformity with these Orders and advise the sponsoring member accordingly.

(2) The Clerk or a member may seek a ruling from the Speaker about the conformity of any petition with these Orders.

(3) The Clerk is authorised to create and maintain an appropriate Internet Website on which to publish electronic petitions, responses to petitions and explanatory information and do all things necessary in order to give effect to these Orders.

(4) The Clerk must dispose of all electronic personal data related to the posting and joining of an e-petition within six months after an electronic petition is printed and presented to the House.

73D. The Standing Orders and Rules for Petitions apply to e-petitions insofar as they can be applied."

The Queensland Parliament, in particular the Clerk and the IT staff, were most generous in providing the necessary software and training.

## Victoria Legislative Assembly

### *Royal Assent delayed*

On 11 October 2005 the Clerk of the Parliaments presented five bills to the Governor for Royal assent. The Governor duly assented to four of those bills and acting on advice from the Government declined to grant assent to the Racing and Gambling Acts (Amendment) Bill. The Clerk of the Parliaments was informally advised that the granting of Royal assent to that Bill would be delayed for six weeks.

The Bill amongst other things created a new offence prohibiting the publication of race fields by unauthorised wagering service providers. According to the Minister this change was designed to protect the industry against the current and potential practices of unauthorised wagering operators based interstate or overseas. The commencement clause of the Bill provided for the majority of the provisions to come into operation on the day after the Bill received the Royal assent.

The Presiding Officers advised their respective Houses that the Bill had not received the Royal assent which led to concerns being raised in both Houses about the unconstitutional nature of the delay. The Presiding Officers subsequently wrote to the Premier seeking an explanation for the delay. In responding to the Presiding Officers the Premier's letter included the following explanation:

> "The government elected to advise the Governor to defer the assent to the bill once it was brought to the attention of the government, after the bill passed through Parliament, that there were significant compliance issues with a group of stakeholders with respect to that new enforcement regime. The government considers that the delay is appropriate, to ensure that those stakeholders are given every opportunity to bring themselves into compliance with the new regime before it commences."

The Bill was later re-presented to the Lieutenant-Governor on 29 November 2005 and received the Royal assent that day.

### *Geelong regional sitting*

The Legislative Assembly of the Victorian Parliament held a regional sitting in Geelong on 17 November 2005. Geelong is the largest provincial city in Victoria and is situated 75 kilometres south-west of Melbourne. The sitting also coincided with the launch of the Victorian Parliament's 150th anniversary celebrations.

The sitting was held in Costa Hall at the Deakin University's Waterfront Campus, on the shore of Corio Bay. A temporary Chamber was set up on the main stage and general support areas provided for members and staff throughout the building. The sitting commenced at 10 a.m. after a welcome at the Geelong waterfront by the Mayor. A full sitting day programme was transacted and the House rose at 10.30 p.m.

## Victoria Legislative Council

### *Revised Sessional Orders*

Since February 2003, and the commencement of the 55th Victorian Parliament, it has become customary for the Legislative Council to adopt amended Sessional Orders during the first sitting week of each year. 2005 was no exception. The most significant of the latest amendments concerned time limits during debate on General Business motions. Although time limits had previously applied to individual speakers and to the overall length of the debate, the allocation of speaking times between the parties was normally decided through informal discussions between the Whips. This changed under the amended Sessional Orders which provided the party of the mover of the General Business motion with 70 minutes, the government party with 60 minutes and the other non-government party with 45 minutes.

One of the complications of regulating speaking times to this extent involved the exclusion of Independent Members (of which there were two) from these arrangements. As a consequence, the Opposition and the other non-government party consistently announced that they would allocate part of their time to one of the Independents who was a former government party member who had become an outspoken critic of her former colleagues.

### *Regional sitting*

The Legislative Council held its third regional sitting (and first since 2002) in Colac, a town approximately 150 kilometres south-west of Melbourne, on Thursday 17 November 2005. The Legislative Assembly sat in another regional centre, Geelong, on the same day.

On this occasion, the Council's regional sitting was held at the end of a sitting week which began in Melbourne on the Tuesday and adjourned mid-afternoon on the Wednesday. Members and staff then travelled to Colac, joining a small number of staff who had been in the town for two days preparing the local Performing Arts and Cultural Centre for the sitting.

The sitting day commenced at 9.30 a.m. and, to a large extent, the routine of business proceeded as a normal Thursday sitting day. A few exceptions included the Clerk's reading of the Governor's proclamation varying the location of the Council's sitting, and an address to the Council, on the floor of the House, by the Mayor of Colac. In addition, proceedings were televised throughout the day by a local production company hired by the Department.

The regional sitting proved very successful, with over 1,500 members of

the public, many of them schoolchildren, attending. Included in the day's events was a festival conducted outside the Centre featuring music, dance, theatre and displays to celebrate the town's cultural diversity. This added considerable interest to what was generally considered to be the Council's most successful regional sitting.

### *Parliamentary Administration Act 2005*

The Parliamentary Administration Bill passed through both Houses in April and May 2005 and was assented to on 24 May.

The Act gave legislative effect to the Victorian Parliament's new administrative structure and repealed the Parliamentary Officers Act 1975. The main feature of the restructure was the amalgamation of various parliamentary support service units into a new Department of Parliamentary Services (DPS), resulting in the Parliament consisting of three departments (previously five): the Legislative Council, Legislative Assembly and DPS.

Aside from formally establishing Parliament's administrative structure, the Act incorporated a number of values and employment principles to help promote the highest standards of governance, integrity and conduct within the administration, including merit based employment decisions.

Other notable aspects of the Act included:

- bringing the administration of the Parliament more into line with the provisions of the Public Administration Act 2004;
- giving Department Heads the power to employ staff (previously staff were employed under the presiding officers' authority);
- allowing the President and the Speaker, acting jointly and on behalf of the Crown, to employ as electorate officers, persons nominated by Members; and
- amending the Parliamentary Committees Act 2003 to abolish Parliament's Library Committee and provide for the establishment, when required, of a Joint Investigatory Committee on Electoral Matters. The Committee will have the power to inquire into 'the conduct of parliamentary elections and referendums in Victoria' and into local government elections.

## Western Australia Legislative Council

### *Electoral Reform: 'one vote, one value' Bills*

In October 2002 the Full Court of the Supreme Court of Western Australia

handed down its judgment in *Marquet v the Attorney General of Western Australia and Anor.*[4,5]

The Court, by a 4 to1 majority, declared that it would not be lawful for the Clerk of the Parliaments to present to the Governor for the Royal Assent two Bills intended to implement the Labor Government's electoral reform policy of 'one vote, one value'. The court action resulted from the Clerk of the Parliaments (Mr Marquet[6]) seeking a declaration in relation to each of the Bills as to whether presenting the Bills to the Governor for the Royal Assent would be lawful in view of section 13 of the of the Electoral Distribution Act 1947.

Section 13 of the *Electoral Distribution Act 1947* made it unlawful to present a Bill that amends that Act unless the Bill has been passed by an absolute majority at second and third readings in both Houses of Parliament. It provides:

> "13. *Amendments to be passed by absolute majorities of Members of Council and Assembly*
>
> It shall not be lawful to present to the Governor for Her Majesty's assent any Bill to amend this Act, unless the second and third readings of such Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly respectively."

The two Bills, the Electoral Distribution Repeal Bill 2001 and the Electoral Amendment Bill 2001, passed the Assembly second and third reading stages with an absolute majority of votes.[7] However, the Bills received only a simple majority in both the second and third reading stages in the Council.[8]

[4] See Volume 70 2002 of *The Table* for origins of *Marquet v the Attorney General of Western Australia and Anor.*

[5] Unreported [2002] WASCA 277. An electronic copy of the judgment can be downloaded from www.supremecourt.wa.gov.au (where the transcripts of argument are also available) or www.austlii.edu.au.

[6] Mr Marquet was also Clerk of the Legislative Council until his resignation from both offices on 5 August 2005.

[7] The Electoral Amendment Bill 2001 and Electoral Distribution Repeal Bill 2001 were first read by the Attorney General and Minister for Electoral Affairs, Hon Jim McGinty on 1 August 2002. The Electoral Amendment Bill 2001 had its second reading agreed on 23 August 2001 after a division, 33 ayes and 16 noes and was third read on 30 August 2001 after a division of 31 ayes and 15 noes. The Electoral Distribution Repeal Bill 2001 had its second reading agreed on 11 September 2001 after a division, 31 ayes and 15 noes and was third read on 13 September 2001 after a division of 31 ayes and 19 noes.

[8] The Electoral Amendment Bill 2001 was first read on August 30 2001 after a division, 13

The policy reflected in the Bills was to reduce the so-called gerrymander or malapportionment in the existing Western Australian electoral system. This system resulted in votes cast by non-metropolitan electors for the Assembly having greater weight than those cast in metropolitan seats because fewer electors were required to elect Members of Parliament in non-metropolitan areas. If the Bills had become law, they would have had the effect of reducing non-metropolitan representation in the Assembly by 11 seats and transferring them to the metropolitan area. This would have had a significant effect on the conservative parties which traditionally obtained strong support in many non-metropolitan areas of the State.

The reason why the electoral reform legislation took the form of two Bills rather than one was so as to dispense with the need to comply with the 'manner and form' requirement in section 13. The Government did not command an absolute majority of votes in the Council and the conservative parties[9] were opposed to the reduction of non-metropolitan representation. Of the 34 Members in the Council, the Government had 13 Members and the support of all 5 of the Greens (WA) who held the balance of power. However, one Member of the Government was also the President of the Council who by reason of a constitutional provision is not permitted a deliberative vote.[10] A move to give the President a deliberative vote on all questions was not supported by all Greens (WA) Members.[11] The Government was therefore always one vote short of an absolute majority of 18 votes in the 34 Member chamber.

The Government's intention was that once both Bills had been passed the Repeal Bill would be presented for the Royal Assent first. This would repeal the manner and form requirement in section 13 if it applied to either the Repeal Bill or the Amendment Bill. Then the Amendment Bill, which intro-

ayes and 12 noes. It had its second reading agreed on 4 December 2001 after division, 14 ayes and 13 noes and was third read on 12 December 2001 after a division, 14 ayes and 13 noes. The Electoral Distribution Repeal Bill 2001 was first read on 18 September 2001 after division, 14 ayes and 12 noes. It had its second reading agreed on 18 December 2001 after division, 14 ayes and 13 noes and was third read on 19 December 2001 after a division, 13 ayes and 12 noes.

[9] 12 Liberal Party Members, 1 National Party Member and 3 One Nation (WA) Members.

[10] The President is only permitted a casting vote when the votes are equal, s. 14 *Constitution Acts Amendment Act 1899*. As there is an uneven number of Members excluding the President (33) there is usually no occasion when the President is required to exercise his casting vote (assuming the whips do their jobs and no one misses a division when called).

[11] The Constitution Amendment Bill 2002 was introduced into the Legislative Council in October 2002 but did not progress past the second reading stage and lapsed on prorogation in January 2005 prior to the State general election.

duced the electoral system changes, would be presented for assent. To determine the question of whether it was lawful to present one or both of the Bills it was necessary for the State Supreme Court to rule on whether the Repeal Bill or the Amendment Bill, or both, were a 'Bill to amend' the Electoral Distribution Act 1947.

The majority of judges were of the opinion that the fact that the word 'repeal' did not appear in section 13 of the *Electoral Distribution Act 1947* was no bar to finding that a repeal of that Act was an attempt to 'amend' the *Electoral Distribution Act 1947*. As such, the passing of the Bills was not in conformity with the entrenched manner and form procedures (absolute majority of both Houses at second and third reading stages).

The court was prepared to look beyond the form of the Bills to the substance of what the Bills intended to achieve, that is, their combined legislative purpose. The issue was whether a repeal and substantial re-enactment of provisions that had been repealed in another Act (the *Electoral Act 1907*) could be an amendment of that Act. This can clearly be the case were some of the principal Act remains in force but is a more difficult question when the principal Act is repealed as was the case with the *Electoral Distribution Act 1947*. The majority of the court answered this question I the affirmative [12] but this was an argument that the dissenting judge, Wheeler J, could not accept.

The majority of the court took a 'purposive' approach to the meaning of 'amend' in section 13 in accordance with the requirements of the Interpretation Act 1984 rather than the more restrictive literal approach preferred by the dissenting judge, Wheeler J. The Court determined that the Bills *did* effect an amendment to the *Electoral Distribution Act 1947*. This was despite the fact that, other than for the purpose of transitional provisions contained in the Amendment Bill, the provisions of the *Electoral Distribution Act 1947* would have ceased to have effect as from the date of repeal. The Court therefore determined that it was unlawful to present the Bills for the Governor's assent.

The Attorney General and the State appealed the decision to the High Court of Australia. In November 2003, the High Court ruled 5 to1 in

[12] Three of the four majority judges (Malcolm, Steytler and Parker JJ) argued that the transitional provisions contained in section 5 of the Repeal Bill supported a view that the Repeal Bill did "amend" the *Electoral Distribution Act 1947*. The transitional provisions preserved the existing distributions for the purposes of current representatives, and elections prior to the next general election of the Legislative Assembly. The government's position, which appears to be the correct one, is that the existence of transitional provisions did not result in the *Electoral Distribution Act 1947* being other than repealed. It was the Repeal Bill and not the *Electoral Distribution Act 1947* that was to continue the distribution affected by that latter Act

dismissing the appeal.[13] The ruling put an end, temporarily, to the Labor Government's attempts at electoral reform.

### *Prorogation: the High Court rules on its effects*

One matter of parliamentary law clarified by the High Court judgment was the status of Bills that had passed both Houses but had not received the Royal Assent. *Amici curiae*[14] argued in the High Court that the prorogation of both Houses that had occurred in August 2002 had put an end to the Bills so the Court had no active dispute on which to rule. Five of the judges rejected the argument and held that the Bills could have been assented to after prorogation had occurred.[15]

> "81. Consideration of the issues already discussed is sufficient to determine that the Full Court of Western Australia was correct in the conclusions it reached. Nonetheless, it is as well to say something briefly about the prorogation issue.
> 82. Reduced to its essentials, the submission of the *amici* on this issue was that once the two Houses of the Western Australian Parliament were prorogued (as they were by proclamation made on 9 August 2002), any Bills to which the Royal Assent had not then been given lapsed and, for that reason, could not lawfully be presented for or given the Royal Assent.
> 83. The argument depended upon giving a meaning and effect to proroguing a House of the Western Australian Parliament that, in turn, depended upon parliamentary practice in Britain. This practice was said to be sufficiently described in *Western Australia v The Commonwealth*. There, Gibbs J said, quoting Hatsell, that the rule of parliamentary practice in Britain was that "all Bills, or other proceedings, depending in either House of Parliament, in whatever state they are, are entirely put an end to, and must, in the next session be instituted again, as if they had never been". In the same case, Stephen J described the effect of prorogation as "wiping clean the parliamentary slate".

[13] Attorney-General (WA) v Marquet [2003] HCA 67 (13 November 2003), Gleeson Cj, Gummow, Hayne and Heydon JJ in a joint judgment and Callinan J: Kirby J (Dissenting).

[14] The Liberal Party of Australia (WA Division) Incorporated, the National Party of Australia (WA) Incorporated, the Pastoralists and Graziers Association of Western Australia (Incorporated), The Western Australian Farmers Federation (Inc), One Nation (Western Australian Division) Incorporated and Judith Ann Hebiton.

[15] Gleeson CJ, Gummow, Hayne and Heydon JJ in a joint judgment. Callinan J was inclined to agree with the appellant's argument but that it was unnecessary for him to determine the issue. See paragraph 302.

84. In Britain, the practice has developed of prorogation being effected by an announcement to both Houses being made in the House of Lords of the Queen's command that Parliament should prorogue. The announcement is made by one of the commissioners of a royal commission. That commission authorises the signification of the Royal Assent to any Bills then pending and that assent is pronounced before the prorogation. Accordingly, the circumstances which arise in this case would not arise in Britain. The British practice ensures that, if legislation has passed both Houses, assent is given before the Houses are prorogued.

85. The power to prorogue given by s3 of the 1889 Constitution is a power "to prorogue the Legislative Council and Legislative Assembly from time to time". The power may be exercised with respect to each House at different times or at the one time. When it is said that prorogation wipes the parliamentary slate clean, what is meant is that proceedings then pending in the House that has been prorogued must be begun again unless there is some contrary provision made by statute or Standing Order. (Here, the Standing Orders of each House provided for proceedings to be taken up after prorogation at the point they had reached when the House was prorogued.) But here, if the Bills had been passed by both Houses, there was no proceeding then pending in either House. Each House would have completed its consideration of the Bills. There being no proceeding pending in the Houses, proroguing the Houses would have had no relevant effect on the Bills. They could lawfully have been presented for and could lawfully have received Royal Assent."

The dissenting justice[16] looked to practical reasons as to why the practice in Western Australia would not mirror that of the United Kingdom Parliament. He said:

"115. Prorogation in colonies and dominions: It must be acknowledged that the references to English practice, cited by the *amici*, lend a measure of support to their submission. However, Australian practice and, it seems, practice in other countries of the Commonwealth of Nations that have generally followed English parliamentary traditions, have not observed the same strictness with respect to the rule that prorogation has the effect of extinguishing Bills that have not been signed into law.

116. The reasons for the departure from English practice in the legislatures of former British colonies and in the dominions and independent

[16] Kirby J.

nations of the Commonwealth are not hard to find. Given the huge distances of the Empire, later the Commonwealth of Nations, the personal attendance of the Monarch (as was once traditional in England) or of the Monarch's representative under commission, at the conclusion of each parliamentary session, to give assent to outstanding Bills and so wipe "clean the parliamentary slate", was not so feasible. Moreover, the necessity, in specified cases, to reserve certain Bills for the assent of the Monarch personally, contradicted the very notion of legal extinguishment upon prorogation. The time taken to send such a Bill to Whitehall and to return it with the indication of the Monarch's pleasure, would typically require the survival of the Bill over one or more prorogations, even possibly a dissolution of the legislature, if the procedure for reservation were to have utility. In consequence of this point of difference (and perhaps the development of different parliamentary traditions) a large number of Bills in Australia, specifically in Western Australia, have been given the Royal Assent after prorogation, although the passage through the Chambers of Parliament was completed before it."

### *Election 2005: another opportunity for 'one vote, one value'*

Following the State election on 26 February 2005, the Labor Government was returned for a second term. In the Council, both the Labor Party and conservatives increased their numbers and although the Greens (WA) seats were reduced from five to two they remained with the balance of power. The Labor Party again did not achieve the necessary absolute majority with the election of a Labor President. This resulted in 15 Labor Members and two Greens (WA) Members with a deliberative vote, a total 17 votes, still one short of the absolute majority required.

However, Members of the Council are elected for a fixed term of four years from the time they take their seats until May 22 following the date of their election. Accordingly from 29 March 2005, when the new Parliament commenced, until 21 May 2005 the Council transacted business with Members elected in 2001. The significant difference between the Council's composition at the time the earlier Bills were ruled unlawful by the courts and the period after the February 2005 election was that a former conservative Member had resigned from that party and remained in the chamber as an Independent.[17]

To pass its electoral reform legislation, the Government was reliant on the

[17] Hon Alan Cadby MLC (former Liberal Party Member)

Council's composition before 22 May 2005, including the support of the Greens (WA) and the Independent, to provide the required absolute majority. Negotiations between the Labor Party and the above Members resulted in agreement.

Legislation was introduced into the Assembly on 30 March as the One Vote One Value Bill 2005 and passed the Council on 6 May with amendments including a new title, the Electoral Amendment and Repeal Bill 2005. The Assembly agreed to the amendments on 17 May and the Bill received Royal Assent on 20 May.[18]

The *Electoral Amendment and Repeal Act 2005* alters the distribution of country and city seats which will take effect at the next State election due in 2009. For example: Assembly seats[19] will have approximately the same enrolment of votes allowing for a 10 percent variation; membership of the Council will increase from 34 to 36 Members but maintain an even division between metropolitan and regional seats; and the 'one vote one value principle' is entrenched, with any future amendment requiring an absolute majority in both Houses of Parliament.

Another Bill to arise from the negotiations between the Government, Greens (WA) and the Independent in relation to electoral reform was the Constitution and Electoral Amendment Bill 2005. This Bill proposed to increase the membership of the Assembly by two, from 57 to 59 Members as from 2009 and was passed by the Council on 18 May. The *Constitution and Electoral Amendment Act 2005* received the Royal Assent on 23 May 2005.[20]

### *Procedural and operational review*

**May 2005: Report on the committee system**

The modern Council committee system has been in operation since 1989. The last formal comprehensive review was conducted in 1997, although the committee system is continually being reviewed and refined to address particular issues. It is usual for changes to the committee system to be implemented at the beginning of a new Parliament.

In preparation for and during the Thirty-Seventh Parliament, which commenced in 2005, a number of initiatives were being implemented to

[18] Act No.1 of 2005.

[19] The Assembly will have 59 Members elected at the 2009 State general election. Five seats in the Mining and Pastoral region will be permitted a greater variation due to their large area and sparse population.

[20] Act No.2 of 2005.

address the practice and procedure of committees and the Council committee system. The initiatives endeavoured to assist and enhance Members' roles and contributions as committee Members and increase community awareness of, and involvement in, committees.

During the Thirty-Sixth Parliament, Council committees were extremely active. The experiences of Members serving as a Chair or Deputy Chair of a Council committee during that Parliament was recognised as being of great assistance in considering initiatives relating to the Council committee system.

On 19 May 2005, Hon George Cash MLC, in his capacity as Chairman of Committees, tabled a report *Reflections on the Legislative Council Committee System and its Operations During the Thirty-Sixth Parliament: Discussions with the Chairs and Deputy Chairs of Parliamentary Committees* (the Cash Report).

The Cash Report summarises matters discussed with Chairs and Deputy Chairs, makes comments on matters currently under consideration and offers some suggestions for the future. Some issues are able to be addressed within the power of committees themselves, others are for the consideration of the Council and the Procedure and Privileges Committee, or for consideration by the Clerk of the Council as it is his department that is responsible for matters such as training programs and resources. The Cash Report has been referred to the Procedure and Privileges Committee.[21]

**June 2005: Consideration of the Estimates of Expenditure and appointment of a new standing committee**

Unlike in previous years, in 2005 the Council did not appoint a committee to conduct an examination of the Annual Estimates of Expenditure and Budget Papers.

Prior to 2001, the Budget Papers were examined in hearings conducted by the former Council Standing Committee on Estimates and Financial Operations. Sessional Orders adopted during the Thirty-Sixth Parliament for each round of estimates hearings provided that the Council Estimates Committee was a committee of the whole House subject to those Standing Orders applying to standing committees.

The Cash Report noted that Members had expressed dissatisfaction with the process afforded by the Estimates Committee process under previous

[21] For the full report see www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Legislative+Council (go to 'Publications of the Legislative Council').

Sessional Orders. It was seen as a cumbersome and time-consuming procedure in which numerous questions were raised during a few days of hearings, Members considered that they were unable to address departmental officials directly and detailed questions and lines of inquiry were unable to be satisfactorily pursued. The Cash Report recommended that consideration be given to ensuring that a Council committee is created with a mandate to examine the expenditure of public monies.

Consequently, on 30 June 2005, the last sitting day before the House rose for the Winter recess, the House appointed an Estimates and Financial Operations Committee under Standing Orders. The functions of the new committee are to consider and report on:

- the estimates of expenditure laid before the Council each year;
- matters relating to the financial administration of the State; and
- any bill or other matter relating to the foregoing functions referred by the House.

Interestingly, the committee's terms of reference state that the committee "consists of 5 Members, 3 of whom are to be non-Government Members". Whilst appropriate for a financial scrutiny role, this is the only Council standing committee in which political composition is specified by the Standing Orders.

**August 2005: New standing committees**

On 17 August 2005 Standing Orders relating to standing committees were reconfigured, in part due to the review undertaken by Cash Report. Changes included variations to the numbers of Members on some committees and a realignment of terms of reference.

**November 2005: Procedure and Privileges Committee Report 8**

The Procedure and Privileges Committee tabled a report on *Matters Referred to the Committee and Other Miscellaneous Matters* in November 2005, addressing some issues related to committees.[22] A number of these committee matters were referred to the Procedure and Privileges Committee after being raised in the Cash Report. As yet, the Council has not dealt with recommendations of the report in relation to committees. The recommendations include amendments to Standing Orders to:

[22] Western Australia, Legislative Council, Procedure and Privileges Committee, Report 8, *Matters Referred to the Committee and Other Miscellaneous Matters*, 16 November 2005.

- allow the Business Management Committee to refer bills directly to a committee rather than a Recommendation to the House;
- provide that, unless otherwise ordered, a standing committee should not inquire into the policy of a bill regardless of the stage at which a bill is referred;
- require that where a committee initiates an inquiry of its own motion, it report that resolution to the House within two sitting days;
- allow the convenor of a committee (including Committee of the Whole) to be referred to as 'Chairman', 'Chairwoman', 'Chairperson' or 'Chair' in order to reflect current practice;[23] and
- clarify matters relating to uniform legislation.[24]

### *Management Practices*

**Departmental reports and publications**

In 2005 the Council added a 'Publications' tab to its Internet site and published:

- Its first Annual Report on the operations of the Department of the Legislative Council for the year ended 30 June 2005. The annual report also includes the Department's first performance indicators. The performance indicators will be reviewed and expanded in 2006 to ensure continuing relevance and to provide a basis for comparative analysis of previous years to chart the Department's overall performance;
- *Work of the Legislative Council Chamber in 2004: 2 March 2004 to 1 December 2004*, May 2005;
- *Work of the Legislative Council Committee Office in 2004: 1 January 2004 to 31 December 2004*, May 2005; and
- *Public Sector Employees: Liaison with Parliamentary Committees*, June 2005.[25]

[23] Note that the President has made a statement in regard to this issue endorsing the practice. If implemented, this recommendation will ensure that the practice is reflected in the Standing Orders.

[24] Pursuant to Standing Orders 'uniform legislation' is the term applied to bills that:
- ratify or give effect to a bilateral or multilateral intergovernmental agreement to which the Government of the State is a party; or
- by reason of their subject matter, introduce a uniform scheme or uniform laws throughout the States and Territories.

[25] For the full reports and documents see:
www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Legislative+Council (go to 'Publications of the Legislative Council').

**November 2005: Management structure**

The Department's management structure was reorganised to include two management teams so as to more adequately meet operational needs and to support the President and the Clerk.

The role of the Executive Management Team is to:

- provide leadership and ensure effective management, co-ordination and performance of the Department;
- consider reports of the Divisional Leaders and the President's Office;
- oversee the development and implementation of the corporate management plan, departmental and parliamentary policies and procedures, and manage information systems and controls;
- plan and develop services and information to be provided to Members and other stakeholders in the parliamentary process; and
- review and recommend to the President the annual budget for the Department.

The role of the Financial and Risk Management Team is to:

- monitor financial performance and the budget review process;
- monitor and review the internal audit function;
- liaise with the Auditor General's Office regarding external audit activities;
- co-ordinate and promote a risk management culture; and
- establish mechanisms to ensure compliance with statutory obligations.

## BANGLADESH

Following the 14th amendment of the constitution, the Bangladesh Parliament passed the Election Act 2004, reserving 45 seats exclusively for women. This is in addition to the existing 300 seats elected directly across the country. The 45 extra seats are to be allocated among the political parties in proportion to their respective representation in Parliament.

No other changes were made in 2005.

CANADA

## House of Commons

### *General*

The first session of Canada's 38th Parliament resumed on 31 January 2005, following a holiday adjournment. The minority government weathered escalating attacks from the opposition, as the testimony of witnesses before a Commission of Inquiry into the misappropriation of government funds continued to fuel allegations against the governing Liberal party. The following months saw several unsuccessful attempts to defeat the government, which survived with the support of one opposition party and independent MPs.

Between May and June tied votes obliged the Speaker to cast a vote on three occasions. The Chair offered careful explanations for each decision, emphasising that the Speaker's vote is cast without regard to party affiliation, and is based on parliamentary traditions, customs and usages, in particular, the importance of preserving the *status quo* with a view to facilitating further consideration and a decision by the House at a later date.

On 27 September Canada's 27th Governor General, Ms Michaëlle Jean, was sworn in during a ceremony in the Senate Chamber. Ms Jean's predecessor as Governor General, Ms Adrienne Clarkson, was in attendance in the Senate Chamber for the ceremony, the first time in over a century that an outgoing Governor General has been present at the swearing-in ceremony of his or her immediate successor.

Prime Minister Paul Martin's promises to call an election within 30 days of the final report, on 1 February 2006, of the above-mentioned Commission of Inquiry did little to diminish calls for the defeat of the government. Claiming the need to make progress on its legislative agenda, the government postponed opposition days until mid-November. The opposition denounced this measure as undemocratic.

Having failed to satisfy the demands of the single opposition party which had been supporting it, the government was defeated in a vote on a clearly-worded motion of non-confidence on 28 November 2005. Parliament was dissolved and a general election called for 23 January 2006.

### *Legislation*

The legislative agenda of the 38th Parliament was relatively light on substantive public policy initiatives, reflecting the fragility of the minority government, reliant as it was on the support of one minority party (the New

Democratic Party) and of Independents to pursue its legislative agenda.

Forty-nine Government Bills and six Private Members' Bills received Royal Assent in 2005. The former included an unusually large number of 'housekeeping' bills.

The motions for second reading of Bills C-31 (An Act to establish the Department of International Trade and to make related amendments to certain Acts) and C-32 (An Act to amend the Department of Foreign Affairs and International Trade Act and to make consequential amendments to other Acts) were negatived on 14 February. This was the first time a Government bill had been defeated since 1968.

In a free vote (for all MPs not in the cabinet) on 28 June, the House of Commons voted (158 to 133) to adopt controversial legislation (C-38) making Canada the third country in the world to legalise same-sex marriage. This was directly related to a series of legal decisions in the appellate courts of eight provinces and in the Supreme Court of Canada applying the guarantees of equality in Canada's Charter of Rights and Freedoms.

On 23 November Members voted 189 to 60 to defeat a Private Member's Bill (C-251) intended to prevent MPs from 'crossing the floor' without first resigning their seats and facing constituents in elections or by-elections under a new party banner.

Despite strenuous efforts on the part of the government to ensure its passage, Bill C-79, which would have amended the Canada Elections Act in order to limit third-party advertising during election campaigns, remained on the Order Paper at the time of dissolution.

Also left on the Order Paper were bills strengthening the enforcement of impaired driving laws (C-16), decriminalising the possession of small amounts of marijuana (C-17), updating animal cruelty laws (C-50), toughening penalties for gun crimes (C-82) and banning bulk drug exports (C-83).

Thanks to a flurry of last-minute co-operation from all parties, a handful of high-profile bills were successfully rushed though prior to the confidence vote on 28 November. These included:

- C-66: Energy-Cost Assistance: a bill to help lower-income Canadians cope with rising energy costs;
- C-11: Whistle-Blower Protection: protection for civil servants who alert the government of wrongdoing in their departments;
- C-37: Telemarketing: a bill to prevent telemarketers from phoning households on a do-not-call list;

- C-49: Human Trafficking: a bill to prohibit human trafficking and the withholding or destruction of identity, immigration or travel documents to facilitate the trafficking of persons;
- C-53: Tougher Drug Penalties: the bill places a reverse onus on someone convicted of either a criminal organisation offence or certain drug offences to show that property they purchased was not funded by proceeds of crime.

### *Committees*

The year saw numerous requests for 30-day extensions in respect of the consideration of Private Members' Bills by standing committees. This reflected the complexities of committee consideration in the context of a minority Parliament, as well as new rules respecting Private Members' Business.

This period also saw the establishment of two *ad hoc* committees chaired by the Speaker of the House, one to oversee the budgets of Officers of Parliament, and the other to oversee the development of an official symbol for the House of Commons.

Once Bill C-38, the 'same-sex marriage bill', was adopted at second reading, it was referred to a legislative committee chaired by the Deputy Chair of Committees of the Whole. Such committees are unusual in Canada's House of Commons, most bills being referred for study to standing committees.

The expenses of the president of the Royal Canadian Mint, Mr David Dingwall, generated a great deal of controversy. Mr Dingwall, a former Cabinet Minister (1993-97), resigned as head of the Royal Canadian Mint on 28 September 2005. On 19 October he was questioned extensively by Members of the Standing Committee on Government Operations and Estimates, both in regard to his expense claims and to his claim for severance pay. At the time of dissolution, the Committee was still considering Mr Dingwall`s testimony and had not yet reported back to the House.

## Senate

On 31 May 2005 Senator David Tkachuk raised a point of order stating that Bill S-33, An Act to amend the Aeronautics Act, was introduced by Government Leader in the Senate without the necessary Royal Recommendation. According to Senator Tkachuk, the bill was out of order since it called for certain disbursement by the Federal Government which

required a Royal Recommendation. In his ruling, the Speaker concluded that it was plausible that the bill might involve a new appropriation and that Royal Recommendation was required. He also stated that since it is a constitutional practice for bills containing a Royal Recommendation to be introduced first in the House of Commons, it is possible that its Speaker could rule in favour of a point of order challenging the constitutional propriety of introducing legislation with financial implications in the Senate. Therefore, it was ordered that the second reading motion be withdrawn and the bill be discharged from the Order Paper, effectively nullifying all proceedings in connection with the bill.

On 30 June 2005 the Senate adopted the Fifth Report from the Standing Committee on Rules, Procedures and the Rights of Parliament that recommended a change to the practice of numbering bills. Previously, the practice was to number all bills in sequence as they were read for a first time. There were no distinctions between government, public or private bills. Beginning in the next Parliament, the Senate will reserve the numbers S-2 to S-200 for government bills, S-201 to S-1000 for public bills introduced by individual senators and S-1001 and up for private legislation.

During the Canadian Presiding Officers' Conference, the Deputy Clerk of the Senate presented a paper on a three day conference of Speakers from 150 national parliaments at the General Assembly of the United Nations in New York City. The conference focused on UN reform from a parliamentary point of view and to define the working relations between parliaments and the UN in the years to come. Discussions held at both the plenary sessions and the panel debates focused primarily around four basic themes:

- How important is parliamentary diplomacy and inter-parliamentary cooperation?
- Can parliaments be of assistance in making UN reform effective?
- What new strategic partnership should there be between parliaments and the UN?
- How can parliaments reform themselves to ensure a better relationship and better cooperation with the UN?

An article in this *Table*, by Gary O'Brien, reviews the conference in more detail.

## British Columbia Legislative Assembly

### *38th Provincial General Election, 17 May 2005*

Following a record number of recounts, the BC Liberal Party again formed government with 46 of the 79 seats in the Legislative Assembly. The BC New Democratic Party elected 33 members, up from the three members at dissolution.

No Independent candidates or representatives from other parties won seats in the House.

The BC Liberals received 46 percent of the popular vote, down from 58 percent in 2001, while the New Democrats won 42 percent of the popular vote, up from 22 percent in the last election. The Green Party of British Columbia collected nine percent of the popular vote, down from 12 percent in 2001, while the 22 other parties running candidates each earned less than one percent of the popular vote.

### *Electoral Reform*

Held in conjunction with the provincial general election, British Columbia's Referendum on Electoral Reform failed to yield a clear endorsement for the adoption of the proposed single transferable vote electoral system, known as BC-STV. While the single transferable vote option received more than 50 percent support in 77 of 79 ridings and aggregate province-wide support of 57.69 percent, the referendum failed to meet the pre-determined threshold of 60 percent popular support as required for successful passage under the Electoral Reform Referendum Act.

However, in light of the significant public support for the concept of electoral reform, the government expanded the reporting requirements of the statutorily-mandated Electoral Boundaries Commission in November 2005. Under the Electoral Boundaries Commission Amendment Act, the Commission is charged with redrawing the province's ridings to accommodate either single member plurality or multi-member, single transferable vote elections. The Commission may recommend the increase the number of representatives elected in BC by up to six Members—for a total of 85 MLAs—for either electoral system. The Commission is required to provide an initial report to the Speaker by 15 August 2007, with a final report by February 2008. Once the implications of the proposed BC-STV are better known, the electorate will have another opportunity to vote on their preference for an electoral system in a second referendum on the recommendations of the Electoral Boundaries Commission during the province-wide

municipal elections scheduled for 15 November 2008. If a new electoral system is adopted, it will be in place for the next provincial general election, scheduled for May 2009.

### *Broadcasting innovations*

In 2005 the Legislative Assembly of British Columbia introduced several technological innovations to improve the public's ability to access parliamentary proceedings. For the first time, concurrent sittings of the Assembly's Committee of Supply, which regularly meets in two distinct sections, are fully televised. The proceedings of Committee of Supply Section A, which are held in a committee room near the main legislative chamber, are televised and broadcasted immediately after proceedings in the main House are adjourned. In addition, the proceedings of all parliamentary committee meetings, be they held at the Parliament Buildings or elsewhere in the province, are now webcast via streaming audio through the Committees' web site—permitting both staff and the public to listen to live Committee hearings from around the province. Finally, Hansard Services is producing downloadable podcasts of Question Period. The podcasts allow British Columbians to listen to or review an audio file of Question Period on their personal computers or personal digital stereo equipment, such as MP3 players.

### *Special Committee on Sustainable Aquaculture*

For the first time, the Official Opposition will both chair and have a majority of members on a British Columbia parliamentary committee. The Special Committee on Sustainable Aquaculture has been tasked to conduct a comprehensive review and public consultation on the environmental and economic impacts of aquaculture on the local and the provincial economies; review options for sustainable aquaculture to balance economic goals with environmental imperatives; and assess British Columbia's aquaculture regulatory regime vis-à-vis other jurisdictions. The committee will report on its findings no later than May 2007.

### *Select Standing Committee on Finance and Government Services—Budget 2006 consultations*

During its annual budget consultation process, the all-party Select Standing Committee on Finance and Government Services heard from a record 4,436 British Columbians regarding their priorities for future provincial budgets. Most of the submissions (3,998) were online responses to the questionnaire

included in the government's Budget 2006 Consultation Paper.

The budget consultations conducted by the Finance Committee were also the first in British Columbia to broadcast live audio of committee proceedings from outside the legislative precincts, using webcasting technology.

### Newfoundland and Labrador House of Assembly

During the spring sitting there were disturbances which required that the Speaker clear the public galleries on 13 occasions. After six consecutive days of disturbances requiring the clearing of the galleries the Speaker (Hon. Harvey Hodder MHA) announced that on the next sitting day the galleries would not be open to the public. The House sat with the galleries closed on 27-28 April. On these two days the opposition, Liberal and New Democratic, boycotted the House. On the next sitting day, 2 May, the House did not sit at all as demonstrators outside the building housing the House of Assembly prevented Members and staff from entering the premises. There were four more occasions on which the galleries were cleared after 2 May and on 11 May at the end of the day some visitors in one of the public galleries threw jelly beans on to the Table and the floor of the house. The Clerk was struck on the shoulder but suffered no permanent effects. Jelly beans were the projectiles of choice because the Minister of Fisheries, Trevor Taylor MHA had used jelly beans as an example in explaining the Government's policy on raw materials sharing—which was the cause of some dissatisfaction among certain sectors of the fishing industry.

## INDIA

### Rajya Sabha

#### *Ensuring adherence to the Ethical Code of Conduct*

The Committee of Ethics of the Council of States (Rajya Sabha) in the Upper House of the Indian Parliament exists to oversee the moral and ethical conduct of Members. It is, in fact, the first such Committee to be set up by any legislature in India. Under the Members of Rajya Sabha (Declaration of Assets and Liabilities) Rules 2004 a duty is cast on the Members to declare their assets and liabilities and assets of their spouses and dependent children within ninety days of their subscribing the oath/affirmation in the House. Similarly, Rule 293 of the Rules of Procedure and Conduct of Business in the Council of States requires a Register of Members' Interests to be maintained in such form as may be determined by the Committee on Ethics. The

Rule is more of a general nature and leaves it to the Committee to determine the elements of declaration of Members' interest and the form of the Register of Members' Interests. Accordingly, the Committee on Ethics in its Fourth Report, which was presented to the Council on 14 March 2005, recommended *inter alia* the following five pecuniary interests on which Members would be required to furnish their declaration:

- *Remunerative Directorship* (name and address of the company; nature of company business; salary/fees/allowance/benefits or any other receipts which are taxable per annum).
- *Regular Remunerated Activity* (name and address of the establishment; nature of business; position held; amount of Remuneration received per annum).
- *Shareholding of Controlling Nature* (name and address of the company; nature of business of the company; percentage of shares held).
- *Paid Consultancy* (nature of consultancy; business activity of the organisation where engaged as consultant; total value of benefits derived from the consultancy).
- *Professional Engagement* (description; fees/remuneration earned therefrom per annum).

The Committee on Ethics in its Report also laid down that every Member shall notify the changes, if any, in the information furnished by him/her as on the 31 March every year, within ninety days from that date. The Report of the Committee was adopted by the Council on 20 April and the recommendations were enforced with effect from 2 May.

Another notable development that took place in 2005 also pertains to the Committee on Ethics. A matter was referred to the Committee by the Honourable Chairman of the Council involving the conduct of some members who were shown to be accepting money for asking questions in Parliament in a TV programme by a private channel titled *Operation Duryodhan*. The Chairman made the following observations in the Council on 12 December 2005:

> "Hon'ble Members, I am very much disturbed to see episodes shown by a Private TV Channel as part of its programme *Operation Duryodhan*. It is a matter of great concern and anxiety for all of us here.
>
> The Parliament is the pillar of dignity for the democracy. The dignity of democracy can remain safe and dignified only if the dignity of Parliament itself remains intact. This dignity and prestige of our Parliament have

suffered a blow by incidents being shown on TV Channel. The House will have to contemplate seriously on how to maintain the integrity and credibility of the Parliament and in case its dignity is harmed in any manner, how to protect it effectively.

It has been our endeavour to ensure that the Parliament maintains the highest ideals of dignity. With this objective in mind, we have formed an Ethics Committee in this House and on the basis of its report, we have also adopted a Code of Conduct. I have decided to refer the whole episode of today's incident to the Ethics Committee and have directed the Committee to consider this issue promptly and submit its recommendations to me at the earliest for consideration by the House."

The Committee, after holding preliminary discussions, noted that only one of the Members shown in the TV programme belonged to the Council, and his act of being caught on tape accepting money for asking questions had damaged the image of Parliament and brought this august institution into disrepute. The Committee, accordingly, in view of the gravity of the situation arising out of the telecast of the said programme, made a preliminary report to the Council recommending the suspension of the Member, pending a final view being taken by it after detailed investigation into the matter and affording an opportunity to the said Member to explain his position. The Report was presented to the Council by the Committee on 13 December 2005, and the recommendation made therein was agreed to the same day by the Council, resulting in the suspension of the Member from the House from that date.

Subsequently, after viewing the video tapes and considering the written and oral submissions of the Member and the oral submissions of the broadcaster and the team which conducted the sting operation, the Committee reached the conclusion that there was overwhelming and clinching evidence to prove that the Member had contravened item (v) of the Code of Conduct for Members of the Council which reads as follows:

"Members should never expect or accept any fee, remuneration or benefit for a vote given or not given by them on the floor of the House, for introducing a Bill, for moving a resolution or desisting from moving a resolution, putting a question or abstaining from asking a question or participating in the deliberations of the House or a Parliamentary Committee."

The Committee accordingly recommended in its Seventh Report, presented to the Council on 23 December, that the Member be expelled from the

membership of the House as his conduct was derogatory to the dignity of the House and inconsistent with the Code of Conduct adopted by the House.

The Council considered the said Report on 23 December and concurred with the recommendation of the Committee made therein. Consequent to the adoption of the Report of the Committee by the Council, the Member was expelled from the membership of the House with effect from 23 December 2005.

## Himachal Pradesh Legislative Assembly

This year the 4-day Winter Session of the Himachal Pradesh Legislative Assembly was conducted at Dharamshala, a place other than the State Capital, from 26-29 December. This practice has been evolved for the first time.

# NEW ZEALAND

## House of Representatives

### *New Speaker mid-term*

On 2 March 2005 the Rt Hon Jonathan Hunt resigned as Speaker of the House of Representatives. It has been uncommon for the House to need to elect a Speaker during the term of a Parliament. The last occasion was on 28 May 1985 when the House elected a Speaker following the death of Sir Basil Arthur. On 10 May 1978 the House elected a Speaker to succeed Sir Roy Jack who had died during the recess, and on 7 June 1972 the House elected a new Speaker after Sir Roy Jack resigned as Speaker to take up appointment as a Minister.

Where a vacancy arises in the office of Speaker during a Parliament, the House is required by section 12 of the Constitution Act 1986, immediately at its next meeting, to choose another Member as Speaker. On being notified by the outgoing Speaker of his resignation, the Governor-General formally conveyed that information to the Prime Minister, asking that the House be informed that it was Her Excellency's desire that the House proceed to choose one of its Members as its Speaker. When the House met at 2 p.m. on 3 March 2005, the Clerk reported the vacancy and the Leader of the House made a statement communicating Her Excellency's request to the House.

A three-way contest for the election of Speaker ensued, with the Government-supported candidate, Hon Margaret Wilson, lately Attorney-

General and Minister in Charge of Treaty of Waitangi Negotiations, being elected.

In accordance with the vice-regal communication, the Speaker-Elect presented herself to the Governor-General on the afternoon of 3 March to be confirmed in office. The previous Speaker had already laid claim to the privileges of the House and asked that a favourable construction be put on the House's proceedings at the beginning of the Parliament. Despite the tenor of some members' speeches on congratulating the Speaker-Elect on her election, the privileges were not claimed again.

The previous Speaker resigned his seat as a member of Parliament with effect on 31 March, to take up an appointment as New Zealand's High Commissioner to the United Kingdom. The next Labour party list candidate was declared elected a member of Parliament by the Chief Electoral Officer on 4 April.

## TANZANIA

Parliament was officially dissolved by the President on 5 August 2005, ready for the general elections scheduled for 30 October. However, the elections did not take place as scheduled due to the untimely death a few days before voting day of one of the presidential running mates. As a result, the campaigns and other related matters were halted and the voting day was deferred to 14 December 2005.

## UNITED KINGDOM

### House of Commons

#### *Payment for committee chairmen*

The House of Commons is extremely unusual among parliamentary assemblies in having a dual system of committees: select committees to undertake investigations into the policy, expenditure and administration of government departments[26] and standing committees to conduct the committee stages of the overwhelming majority of bills through a process of clause-by-clause debate. The chairman of a select committee is appointed by the committee itself from among its members; but the chairman of a standing committee is nominated by the Speaker from the membership of the Speaker's Panel of Chairman, to preside impartially over the proceedings of the committee.

[26] And sometimes into other matters (such as the price of CDs or the provision by banks of ATMs) whose relationship to the responsibilities of ministers is not entirely clear.

Given the nature of select committee work and, in particular, the burden that falls on the chairman of a busy committee, it had been felt for a long time that select committee chairmen should receive at least some token recompense for their extra responsibilities and workload; and on 30 October 2003, following the recommendations of the Senior Salaries Review Board (SSRB),[27] the House agreed payments for the chairmen of departmentally-related committees and of the cross-cutting, externally focused scrutiny committees such as Public Accounts and Environmental Audit.

However, there was some debate at the time as to whether payment should be extended to 'internal' committees such as Procedure. Some of those who advocated the extension of payment to a wider range of select committee chairmen also began to wonder whether there might also be a case for paying the chairmen of *standing* committees. There were various grounds for doing so. Not only can chairing a bill in standing committee be time-consuming and onerous, but because committees are occasionally summoned with very little notice, members of the Chairmen's Panel have to be prepared to cancel other appointments in order to chair the committee. Moreover, around the Westminster village the chairmanship of a high-profile select committee carries a certain degree of kudos and journalists frequently ask select committee chairmen for their views on the big political issues of the day. Chairing a standing committee is, in comparison, a pretty thankless task—with a media profile of zero.

In due course the Government decided to put the matter to the SSRB, which duly conducted an investigation into the justification for paying standing committee chairmen and reported in favour of doing so. As result, when in July 2005 payment for chairmen of select committees was extended to cover the chairmen of the Administration Committee, the Finance and Services Committee, the Liaison Committee, the Procedure Committee, the Committee of Selection and the Committee on Standards and Privileges, the House also agreed that chairmen of standing committees should be paid.[28]

The current situation is that while those chairmen of select committees who receive payments all get the same rate, standing committee chairmen are paid on a sliding scale:

- for less than one year, £2,615;
- for at least one year but less than three years, £7,340;
- for at least three years but less than five years, £9,960; and

[27] SSRB Report No. 55 (July 2003) paragraph 2.22.
[28] *Votes and Proceedings* (2005–06) 13 July.

- for five years or more, £13,107 (the rate paid to select committee chairmen).[29]

Payment began on 1 November 2005.

## House of Lords

### *The Lord Chancellorship and the Speakership of the House of Lords*

Volume 72 of *The Table* (2004) included notes on the Lord Chancellorship and the Constitutional Reform Bill (pp. 118-19). It described the Government's announcement of the end of the Lord Chancellor's roles as a judge and Speaker of the House of Lords and the appointment of a Select Committee on the Speakership of the House. It noted that, while the Constitutional Reform Bill remained under consideration, no action had been taken on the Committee's Report. Volume 73 (2005) included (pp. 11-19) an article on the Select Committee to which the House of Lords referred the Constitutional Reform Bill.

The Constitutional Reform Act finally received Royal Assent on 24 March 2005, and soon afterwards Parliament was dissolved. Progress had been made on finding a location for the new Supreme Court—the Middlesex Guildhall, just across Parliament Square from the Palace of Westminster—but the need to fit it out for use as the Supreme Court led to the announcement in March 2006 that the Supreme Court would not come into being until October 2009.

On 12 July 2005 the question of the speakership was revived with a motion by the Leader of the House, agreed to without a division, "to resolve that this House should elect its own presiding officer; that a Select Committee on the Speakership of the House be appointed to consider further how to implement this resolution with full regard to the House's tradition of self-regulation; that the following Lords be named of the Committee … and that the Select Committee shall make recommendations to the House by 20th December 2005". The membership of the Committee was similar to that of the 2003 Select Committee on the Speakership of the House, with one member replaced and a twelfth member (a Bishop) added. Lord Lloyd of Berwick, a retired law lord, was again Chairman.

The Committee duly reported in December 2005. Like the predecessor Committee, it recommended that the elected presiding officer, to be designated 'Lord Speaker', should have no significant powers in the Chamber,

[39] Broken service is included in assessing qualifying periods for payment.

which should remain 'self-regulating'. Even the Leader of the House's role in assisting the House at question time (when an issue arises as to who should ask the next supplementary question, or when to move to the next question), a role which the present Leader had wished to hand to the Speaker, was to continue. Outside the Chamber, the Lord Speaker would chair the House Committee (the main 'domestic' committee, which oversees the finances of the House of Lords administration), make certain decisions on emergency recall of the House and the application of the *sub judice* rule, and preliminary decisions on the acceptance of private notice (urgent) questions, represent the House at home and overseas, and take on other miscellaneous roles, mostly undertaken at present by the Lord Chancellor.

The Committee recommended an election by secret ballot, using the alternative vote system. Under this system voters—all the members of the House—number candidates in order of preference. If no candidate has 50 per cent of the total votes cast then the votes of the candidate receiving fewest votes are transferred until one candidate has 50 per cent of the total. The Lord Speaker was to be elected for a period of five years, and to serve for a maximum of two terms. Candidates would be proposed and seconded by two other members of the House.

A motion to approve the Committee's report was debated on 31 January 2006. An amendment to transfer to the Lord Speaker the Leader's role at Question Time was defeated by 176 votes to 132, three other amendments (including one to combine the role with the existing office of Chairman of Committees) were withdrawn or negatived, and then the motion was agreed to without a division.

The House Committee and the Procedure Committee subsequently made follow-up reports. On the advice of the Senior Salaries Review Body the House Committee recommended a salary the same as that of a Cabinet Minister. On 2 May 2006 the House agreed, rejecting by 162 votes to 108 an amendment that would have reduced the salary to that of the Chairman of Committees.

The Procedure Committee drew up a Standing Order governing the election procedures and made recommendations on the conduct of the election—for example, restricting candidates to a 75-word election address to be circulated with the list of candidates—and other details relating to the speakership including dress. The Select Committee on the Speakership of the House had recommended that the Speaker should wear a gown but not a wig, and the Procedure Committee recommended that court dress should be worn under the gown (as happens in the House of Commons).

Following the agreement of the House to the relevant committee reports, a notice announcing the election arrangements was issued on 10 May, naming 28 June 2006 as the day of the election, and 5 June as the final date for nominations. As recommended by the Select Committee on the Speakership of the House, Her Majesty the Queen was to be invited to approve the House's decision. The result of the election would be announced, and Her Majesty's approval reported to the House, by the Lord Chamberlain, at the start of business on 4 July, when the new Lord Speaker would immediately replace the Lord Chancellor on the Woolsack.

### *The Hunting Act 2004 and the Parliament Acts: the Law Lords' Judgment*

Last year's *Table*[30] described the passage of the Hunting Act 2004, using the procedures of the Parliament Act 1911 ('the 1911 Act') as amended by the Parliament Act 1949 ('the 1949 Act'), and the first stages of the legal challenge to the validity of the Hunting Act. The argument advanced by the opponents of the Hunting Act was that the 1949 Act, passed under the 1911 Act, was invalid, because the procedures set out in the 1911 Act could not be used to amend the 1911 Act itself.

By the time last year's *Table* went to press, the High Court and the Court of Appeal had both rejected the claim that the Hunting Act was invalid, but for rather different reasons. Maurice Kay, LJ, giving the judgment of the High Court, said that the case foundered "on the clear language of the 1911 Act" which did not expressly exclude the possibility that the 1911 Act procedures could be used to amend the 1911 Act itself.

The Court of Appeal took a different approach. It accepted that the change made to the 1911 Act by the 1949 Act was valid, and thus rejected the appeal, but it said that the use of the 1911 Act to make further constitutional change should be judged on its merits, and "the greater the scale of the constitutional change proposed by any amendment, the more likely it is that it will fall outside the powers contained in the 1911 Act".

The Appellate Committee of the House of Lords heard the appeal on 13-14 July 2005, and gave judgment on 13 October 2005. The importance of the case was reflected in the unusual size of the committee (9 law lords, instead of the more usual 5), and in the length and detail of the speeches setting out the reasoning of the members of the committee.[31]

[30] See Tom Mohan, *The Hunting Act 2004 and the Parliament Acts*, in *The Table*, 73 (2005), pp 34-45.

[31] *Jackson and others (Appellants) v. Her Majesty's Attorney General (Respondent)*, [2005] UKHL 56.

The Law Lords were unanimous in dismissing the appeal. Lord Bingham of Cornhill, the senior Law Lord, said that "The 1949 Act and the 2004 [Hunting] Act are Acts of Parliament of full legal effect" (para 39).

Overall, the Law Lords supported the High Court's reasoning, rather than the approach of the Court of Appeal. Lord Hope of Craighead said that he was unable to accept the Court of Appeal's distinction between "relatively modest" changes to the law (which could properly be made by Acts passed under the 1911 Act) and changes of "a fundamentally different nature" affecting the relationship between the two Houses of Parliament. He said that this distinction raised "questions of fact and degree about the effect of legislation which are quite unsuited for adjudication by a court" (para 127). Lord Brown of Eaton-under-Heywood described the Court of Appeal's approach as "unwarranted in law and unworkable in practice" (para 194).

Lord Brown, along with other Law Lords, reserved his position on whether the 1911 Act could be used to achieve major constitutional reform such as abolishing the House of Lords. Lord Steyn commented that—

> "The logic of [propositions put forward by the Attorney General] is that the procedure of the 1949 Act could be used by the government to abolish the House of Lords. Strict legalism suggests that the Attorney General may be right. But I am deeply troubled about assenting to the validity of such an exorbitant assertion of government power in our bi-cameral system. It may be that such an issue would test the relative merits of strict legalism and constitutional principle in the courts at the most fundamental level." (para 101)

## WALES

Following the publication of the Report of the Richard Commission in spring 2004, the National Assembly passed a Resolution in October 2004 calling on the United Kingdom Government to amend the Government of Wales Act 1998 (the National Assembly's 'basic constitution') to separate the legislative and executive arms of the Assembly, to enhance its electoral powers and to correct some of the anomalies of the electoral system.

Proposals along these lines were contained in the Labour Party's 2005 General Election Manifesto, and after Labour won the May 2005 UK General Election, the Government promptly introduced a White Paper in June, entitled *Better Governance for Wales*. The proposals it contained were the subject of inquiries by a special Assembly Committee, and by the Welsh

Affairs Committee of the House of Commons. A Government of Wales Bill was introduced into the Commons on 8 December 2005. The Bill was (at the time of writing) going through its Committee stage in the House of Lords. It is hoped that it will become law before the summer recess 2006, and be implemented after the next Assembly elections in May 2007.

The Bill splits the corporate body of the present Assembly along conventional Legislature/Executive lines. This reform has been welcomed by all political parties and most commentators, and will make the Assembly a much more 'normal' body in the eyes of Commonwealth Clerks. Other reforms are more controversial. Although the Bill foresees future primary legislative powers for the Assembly in devolved fields following a referendum, no date is set for this. Instead, a new procedure is proposed under which Orders in Council passed by the Assembly and both Houses at Westminster will give the Assembly power by Measure to legislate in areas circumscribed by the specific Order in Council. Measures will, however, be tantamount to primary legislation.

On the electoral system, Richard had proposed Single Transferable Vote and 80 Members. However, the Bill preserves the Additional Member System of 40 first-past-the-post Members and 20 additional regional Members elected so as to introduce rough proportionality. As introduced, the Bill proposed that candidates for election must not stand both as candidates for the top-up lists of regional Members and as candidates in individual constituencies. At the time of writing, this part of the Bill had been struck out in Committee in the Lords.

Assuming that the Bill is passed, the Assembly post-2007 will be a different place, with new powers and responsibilities, as well as a requirement to stand administratively on its own. All this has meant, and continues to mean, a great deal of work for the staff of the parliamentary Assembly.

# COMPARATIVE STUDY: INDUCTION OF NEW MEMBERS

## AUSTRALIA

### House of Representatives

Newly elected Members of the House of Representatives are provided with a two day induction programme—the New Members' Seminar. This takes place about a week before the first day of sitting of the new Parliament.

The seminar is designed to introduce new Members to the range of services available to support them in their role as Members of Parliament. It deals with procedures for the opening of Parliament, the workings of the Chamber, the opportunities provided by parliamentary committees and the information, research, analytical and technical services that are available. It also offers a Member's perspective on balancing various responsibilities. The seminar programme for the new Members of the current Parliament was as follows:

#### *Session one—being a member of parliament—parliamentary work*

This session focuses on the work of the Chamber and parliamentary committees. It introduces the main processes and procedures of the Chamber, advice on how to access information about the business of the Chamber, and the role of the Party Whips. Also information about opportunities available as a member of a parliamentary committee to consider broad public policy issues, to hold government agencies to account for their expenditure of public money, and to review proposed legislation. The headings and speakers were as follows:

- Members and the Speaker (Speaker of the previous Parliament)
- Business of the Chamber and the Main Committee (Clerk of the House; Deputy Clerk)
- Chamber support (Clerk Assistant (Table))
- The Party Whips (Chief Government Whip; Chief Opposition Whip)
- The opportunities presented by parliamentary committees (Clerk Assistant (Committees); Members who were Committee Chair and Deputy Committee Chair in previous Parliament)
- Promoting the work of committees (Clerk Assistant (Table))

*Session two—supporting your parliamentary work*

This session outlines support services for Members and their offices in Parliament House and the electorate, some information about the security environment in Parliament House and key contact points for assistance with financial and administrative matters.

The session continues with the information and research services available through the Parliamentary Library. Communication, broadcasting and Hansard services and Parliament House facilities are also outlined. Headings and speakers are:

- Your Parliament House office (Serjeant-at-Arms; Deputy Serjeant-at-Arms; Director, Information Systems and Publishing)
- Entitlements and staff employment (Director, People Strategies; Staff from the Department of Finance and Administration)
- Information and research (Assistant Secretary, Information and Research, Department of Parliamentary Services; Director, Information and Research Services, Parliamentary Library; Assistant Secretary, Library Resources and Media Services, Parliamentary Library)
- Communication and other services (Secretary, Department of Parliamentary Services; Assistant Secretary, Client Support, Broadcasting and Hansard, Department of Parliamentary Services)

*Session three—being a Member of Parliament—practical aspects*

This session focuses on some practical issues which new Members will face in their first weeks, including their role in the ceremonial opening of Parliament and their responsibilities in relation to declaration of personal financial interests. A new Member from the last Parliament shares some insights and tips for a successful start to a career as a parliamentarian.

- A Member's perspective—balancing your responsibilities (a Member who had been a new Member in the previous Parliament)
- Members' interests requirements (Deputy Clerk)
- First Day of Sitting—opening procedures and the swearing-in ceremony (Clerk of the House; Deputy Clerk)

*Session four—questions*

A final session gives an opportunity to ask questions about material covered during the seminar or any other matter associated with duties as a parliamentarian. Questions are answered by the Clerk of the House; Deputy Clerk;

Serjeant-at-Arms; Clerk Assistant (Table); Clerk Assistant (Committees); and Secretary, Department of Parliamentary Services.

There is also an optional session covering choices for accommodation in Canberra. Other activities on offer include tours of Parliament House, new Members' group photograph, partners' tour of Canberra, and a reception for Members and their partners and seminar dinner.

## Senate

### *Introduction*

The Australian Senate is fortunate in that new senators typically have long lead times between their election and the commencement of their terms. This enables the Department of the Senate to provide them with a reasonably extensive orientation process, which covers:

- basic information about the role of the Senate, its part in the legislative process, and its role in the system of government;
- their role as a senator and the procedures to be followed in the chamber;
- the operation of Senate committees;
- the research facilities available to them;
- the entitlements available to them.

In addition, while it is not the role of the department to manage the Senators' political induction, the orientation process includes opportunities for Senators to meet with their party office-holders.

### *Form of the induction process*

In accordance with s.13 of the Australian Constitution, the term of office of a Senator elected in a normal half-Senate election[1] commences on July 1 following the election. Consequently, the Senators elected on 9 October 2004 did not commence in office until 1 July 2005, and they were not sworn in until the next sitting day, which was 9 August 2005.[2] This contrasts markedly with most other parliaments, where members of parliament essentially begin work

[1] Except in the relatively rare event of a simultaneous dissolution of both Houses of the Parliament, only half of the Senators stand in each election. Their term is therefore six years, compared to three for members of the House of Representatives.

[2] Senators from the Northern Territory and the Australian Capital Territory are in a slightly different position, as their terms of office are the same as for members of the House of Representatives. However, all four territory senators were re-elected in 2004, so induction was not an issue.

the morning after the election, and may find themselves in the parliament a matter of a few weeks after the election.

As a result, the Senate Department is able to undertake an orientation programme in four phases:

- an immediate welcome and written information package from the Clerk;
- briefings on staffing, allowances and office accommodation some months prior to their commencement of office;
- a three day intensive orientation programme, conducted for them as a group in parliament house; and
- a briefing on the estimates process prior to the senators' first participation in estimates hearings.

### *Phase 1—immediate information*

Immediately after the successful Senate candidates are known,[3] the Clerk of the Senate writes to new senators-elect expressing his congratulations, and providing them with a range of publicly-available information on the Senate and its processes. They receive information on Senate procedure, services for senators, remuneration, and the declaration of interests. They are also advised not to undertake employment with any executive government instrumentality either as an employee or on a fee for service basis, as doing so may result in their disqualification.[4] They are also informed at this time of the forthcoming induction processes.

During their time as senators-elect the successful candidates frequently come to Parliament House and call on Senate officers for particular categories of information. The opportunity is taken at those times to anticipate many of the subjects subsequently covered in the more formal orientation process.

### *Phase 2—briefings on staffing and allowances*

Senators have access to a range of travel, postage and other administrative entitlements which are essential to the performance of their duties. However, the political cost of misusing these entitlements can be very high, and ignorance is not held to be an excuse.

Consequently, several weeks after their election, senators-elect are invited to a single-day programme in parliament house where they receive a general

[3] Due to the relatively complex proportional representation voting system, this may be some weeks after the election.

[4] Australian Constitution, ss. 44 and 45.

introduction to the Senate and its department. The main focus of this day, however, is to provide incoming senators with the practical knowledge they require in order to establish their electorate offices and their Parliament House offices. They are briefed by the Department of the Senate on salary, allowances, taxation and banking arrangements, and on accommodation and other services in Parliament House.

Officers from the Ministerial and Parliamentary Services unit of the Department of Finance and Administration (the executive department which administers the Parliamentary Entitlements Act 1990) also attend, and brief the incoming senators on their entitlements framework, and on the employment of personal staff.

### *Phase 3—a three day programme*

The new senators meet as a group, in Parliament House, and spend the three days essentially as class-mates. There is no distinction made between them on the basis of the state they represent, or their political party membership (except, of course, during their introduction to their party office-holders).

This phase of the orientation process is left until relatively late, and usually occurs between the senators' commencement of office and their first sittings. If it were held earlier, it is likely that the information would not be sufficiently fresh when they commenced duty in the chamber.

In addition, during this session new senators are given assistance with the practicalities of Canberra life, such as finding a place in Canberra to live.

The information given to new senators reflects a number of themes, set out below.

### *Basic institutional information*

Parliamentarians, of course, come from all walks of life. The fifteen new senators who undertook induction in 2005 included a rural health consultant, an engineer, two lawyers, two former state parliamentarians, two former ministerial staffers, a funeral director, an accountant, three union officials, a conservation lobbyist, and an international relations professor. It will be self-evident that they arrived in the Senate with different levels of understanding about the Australian parliamentary system and the Senate's role within it.

The orientation process therefore includes introductory meetings with the President of the Senate, and with senior departmental officers—the Clerk, Deputy Clerk and branch directors.

The senators are introduced to the legislative process through a seminar

following the progress of a bill from its drafting, through its introduction and passage in both houses, to its proclamation.

They are introduced to the concept of parliamentary privilege, its importance for a free parliament, the protection it brings with it, and its responsible exercise.

### *Chamber business*

The senators, perhaps unsurprisingly, are very keen to get into the Senate chamber and to learn how to perform within it. Immediately after they are welcomed to the building by the President, on the first morning of the orientation programme, they receive a tour of the chamber itself. Senators are shown where they will sit; have the salient features of the chamber pointed out to them; are shown how to operate their chamber telephones; are taught how to enter and move about the chamber; and are taken through the process for their swearing-in ceremony.

Later in that first morning they receive a more comprehensive briefing on chamber proceedings, using video material. The following morning, they put this knowledge into practice in the chamber by undertaking role-plays, in which they practise basic chamber procedures. They are taught how to:

- seek the call and make a speech;
- move motions and amendments;
- ask questions;
- call quorums;
- take points of order.

In addition, senators are taught at this point about chamber etiquette, the role of the parties, the role of the Clerks at the table, and the role of the attendants.

### *Research facilities*

The Clerk Assistant (Table) provides the senators with a guide to the working documents of the Senate: the Notice Paper, the Order of Business (the Senate 'red'), the Daily Bills List, the Journals, and the Senate Daily Summary. In addition, they are provided with guidance as to the other sources of information available to them, many of which are accessible through the Parliament's computer network.

On the third day of the orientation, staff from the Parliamentary Library brief new senators on the facilities available through the Library. The Library provides quite comprehensive research advice through a team of full-time researchers. In most cases senators can instruct parliamentary library staff to

undertake research on their behalf, and then to provide a written report based on that research.

### *Senate committees*

The Senate's committee system is one of its most notable characteristics. Consequently, senators without ministerial responsibilities are likely to spend a great deal of their time engaged in committee matters. The induction process includes several hours' introduction to the committee system, including:

- the powers of committees;
- the manner in which they conduct inquiries;
- the operation of the estimates process;
- the rights and obligations of witnesses before committees.

### *Senators' entitlements*

The orientation process also includes officers from the Department of Finance and Administrative Services, who provide information about employing and managing staff. Personal staff in Australia are employed directly by the senators, in accordance with the Members of Parliament (Staff) Act 1984. For many senators, their commencement of office may be the first time that they have employed staff. Issues such as recruitment, probation, occupational health and safety, performance management, and termination of employment are therefore all given brief coverage.

In addition, senators receive some further information regarding the appropriate use of their allowances, and the paperwork required in order to draw upon them. During these sessions they build on the preliminary information provided during phase 2 of their orientation.

### *Phase 4—Estimates hearings*

The Senate, through its eight legislation standing committees, sits in consideration of estimates three times each year—in February, in late May, and in November. In order to participate effectively in estimates hearings, new senators need a thorough understanding of the purpose of the estimates process, and how it operates. Prior to the new senators' first estimates session, they are briefed for 90 minutes on:

- the purpose of estimates hearings;
- the documentation available to them (for example, Portfolio Budget Statements and annual reports); and
- the structure and process of the proceedings.

### *Casual Vacancies*

Casual vacancies in the Senate are filled by appointment by state parliaments. Senators appointed to casual vacancies are provided with an individual orientation process similar in content, but less structured and organised, to the process which is provided for senators coming in groups after an election.

### *Summary*

The Senate conducts a reasonably extensive four-phase orientation process which covers a range of matters important for senators' transition into parliamentary life. While the content of the courses is important, and is tailored to the needs of new senators, it is also important that through the process the senators come to realise that the Department of the Senate is there to provide them with support and assistance. It would be impossible in three days, or in thirty, to provide new senators with all of the knowledge they could possibly require in order to become successful senators. If they leave the induction process with some basic knowledge, and with the confidence that they can ask for further support and advice, then they are well placed to commence their representative duties.

## Australian Capital Territories Legislative Assembly

Following an election at which new members are elected, a two-day programme of induction is developed for the new members and their staff. The programme covers parliamentary practice and procedure, members entitlements, committees; responsibilities as employers and services provided by the Secretariat. The programme is conducted by staff of the Assembly.

## New South Wales Legislative Assembly

The Legislative Assembly conducts induction briefings for new members following each general election in relation to general procedure. The information covered in these seminars is designed to provide new members with a brief overview of what they can expect during sittings of the House, parliamentary privilege and accountability mechanisms such as the pecuniary interests register. Members are also briefed on administrative matters such as salary and entitlements, and staffing arrangements.

The following outlines the information and induction briefings that were

conducted for new members of the Legislative Assembly following the last general election held in March 2003.

### *Preliminary information*

Following the 2003 general election all new members of the Legislative Assembly were provided with some preliminary information from the Clerk of the Legislative Assembly including information on:

- Declaration of the poll;
- The Electorate Office;
- Parliament House Office and Access;
- Staffing arrangements;
- Office computing equipment;
- Members' Details form to be filled in for the Legislative Assembly's record purposes and to assist with making arrangements for swearing in;
- Members' Salary;
- Members' Entitlements—such as travel, stationery, printing and office supplies and equipment allocation.

Members were also provided with a Parliamentary Services Directory that list various staff of the Parliament that may be of assistance to Members.

### *Induction briefings*

The Legislative Assembly held a number of induction briefings for new members prior to the House sitting for the new Parliament. The programme for these briefings was as follows:

*Day 1—General Information*

(1) Welcome by the Speaker/ Deputy Speaker (those members who were office holders in the previous Parliament);
(2) Clerk of the Legislative Assembly:
    a. Role of Office and Department;
    b. Parliamentary Service;
    c. Pecuniary Interest Register and returns.
(3) Code of Conduct/ Ethics Adviser—presented by the Deputy Speaker who is Chair of the Legislative Assembly Parliamentary Privilege and Ethics Committee and the Clerk Assistant (Procedure and Serjeant-at-Arms who is Clerk to the Committee;
(4) General House procedures (handouts):

d. Petitions;
e. Notices of motion;
f. Questions on notice.

(5) Members Services—presented by Deputy Clerk:
g. Members' Handbook—relevance, scope of contents.

(6) Members entitlements and salary—presented by the Financial Controller and Management Accountant.

(7) Security and access procedures;

(8) The Electorate Office staff:
h. Records—freedom of information, privacy legislation, court subpoena.

*Day 2—A full-day workshop on "A Thriving Electorate Office"*

(1) EO role—recruitment and person fit;
a. Reasons why good selection of staff is important;
b. Position description of an Electorate Officer (EO);
c. Criteria/ competencies required to fill this role;
d. How to select staff who meet these criteria using interview techniques, reference checks etc;
e. When EO's are not performing to expectations, how to determine if their behaviour or attribute is changeable or not eg, 'changeable' by training, or unlikely to be changed for whatever reason.

(2) Managing difficult behaviours of constituents:
f. Effective communication;
g. Separating the behaviour from the person;
h. BREATHE process for managing intense emotion, asserting oneself and managing the personal stress associated with difficult behaviour.

(3) Strategies for supporting staff:
i. How to approach stressed staff;
j. Referral networks, including Employee Assistance Programme, ManagerAssist;
k. Proactively minimising workplace stress including establishing realistic work goals;
l. Protocol for containing critical incidents.

(4) Strategies for motivating staff:
m. Effective feedback to motivate performance;
n. Motivating staff via SMART goal-setting.

*Day 3—Chamber briefing session*

(1) Tour of the Chamber (including timing system, bells, divisions,

cameras, video titling);
(2) Sources of procedural information (package);
(3) The first sitting day (video):
   a. Swearing in of Members;
   b. Election of Speaker and other office holders;
   c. Other business;
(4) Other sitting days (daily programmes, routine of business, Business Paper);
(5) Inaugural speeches;
(6) Decorum and order in the House
   d. Moving around and conversing in the Chamber;
   e. Addressing the Chair, other members;
   f. Seeking the call;
   g. Speaking in the Chamber;
   h. Taking points of order;
   i. Laptop computers/mobile phones;
(7) Opportunities for Private Members:
   j. Matters of Public Importance;
   k. Private Members' Statements;
   l. Questions;
   m. General Business (re-ordering General Business Notices, Orders of the Day for Bills);
(8) Question Time and Questions on Notice:
   n. Lodging questions on notice;
   o. Rules for questions.
(9) Principles of Parliamentary Privilege—an introduction.

### *Information provided*

New Members are provided with the following information/publications as part of these induction briefings:

- Constitution Act 1902 (NSW);
- Constitution (Disclosure by Members) Regulation 1983 and pecuniary interests forms;
- Publications such as fact sheets, briefing papers and information pamphlets that set general procedures and information on the Parliament and its role;
- Short guide to staffing arrangements for new Members;
- Members' Handbook, which sets out the services provided to members

and administrative arrangements for entitlements, superannuation etc. It is the primary source of advice to Members on administration;
- Information on salaries and entitlements of Members including the annual determination of the Parliamentary Remuneration Tribunal, claim forms and applicable taxation rulings.

*Other comments*

The information provided to members at induction briefings is concise so that they are not inundated with information. More detailed information is provided to Members on a needs basis. Members who are elected at by-elections are also briefed on the same areas as are covered at the induction seminars.

The Parliament has at times also held other seminars to provide information to new members. For example, following the 1999 general election a seminar on ethics and accountability was held where the Ombudsman, Auditor-General and officers of the Independent Commission Against Corruption addressed members on issues such as the functions of the various bodies, protected disclosures, freedom of information, corruption prevention etc.

## New South Wales Legislative Council

In 2002, in the lead up to the general election of March 2003, the Legislative Council conducted a survey of members to review the information and training provided to new members of the Legislative Council. In response to the survey, a programme was devised for the induction of new members with the following objectives:

- to provide training in the areas of Parliament House facilities, parliamentary procedures, committee practices, members' entitlements, managing an office and staffing;
- to introduce Parliamentary staff;
- to communicate service philosophies; and
- to introduce new members to government procurement and other ethical practices.

Following the election the eight members elected for the first time were contacted by the Acting Clerk who provided a brief introduction to the resources available, including office facilities, information technology, staff and procedural resources and invited the new members to a seminar to be held in the Legislative Council chamber.

The seminar, conducted prior to the first sitting day of the new Parliament, included presentations from the department's senior officers, including the Clerk, the Deputy Clerk, the Clerk Assistant Committees and the Clerk Assistant Corporate Support. A guest speaker, the recently retired 'Father of the House', also spoke to the new members, offering advice and reflecting on his parliamentary career and how to balance the various roles that a member of the Legislative Council is required to fulfil.

Over the next few months, a series of breakfast seminars was held for the newly elected members. The breakfast seminars were designed to follow up on the messages from the initial seminar, and to answer any questions that had arisen for members during their first sitting weeks. The Clerk and the Deputy Clerk conducted a number of breakfast seminars covering procedures of the House, parliamentary privilege, committee procedures and role of committee members, members' entitlements and resources and pecuniary interest registration. The members were provided with a range of useful documents including the standing and sessional orders, sessional resolutions, the Constitution Act 1902 and other relevant legislation, guides to procedures of the House and committees, the most recent Parliamentary Remuneration Tribunal determination and the code of conduct for members. The members were also advised of information technology services available and procedures to be followed when purchasing equipment.

A briefing on the facilities of the House, which included a tour of Parliament House and the Parliamentary Library and introduction to parliamentary staff, was also given.

The induction programme was adapted for the induction of two members elected at casual vacancies in 2005. Individual meetings with the Clerk and senior officers of the Council were held, each giving a briefing on their area of responsibility. The Clerk also provided a briefing on members' conduct in the House, how to contribute to the proceedings in the House, and the standing rules and orders and the sessional orders.

The induction programme will again be reviewed during the parliamentary recess prior to the March 2007 election.

## Northern Territories Legislative Assembly

Following the general election of June 2005, seven of the 25 Members were new. Members attended a day-long induction session, with briefings provided by each of the Unit Heads within the Department of the Legislative Assembly. These ranged from procedural matters, conducted by the Clerk

and Clerk Assistant, to corporate matters including Members' salaries, travel, superannuation, electorate entitlements and information technology. Members were further briefed on the role and function of each of the Units within the agency, and were introduced to key staff (for example, Hansard and Security staff).

A similar, but separate, exercise was undertaken for Electorate Officers. All of this information was reiterated in printed manuals provided, respectively, to Members and their Electorate Officers. As a matter of course, the manuals are reviewed to ensure that all information is current.

### Tasmania House of Assembly

At the commencement of a Parliament new Members are invited to attend a seminar designed as an introduction to the range of services available to support them in their role as a Member of the Tasmanian Parliament. The seminar is divided into four short sessions:

- Procedure and Chamber, Parliamentary Privilege, the Parliamentary (Disclosure of Interests) Act 1996; Parliamentary Committees and Security;
- Parliamentary Salaries and Allowances;
- Computer services and facilities; and
- Parliamentary catering, Parliamentary Library, Parliamentary Research Service and Parliamentary Reporting Service.

A general discussion follows and the seminar closes with a luncheon hosted by the Speaker of the House of Assembly and a tour of Parliament House.

### Tasmania Legislative Council

New Members participate in a two day induction course covering both parliamentary procedures and services, with follow-up sessions in subject-specific areas as and when requested. Each Member has a Member's Handbook which covers basic procedural and administration matters. As a minimum of two, and a maximum of three Members face annual elections, induction needs can be individually tailored.

### Victoria Legislative Assembly

Following the 30 November 2002 election, new Members of Parliament were invited to attend an Induction Day on 17 December. This day was

jointly run by all five departments of the Parliament. Members listened to presentations from various senior parliamentary officers about managing your electorate office budget, maintaining your electorate office, security, library services, IT security and your computer, dining and catering services and compliance matters including whistle blowers and the register of members interests. The day concluded with a general tour of Parliament House and an open forum where new members were able to ask questions.

This induction day was followed by a procedural seminar on 11 February 2003. This seminar was conducted by both House departments. The day began with a joint briefing to all new members about arrangements for the first sitting day. Members of each House were then briefed separately on some aspects of parliamentary procedure and practice relating to their respective House.

For the Legislative Assembly, the topics included the role of the Speaker, parliamentary privilege and the conduct of members within the House, which covered issues such as moving around the Chamber, seeking the Call, addressing the Chair, reading speeches and quotations. The Speaker also spoke to new members about their inaugural speeches. The next session of the day was presented by the Clerk and he spoke to new Members about the role and structure of the Department, the role of senior officers, the daily running sheet, the Government Business Programme and a typical day in the House.

The Deputy Clerk's presentation covered areas such as votes and proceedings, the tabling of papers, the passage of a Bill, Address-in-Reply and matters of public importance. The Assistant Clerk spoke to the new Members about time limits and the timing of speeches, questions, petitions and divisions. Finally the Serjeant-at-Arms informed new Members of the Chamber sound system, broadcasting and televising, public tours, security and passes, emergency procedures and office staff.

For the Legislative Council, similar topics were covered as are listed above for the Legislative Assembly. New Members had presentations from the President and the Clerk about the role of the President, Officers of the House, sources of parliamentary procedures, the role of the Chair, the conduct of Members within the Chamber including moving around the Chamber, interjections, reading of speeches, incorporation of material in Hansard and references to Assembly debates. The final session provided information about questions and question time and the adjournment debate.

The Opening of the Parliament was on Tuesday 25 February 2003. A further new Members' seminar was jointly conducted on 7 April 2003. By

conducting this seminar after the opening ceremony and with a couple of sitting weeks having passed, it gave new Members time to digest what they have already been informed about and a chance to ask follow-up questions. The day began with a presentation from Hansard and an open forum conducted by the Joint Services Department. Members then attended a tour of the Parliamentary Library which gave them insight into the services and facilities provided by the Library.

Following on from this new Members split into their respective House groups and a further procedural briefing was presented to new Members in their respective Chambers.

For Legislative Assembly Members the focus was on some of the more commonly used standing orders, including those that address moving around the Chamber, quorums, unparliamentary language, personal explanations, points of order, Government Business Program and the adjournment debate. The final session of the day was an open forum which enabled Member to ask further questions, especially in relation to the sittings of the House.

For the Legislative Council Members the second part of the seminar focused on a typical day in the House, including the daily programme, notices of motion and petitions, the passage of a Bill, papers tabled in the House and the conduct of divisions. As in the Legislative Assembly, the final session of the day was an open forum, enabling Members to ask further questions.

### Western Australia Legislative Council

The Department has endeavoured to make the new Members' transition as smooth as possible by providing a comprehensive induction programme together with several publications to assist them with their new role as Members of Parliament. Comprehensive half day information sessions for Members-Elect were held in early May with a repeat series held in mid May 2005.

The first session, held in the Council chamber, dealt primarily the procedure for swearing-in Members, the rules, practice and procedure of the Legislative Council and its committees, and the rights, privileges and obligations of Members of the House. Officers of the Parliamentary Services Department were also available to answer questions about salaries, allowances and entitlements of Members under determinations of the Salaries and Allowances Tribunal. Mr Greg Moore (Acting Director,

Entitlements and Transport, State Administration) provided an overview of entitlements administered by the Department of Premier and Cabinet. This included:

- Leased Vehicle Scheme
- Air Charter and Hire
- Electorate Offices
- Services and staffing
- Furniture and fittings
- Cleaning Services
- Electorate staff
- Air travel
- Imprest travel
- Rail travel

Each Member received a copy of *A Guide to Procedure and Practice* and its companion pocket book designed to serve as an introduction to the Standing Orders, custom and usage, practices and law that govern the proceedings in the Legislative Council. A copy of the *Guide to Procedure and Practice* with video footage was also launched on the Parliamentary Intranet. Comprehensive half day information sessions for Members-Elect were held in early May with a repeat series held in mid May 2005. The first session covered Legislative Council Procedure and Practice and was held in the Council chamber.

The second information session focused on Legislative Council Committees and Effective Committee Membership and was held at the Legislative Council Committee Office. The committee information session was greatly enhanced by contributions from a panel of current and former committee Members who provided a valuable perspective on being a committee Member with attendant opportunities and challenges.

## BELIZE

A workshop for new members is held at the beginning of a new Parliament.

## CANADA

### House of Commons

The House of Commons offers an orientation programme to new MPs following elections. This has gradually evolved and is now an integrated

programme offered through the various services of the House. The programme focuses on MPs' needs at the beginning of Parliament.

A governance structure provides continuity with respect to the main activities and sets out a clear division of responsibilities. A steering committee oversees the programme's activities and resolves any strategic issues. It includes the programme chairperson, and senior representatives from the five administrative services of the House. A permanent secretariat for election readiness provides support to the steering committee and is responsible for the continuity of services and the maintenance and expansion of institutional memory; it is designated as a permanent depository of all records and documents relating to preparations for elections.

The day after an election, kits are sent to all MPs providing information that will be crucial to them in the ensuing days. An information centre is also available to all MPs from the day after the election, providing reception services, temporary offices and a telephone line to answer their questions, as well as access to pay and benefits, and financial services representatives. A website provides information about the services available to new MPs, along with administrative and procedural information.

Administrative and procedural information sessions are also held with panels comprised of experienced MPs. The various services of the House and Library of Parliament present their products at a service fair. A series of seminars is also offered to MPs' staff throughout the session of Parliament.

Seminars offered to MPs' staff during the first months of the new Parliament are designed to provide staff with the necessary information and contacts so that they, in turn, can provide Members with the support they require. The following are the seminars/events which were offered during the first months of the 38th Parliament:

- Seminar: Welcome to the House of Commons: Information for Members' Employees.
- Service Fair: Staffers become acquainted with the products and services provided by the House administration and the Library of Parliament. House and Library employees are on hand to offer assistance and answer questions.
- Seminar: An Introduction to Finding Information on the Parliamentary Intranet.
- A three-day series of 'case work seminars'—officials from the following government departments explain how to handle questions from constituents: Citizenship and Immigration; International Affairs and

Foreign Trade and the Passport Office; National Defence; Human Resources and Skills Development; Social Development Canada; Public Works and Government Services; Public Service Commission; Financial Consumer Agency.

- Seminar: The Parliamentary Cycle and a Day in the House of Commons.
- Seminar: The Legislative Process: Following a Bill through Parliament.
- Seminar: The Estimates and the Financial Cycle.
- Seminar: Private Members' Business.
- Public Policy Seminars on Access to Information and Privacy Issues and the Canadian Space Programme.

## Senate

The Senate of Canada is an appointed body. Members are appointed as vacancies occur either by retirement, death or resignation. Constitutionally, senators must retire by the age of 75.

Once the Prime Minister chooses a person to be summoned to the Senate, an Order in Council is adopted. At that point, the new senator begins drawing a salary. After the appointment has been announced by the Prime Minister's Office, a letter from the Prime Minister is sent to the Clerk of the Senate informing him or her that a particular individual has been appointed. Subsequently, the Clerk contacts the individual and welcomes him or her to the Senate. He makes arrangements to send an information package that outlines policies, financial provisions and travel guidelines. The new senator is then invited by the Clerk to Ottawa for further discussions on their transition to public office.

When the new senator arrives on Parliament Hill, he or she will first have a one-on-one meeting with the Clerk of the Senate. As head of the Senate Administration, he will provide information on the workings of the Senate and discuss the new senator's role as a parliamentarian. After this initial meeting, the Clerk will invite the Law Clerk and the Senate Ethics Officer and the department heads (Legislative Services, Human Resources, Finance, etc.) to provide information on their roles and the different services available. Administrative issues such as office space and staffing issues are usually addressed during these meetings.

Also after the announcement, a commission from the Registrar General of Canada is prepared informing the Senate of the appointment.

Prior to being introduced to the Senate, the new senator must first sign a

Declaration of Property Qualification showing that the individual has satisfied the constitutional requirements to sit in the Senate. Under the Constitutional Act of 1867, the individual must:

- be a Canadian citizen;
- be at least 30 years of age;
- own $4,000 of equity land in the home province or territory;
- have a personal net worth of $4,000;
- live in the home province or territory.

The swearing in ceremony takes place in the Senate Chamber, usually at the commencement of a sitting. The Speaker first informs the Senate that the Clerk has received a commission from the Registrar General showing that the person named has been summoned to the Senate. The Speaker then informs the Senate that there is a senator waiting to be introduced. The new senator is brought into the Chamber by the Leader of his or her party and another senator and conducted to the Table where the Reading Clerk reads the commission. The new senator then takes the Oath of Allegiance which is administered by the Clerk of the Senate. After taking the oath, the senator takes his or her seat. The event of the swearing-in of a new senator is reported in the Journals of the Senate.

The Senate Administration is in the process of creating a regular practice of holding a day-long orientation session that covers the constitutional role of the Senate, the functioning of the chamber and the role of committees; it also arranges meetings with the Officers of Parliament.

### British Columbia Legislative Assembly

Following each general election or by-election, Members are invited to attend a procedural orientation developed by the Clerks of the Legislative Assembly of British Columbia. The orientation session provides Members with an introduction to parliamentary procedure, an overview of the legislative process, a review of the financial and scrutiny roles of parliament, an outline of the work undertaken by parliamentary committees, as well as a summary of typical day in the House.

In addition, a separate administrative orientation may be offered by Legislative Assembly administrative directors to provide new Members with an overview of Members' compensation and indemnity guidelines, travel policies, guidelines for constituency offices and computer services and support.

Each caucus may also provide orientation training for new and returning Members within their own party. Items covered may include the management of house duties, working with the media, and other matters pertinent to the operations of a political caucus.

New Members are also strongly encouraged to raise any questions concerning the operations of parliament with any of the Clerks of the Legislative Assembly.

### Newfoundland and Labrador House of Assembly

The Clerk and the Speaker convened a meeting with newly elected Members to acquaint them with the administrative and procedural matters affecting them.

### Ontario Legislative Assembly

Usually within two weeks or so of a general election, the members elected for the first time are invited to attend at the Parliament for a full-day briefing session ('Members' Orientation Seminar'), which gives them an overview of their staff and physical support entitlements as MPPs, their employment benefits and pension arrangements and all of the other administrative arrangements that affect them. Also provided is an overview of the structure of the Office of the Assembly so that they know who does what and whom to contact with any questions.

Human Resources personnel are available nearby throughout the day in temporary offices to permit the MPPs to do all of the paperwork that is required to get them on the payroll, signed up for benefits, etc.

Later, within a week or two of the House being convened for its first sitting in the new Parliament, a 'Procedural Briefing for Members' is arranged. This again is a full-day seminar, held in the Legislative Chamber, which provides the procedural context for the MPPs upcoming life as a legislator. Topics covered include chamber protocol, a day in the House, House documents, bills, motions, points of order/privilege, committees, private members' business, petitions, etc.

The content and structure of these two independent seminars has been carefully developed and has been roughly the same over the past four election cycles. Feedback on the seminars is excellent and tells us the MPPs are getting the information and support they require to beginning setting out in their new careers. Attendance is typically very close to 100 percent for both seminars.

Miniature, one-on-one versions of these seminars are provided to members elected in by-elections.

## Québec National Assembly

After each general election the National Assembly of Québec organises a two-day orientation programme for new Members and their spouses. The spouses' programme differs from that offered to Members, although some elements are common to both programmes. They are outlined below.

### *Day One*

**Members**: a 90-minute workshop is held on each of the following topics:

1. The legislative process and the organisation and operation of the Assembly and its committees;
2. Members' working conditions and the organisation of their offices;
3. Support provided to Members in the performance of their duties.

These workshops are held simultaneously three times during the course of day one. The Members from each of the three parties represented at the National Assembly attend each workshop separately and in rotation.

**Spouses**: The spouses' programme comprises the following workshops:

1. The organisation and operation of the Assembly and its committees (45 minutes);
2. Members' working conditions and conditions relating particularly to their families (30 minutes);
3. Inter-parliamentary relations, diplomatic activities, guided tours, and advisory services in matters of protocol (30 minutes);
4. Security at the National Assembly (15 minutes).

**Members and Spouses**: A breakfast and a luncheon are provided for all Members and their spouses during which each of the following officers of the Assembly makes a brief presentation (15-20 minutes) on his or her duties and relations with the Assembly:

- the Chief Electoral Officer
- the Public Protector (Ombudsman)
- the Auditor General of Québec
- the Law Clerk (regarding access to information, for which he is responsible, and the role of the Jurisconsult, an officer of the Assembly who counsels Members on conflict of interest and incompatible offices).

All Members and their spouses are offered a guided tour of the Parliament Building and the parliamentary library. Day one concludes with a workshop presented by two sitting Members on the exigencies of a Member's public and private life and the contribution of his or her spouse. This workshop is attended by Members from all parties with their spouses.

### *Day Two*

**Members and Spouses**: Day two is given over entirely to presentations by representatives of the National School of Public Administration on the principles and issues relating to public governance in Québec. Members from all parties and their spouses attend throughout the day. The following themes are covered:

1. The extent and organisation of the Québec public sector (60 minutes);
2. The Québec public sector: perspectives on its governance and administrative operation (105 minutes);
3. Members' relations with the government administration (120 minutes).

## Saskatchewan Legislative Assembly

Following each election, the Legislative Assembly will offer orientation sessions for new members and any interested returning members. An administrative orientation will be offered shortly after the Writ of Election has been returned. This orientation focuses on members' remuneration, benefits, allowances, and the organisation of constituency offices. One session will discuss the impact of elected office on family life with a panel of veteran members and their families. Further sessions will outline the organisation of the legislative service to familiarise members with the services available (i.e. Office of the Clerk, Visitor Services, Legislative Library, security).

A second procedural orientation will be held shortly before the Assembly is expected to resume. This orientation will be tailored to meet the needs of new members in order to prepare them for their roles in the House. Separate sessions may be held with members assuming House positions (e.g. Speaker, House Leader, Whip, etc.). These briefings may be extended to caucus and ministerial staff upon request.

Members entering the House during the course of a parliament are offered similar orientations on an individual basis. These sessions would be tailored to meet their particular circumstances and areas of interest.

## Yukon Legislative Assembly

This response is based on the process used to induct new Members following a general election.

New Members of the Yukon Legislative Assembly are provided with separate orientation sessions on parliamentary procedure and services to Members. The Clerk and the Deputy Clerk conduct the workshop on parliamentary procedure in the Legislative Assembly Chamber. The workshop lasts two or three hours, depending on the availability of members. The central focus and format of the workshop on parliamentary procedure can vary depending on the results of the election. Variables that can affect the focus and format include whether a change in government has occurred, the number of incumbent members returned, and the past experience of Members.

In general, new Members are informed about the history of the Yukon Legislative Assembly and the constitutional evolution of Yukon. They are instructed on the workings of the parliamentary form of government and the roles of the various players, including:

- the Commissioner as head of state;
- the Premier as head of government;
- the Ministers and their executive responsibilities;
- the presiding officers;
- the role of the opposition;
- the private members; and
- the public service.

Members are informed about the basics underlying the rules and procedures of the Assembly—ensuring the minority has its say and the majority has its way, the non-partisan role of presiding officers, etc.

An overview is provided of the Standing Orders and an explanation of the various documents of the Assembly (Hansard, Journals, the Order Paper, etc.) is provided.

Members are then lead through a typical day in the Assembly by way of a representative Order Paper. This includes an explanation of the Daily Routine and of the business that takes place under Orders of the Day.

The Clerk and Deputy Clerk give an additional orientation to those Members selected as Presiding Officers. This workshop focuses in greater depth on the rules and precedents of the Assembly and the requirements placed on Presiding Officers.

All Members are supplied with a Procedural Handbook. The Members selected as Speaker and Deputy Speaker receive a Speaker's Procedural Handbook regarding that position. A similar handbook is provided to those Members selected as Chair and Deputy Chair of Committee of the Whole.

The orientation session on Members' services covers: pay; expenses; benefits; pensions; research and clerical funding; office space; disclosure of expenses; and conflict of interest measures. Members are also supplied with a binder of materials that explains these items in greater detail.

INDIA

## Rajya Sabha

The Council of States (Rajya Sabha) consists of not more than two hundred and fifty members, two hundred and thirty-eight members representing the States and Union territories and twelve Members nominated by the President. The Fourth Schedule to the Constitution provides for allocation of seats to various States and Union territories. The representatives of the States are elected by the elected Members of the State Assemblies in accordance with the system of proportional representation by means of the single transferable vote. The representatives of the Union territories in Rajya Sabha are chosen in accordance with laws enacted by Parliament. Apart from the elected members, Rajya Sabha has twelve members nominated by the President of India from amongst those having special knowledge or practical experience of such matters as literature, science, art and social service. The present strength of Rajya Sabha is two hundred and forty-five. Rajya Sabha is a permanent body and is not subject to dissolution. However, one-third of its members retire every second year and to fill up the vacancies, elections take place biennially. A member who is elected for full term retains his membership for six years.

As soon as a Member is elected/nominated to Rajya Sabha, he/she has to first contact or come to the Notice Office, in Parliament House, which is required to fill up a set of forms meant for him/her to complete certain formalities. The Notice Office acts as a liaison between members of Rajya Sabha and the Rajya Sabha Secretariat. It also serves as the Reception Office for the members. A welcome letter is sent by the Secretary-General to the Member, congratulating him/her on being elected, and also informing him/her whom to contact in the office. A Member is required to come to the Table Office in Parliament House to submit his/her Certificate of Election or

Notification nominating him/her as a member and to fill Form III, as required under the Tenth Schedule to the Constitution.

A newly elected Member also has to make a declaration of Assets and Liabilities under sub-rule (1) of rule 3 of the Members of Rajya Sabha (Declaration of Assets and Liabilities) Rules 2004 within 90 days from the date on which he/she makes and subscribes an oath or affirmation for taking his/her seat in the Council of States. Further, under Rule 293 of the Rules of Procedure and Conduct of Business in the Council of States, members are also required to furnish declaration regarding five pecuniary interests: remunerative directorship; regular remunerated activity; shareholding of controlling nature; paid consultancy; and professional engagement.

A member is not entitled to take his/her seat, participate and vote in the House/Committees unless he/she has made and subscribed oath/affirmation.

Under article 99 of the Constitution, every Member, before taking his/her seat in Rajya Sabha, has to make and subscribe an oath or affirmation in the prescribed form. Members may make oath or affirmation in Hindi or in English or in any of the languages specified in the Eighth Schedule to the Constitution. A Member has to make such oath or affirmation at the commencement of a sitting of the Council or at such other time of the sitting as the Chairman may direct. Newly elected Members may also, in exceptional cases, make and subscribe oath/affirmation in Chairman's Chamber in Parliament House, when the House is not in Session, if permitted by the Chairman.

From the commencement of his/her term of office, and even if he/she has not made and subscribed oath or affirmation, a Member is entitled to receive a full salary. Members also become entitled to amenities as provided in the Salary, Allowances and Pension of Members of Parliament Act 1954 and in the rules made thereunder.

The Training Unit of the Rajya Sabha Secretariat also organises an Orientation Programame to familiarise the newly elected Members with the practice and procedures that govern the functioning of the House and its Committees. Veteran parliamentarians who have long and varied experience in public life are invited to deliver talks on the subjects of parliamentary and procedural matters. The Secretary-General also briefs the Members on the various services provided to them by the Rajya Sabha Secretariat. The background material prepared by the Rajya Sabha Secretariat on different aspects of the functioning of the House is circulated to members in the Programme.

### Gujarat Legislative Assembly

Whenever any person is elected as a member of the Gujarat Legislative Assembly he has to present the Election Certificate issued by the competent authority before the Speaker or Speaker *pro tem*. After verifying this certificate the Speaker allows him to take the oath or affirmation, which is taken in the prescribed form as set out in the Third Schedule of the Constitution of India. He has to write his full name in the form as well as in the oath register along with his signature and the date. The member also has to give the name of his party and full residential address in the prescribed form, as set out under anti-defection rules. He has to give his photograph and bio-data also for the purpose of office record.

On completion of the above procedure, the Assembly Secretariat provides him with the literature and publications of the Gujarat Legislative Assembly. It also provides him with Government accommodation with telephone facilities. When the member takes his seat in the House he becomes entitled to draw salaries and allowances as admissible under the Gujarat Legislative Assembly Members, Salaries and Allowances Act 1960, and the rules thereunder.

## JAMAICA

After a general election, a seminar is held for all parliamentarians, which deals with parliamentary practice and procedure, provides information on services offered by the Parliament, covers issues related to tenure, including perquisites, and information on inter-parliamentary cooperation. All new members are provided with copies of the Constitution and the Standing Order of the respective House to which they belong. When members are sworn in mid-term, for example where a member resigns, they are provided with the Constitution and Standing Orders, and are provided with information relating to their tenure, and advice is given as needed.

## JERSEY

Following elections in Jersey a programme of induction meetings is organised by the States Greffe (Clerk's office) to introduce new members to the role of a States member. The programme stretches over some six to seven meetings organised over a period of some six weeks.

The sessions cover all procedural matters relating to the Assembly with presentations from the States Greffe on issues such as questions, the Order

Paper, debating techniques, etiquette in the Chamber, propositions and the procedure for appointing Ministers and Chairmen of scrutiny panels. New members are also given presentations by the Attorney General, the Law Draftsman and the Treasurer of the States about their work. The programme covers practical matters such as use of the members' facilities, remuneration, IT provision and, very importantly, access to free car parking. Slightly more 'informal' sessions are listed in the programme including a one hour meeting with the editors of the local media who explain how they treat political news in the Island. Experienced members lead an informal discussion on 'how to be an effective member of the States' which always leads to a lively and enjoyable exchange of views.

After the elections in the autumn of 2005 the new members' programme included, for the first time, four sessions provided by officers of government departments, who gave new members an overview of the work of their departments in matters such as economic, social and environmental policy. These sessions were supplemented by the offer of visits to some government departments including a trip at sea on the States' tug.

New members who were appointed as members of scrutiny panels were given additional training on scrutiny matters including a two-day workshop on questioning techniques led by a QC from the United Kingdom.

Jersey's experience is that the induction of new members must be undertaken as soon as possible after their election to the Assembly. Members become involved in their new duties extremely quickly and their enthusiasm to attend induction sessions appears to fall away within weeks of their election.

## NEW ZEALAND

### House of Representatives

A programme for the induction of new members has been run by the Office of the Clerk of the House of Representatives and by Parliamentary Service since after the 1996 general election (the first election under the Mixed Member Proportional (MMP) system of electoral representation), recognising that a larger proportion of new members were being elected to the House. The programme brings a perspective different from that traditionally offered by particular parties to their members.

The most recent induction programme followed the 2005 general election. The Office of the Clerk of the House of Representatives held alternative day seminars on 11 and 12 October. A session on House procedures was

conducted in the debating chamber, introducing new members to some basic rules, microphone technique and question time (through a role play).

Sessions were also conducted, in a select committee room, on the legislative process and on select committees—their role, the types of business considered, the nature of evidence and advice, and so on. There was a financial review examination role play. Other topics covered included questions for written answer, House publications (such as the Order Paper, Hansard, and the Parliamentary Bulletin), and parliamentary privilege and defamation. Experienced members were involved in facilitating the sessions where appropriate.

The Office of the Clerk also arranged for a half-day seminar, on 5 October, to be presented by the Dean of Law, Victoria University, on basic structures and processes of New Zealand's constitution and government. This seminar covered the nature of constitutional structures, the role of the Governor-General, and the separate branches of government (Parliament, the Executive and the judiciary).

The Parliamentary Service too offered an induction seminar, on 21 September, on services available to members. This covered, for instance, information on members' entitlements (including salary and allowance payments, travel, staffing and out-of-Parliament offices) and support services such as information technology and telecommunications. An overview of buildings and services was followed by a familiarisation tour of the parliamentary complex. Each parliamentary agency provided an information pack to new members.

The induction programmes have generally been well received by the new members participating.

## SINGAPORE

The Parliament Secretariat organises an intensive one-day orientation programme for newly-elected Members. The programme provides an overview of (a) parliamentary business, such as parliamentary questions and rules of debate; (b) parliamentary services, such as library services; and (c) inter-parliamentary business, such as the Commonwealth Parliamentary Association conferences and visits. It also includes a welcome tea with staff and a welcome lunch hosted by the Speaker.

The objectives of the orientation programme are to:

- familiarise new Members with the House and its facilities;
- introduce key staff and their contact details;

- provide information on facilities, resources and benefits;
- provide a general description of the business and procedures of the House and its committees; and
- provide an overview of the basic rules of debate and order.

Each Member will be given an orientation package containing contact details, forms and information booklets/sheets on the topics they will be briefed on. Detailed notes of the briefing are also archived in the Members' Portal on the internet to facilitate quick retrieval and reference.

A short list of the topics covered in the orientation programme is as follows:

- Tour of the House and its facilities, including parliamentary history and traditions; chamber layout and facilities; parliamentary papers; and the Library, Members' Room and other facilities.
- Briefing on parliamentary business, including chamber business (parliamentary questions, motions, legislative process and supply business); rules on voting, debate and order; and committee business.
- Briefing on parliamentary services, including Hansard, facilities, Library services, allowances and benefits, and security in the House.
- Briefing on inter-parliamentary business, including the Singapore Parliamentary Society, Friendship and Regional Groups, and visits and conferences.

Members will be asked to provide feedback on the programme. Using this feedback, changes will be made to improve the orientation programme for the next group of new Members.

## TANZANIA

Although it is not provided for in our Standing Orders, it is now an established practice that the Parliament conducts induction or orientation seminars for new Members of Parliament. We are therefore looking forward to doing this soon after the inauguration of the new House scheduled for 30 December 2005 or immediately thereafter.

UNITED KINGDOM

## House of Commons

### *Introductory letter*

On election night in May 2005 returning officers gave all Members an introductory letter from the Clerk of the House. This stated when the House would meet and explained arrangements for access to the parliamentary estate and reception area for new Members. Information about the reception arrangements was also published in the *House* magazine immediately after the election.

### *Reception area*

A reception area for new Members was set up on the first floor of Portcullis House, within the Parliamentary Estate. New Members were encouraged to go to the reception area where they could obtain their security passes and make other essential administrative arrangements. The reception was open on the Friday after the election and remained open during the first two weeks of the Session. However, the reception area was such a success that by the end of the first week most of the new Members had visited it and activity was scaled down. In the second week Members' staff were invited to visit the reception area if they wished.

In the reception area new Members were given a welcome pack that included, the Members' Handbook, a guide to pay and allowances, a short guide to procedure, a list of briefings available to new Members and guidance on taking the oath and the courtesies and conventions of the House. New Members were given a small checklist to help them identify the key things to do in their first few days. The Code of Conduct and other standards material were distributed separately by the Commissioner for Standards.

In the reception area, Members were able to:

- meet staff from all the Departments and find out about the House and its Committees, the House Service and the facilities available to Members;
- discuss their salary and allowances or their accommodation needs; and
- discuss their IT requirements and obtain a laptop and, following a short briefing, access the Parliamentary Network.

A family room was provided with play equipment for young children.

### *New Members' intranet and internet pages*

A special password-protected site for new Members reiterated essential information and provided a list of local hotels. It provided links to information elsewhere on the intranet relating to, for example, pay and allowances.

### *Members' Handbook*

All returned Members were sent a new edition of the Members' Handbook. It was also placed on the intranet. For the first time it included colour maps and colour coded pages to indicate content likely to be of interest to new Members.

### *Temporary office accommodation*

Temporary office accommodation was available in the main building so that Members would have access to a desk, telephone and computer while they waited for an office to be allocated.

### *Briefings*

A summary of all briefing and training events aimed at new Members was complied and circulated. Briefings were provided on:

- procedure, the business of the House and its committees;
- standards in the House, the Code of Conduct and outside interests;
- security;
- health and safety;
- employment responsibilities of Members of Parliament.

Various information technology related courses were also available. The briefings on employment responsibilities and on standards and privileges were organised though the whips on a party basis and were well attended. The other briefings were open to all new Members but were less well attended.

The procedural briefings were designed to complement the material provided in the short guide to procedure and were accompanied by a series of leaflets that gave more information on specific areas.

### *Feedback*

New Members seem to have been very happy with the arrangements. A survey showed that of those who responded 84 percent were satisfied with the reception facilities and 88 percent said they felt the information packs were useful. Almost everyone found the letter from the Clerk a useful inno-

vation. There were some minor problems. Some new Members were overwhelmed by all the information. Some felt co-ordination with the whips could have been better. There were a few complaints about delays in the provision of laptops and other IT equipment. The biggest complaint from new Members was about the time taken to allocate accommodation. Despite these minor problems the arrangements were thought to have worked very well.

The Administration Committee, which replaced most of the domestic committees at the start of this Parliament, has produced a report on post-election services (Post-election Services, First Report from the Administration Committee, Session 2005–06, HC 777). This focused mainly on areas for improvement rather than what went well. It found that the majority of complaints about services for new Members related to accommodation and related facilities such as computers. It made several recommendations about how services for new Members could be improved and recommended that planning for the next election should be more thorough and timely. Their recommendations are being taken into as plans for the next election begin to take shape.

## House of Lords

After an announcement has been made that an individual is to be appointed to the House of Lords, but before that individual becomes a member, he or she is invited to the House to meet the Speaker, the Clerk of the Parliaments and Black Rod. The Clerk and Black Rod provide the prospective member with briefing (both written and oral) and a tour of the House.

There is a short ceremony of introduction when new Members take their seats for the first time in the House. Accompanied by two supporting Members, the new Member is brought into the House where certain formalities are conducted (including the Member taking the oath of allegiance).

Before and after the ceremony of introduction, new Members receive advice and guidance from colleagues in their respective political parties in the House, or, in the case of independent members, from the Convenor of the Crossbench (independent) Members. In some cases, experienced Members are allocated to new Members by their respective political parties (as 'mentors') to explain the procedures and services on a one-to-one basis. The respective offices of the political parties are also available to give advice throughout the induction period.

In addition, the Administration of the House from time to time provides

formal induction courses for new Members. These are normally arranged three or four months after the appointment to the House of a significant number of new Members. These courses comprise two elements: the first deals with services, the second with procedure.

The first element, known as a new peers' induction course, is held in the Moses Room, a large committee room very close to the Chamber. Each office that is responsible for a service that Members use has a stall on which to display information about their services or products. At least two members of staff from each office are available to give information and guidance. Staff involved in the stalls use a range of supporting material, including videos (for example, of committees in action), printed hand-outs and visual displays on laptop PCs. The stalls operate between 10 a.m. and 1 p.m.; at 11 a.m., in the same room, Members are invited to attend a series of short presentations by senior staff on procedures and services and to ask questions.

The second element is a procedural seminar, during which Members hear presentations from Table Clerks and a senior Member (in 2005, the Convenor of the Crossbench Peers), who provides a Member's perspective. The subjects of the staff presentations include procedure in the Chamber (plenary); the order paper and how to table business; the work of the Public Bill Office and how to table amendments to bills (legislation); and the work of committees of the House. This event lasts a morning.

The induction events described above are relatively new (the first induction course on services was held in June 2004; the first procedural seminar in January 2005). Feedback from Members has been positive, and there are no plans to change the format.

The frequency of the events has yet to be established: the House does not receive new entrants regularly or in a way that can be anticipated far in advance. The organisation of induction events does not, therefore, begin until enough new Members have entered the House for such an event to be worthwhile. The success of the stalls element in particular relies on high participation by Members.

Party leaders and whips are consulted about appropriate dates for the events to take place, but are not generally involved further. All Members are welcome to attend, but only new Members are formally invited (in practice, 'new Members' means those who have taken their seat since, or were unable to attend, the previous induction course). At both events, refreshments are provided.

## WALES

The last Assembly elections were in May 2003 when 14 new Members came into the Assembly. A project board was established in April 2002 to develop arrangements for the Second Assembly, including the induction of new Members. The need for an integrated induction system for all new Members was recognised at an early stage.

All new Members were allocated a 'buddy' (an official from Assembly Service) to guide them through their introduction to the Assembly. Wherever possible, Welsh speaking Members were allocated a Welsh speaking buddy. On the whole, the buddying system worked well and was used and appreciated by the majority of new Members.

All successful candidates received a welcome pack, which contained key information that Members needed to know before their arrival in the building (including when and where they were able to take their oath), and provided an overview of the services available in the Office. More detailed information and guidance was placed in Members' Offices for them to study and use on their arrival.

Various briefing sessions and events were held for new Members on the Assembly's procedures and services:

- the Clerk held a welcome reception;
- two seminars on the work of the Assembly's Committees;
- briefing sessions on the role of various divisions within the Office;
- a longer term Members' Briefing Programme was developed by the Members' Library.

Attendance at these events varied. The Clerk's reception and the seminars on the work of Committees had the highest Member attendance, whilst the briefing sessions from the Members' Library were attended mostly by the Members' support staff.

# PRIVILEGE

## AUSTRALIA

### House of Representatives

A claim by two Members that a journalist who had phoned their offices earlier in the day had tried to unreasonably influence their conduct as Members of Parliament was referred to the Committee of Privileges on 2 December 2004.

The committee reported on 16 February 2005, finding that there had been no breach of privilege when the remarks of the journalist were placed in the context of the relationship between Members and journalists. The committee, however, also included a warning to the media to be conscious in their exchanges with MPs of any appearance of trying to influence Members.

### Senate

#### *Immunity of documents from production in court*

Two cases arose which further demonstrated that parliamentary privilege in some circumstances provides a barrier to processes for the compulsory production of documents in court proceedings.

The Australian National Audit Office advised the Senate of legal proceedings in which documents had been subpoenaed from various sources, including the Audit Office, and of a claim by the Audit Office that it should not be compelled to produce draft reports on the basis that they are protected by parliamentary privilege. This claim was well founded. Audit reports are produced solely for presentation to Parliament. The Parliamentary Privileges Act 1987, section 16 of which codifies the immunity of parliamentary proceedings from impeachment and question in court proceedings, provides that proceedings in Parliament include documents prepared for the purpose of submission to Parliament. Except in very limited circumstances, the only purpose of subpoenaing documents forming part of proceedings in Parliament would be to subject them to the kind of examination which is prohibited by parliamentary privilege. Such documents are therefore immune from compulsory production in court proceedings, whether by way of subpoena or by way of discovery of documents. The claim

of privilege was ultimately not contested, and a letter was tabled in June 2005 advising that the issue of parliamentary privilege was no longer a live issue in the case.

In a prosecution for breach of a federal regulatory statute, the regulating statutory authority successfully argued that it should not be required to produce in court estimates briefs. These are documents prepared by departments and agencies in preparation for Senate estimates hearings. Their sole purpose is to assist in proceedings in Parliament, and therefore they are also immune from production.

### *Unauthorised disclosures*

The Privileges Committee presented a report in June 2005 in relation to unauthorised disclosure of committee materials. The committee recommended that individual committees be required to take greater responsibility for assessing and investigating unauthorised disclosures before matters are raised as matters of privilege. A resolution had been passed in 1996, on the recommendation of the Privileges Committee, setting out a process which committees were to follow to investigate unauthorised disclosures of their documents before raising such disclosures as matters of privilege. This resolution was found not to be entirely effective in preventing the raising of considerable numbers of cases of unauthorised disclosure. The Privileges Committee therefore suggested that further guidance should be given to committees. The committee also recommended that its proposals be examined by the Procedure Committee before adoption. That committee concurred in a resolution suggested by the Privileges Committee, which was then adopted by the Senate. It is hoped that as a result of the two resolutions committees will not raise as matters of privilege unauthorised disclosures of their documents except in really seriously harmful cases.

### *Declaration of interests*

A reference to the Privileges Committee on a failure by a senator to register a pecuniary interest was avoided in May 2005. In a statement to the Senate about his peregrinations in Iraq, a matter attracting some publicity, Senator Lightfoot revealed that he had made a sponsored trip to that country which he had not registered. This was raised as a matter of privilege, and the President gave the matter precedence, observing that his decision under that standing order was virtually made for him by the Senate's declaration that any knowing failure to register an interest would be a serious contempt. Senator Lightfoot, however, apologised for his failure on 12 May, and the

motion to refer the matter to the committee was withdrawn.

Subsequently the Privileges Committee received a reference relating to Senator Lightfoot's share transactions allegedly not declared in the Register of Senators' Interests. On this occasion the reference was not avoided by an apology by Senator Lightfoot.

The Privileges Committee found that Senator Lightfoot had failed to comply with the requirements for the declaration of interests, but had not done so knowingly, which is the condition required by the resolution of the Senate for a contempt to be found.

### *Effect of government majority*

The President made a determination in September 2005 according precedence to a motion to refer to the Privileges Committee a matter raised by the Finance and Public Administration References Committee. The matter involved evidence given by a mayor in the course of the committee's inquiry into regional partnership programme grants. The committee had evidence suggesting that the mayor's statements were untrue, and the committee was not satisfied with an explanation which he subsequently provided. Normally, motions to refer matters to the Privileges Committee are passed without debate following the President's determination. It was the intention of the procedures for dealing with privilege matters adopted in 1988 to take them out of partisan controversy. The person concerned in this matter, however, was a member of the Liberal Party, and the government apparently decided to use its majority to reject the motion to refer the matter to the Privileges Committee. The chair of that committee, Senator Faulkner, stated that this was a 'degrading' of the non-partisan method for dealing with privilege matters. A government senator stated in debate that there ought to be a *prima facie* case before the reference was made, but the procedures of 1988 were deliberately designed to avoid any judgment about a *prima facie* case.

Subsequently, it was put to the President in an estimates hearing for the Department of the Senate that he should adopt a process to ensure that privilege matters to which he gives precedence are referred to the Privileges Committee without debate and votes based on partisan considerations. The President accepted this suggestion. No further privilege cases have arisen to test the process.

### *General report*

The Privileges Committee presented in December 2005 a general report containing a summary of its past cases and precedents, with observations on

them, analysis of their principles and application, and a collection of the advices given to the committee, in its consideration of recent cases, to add to a volume of advices presented in 2002.

## Australian Capital Territory Legislative Assembly

*Alleged breach of privilege—purported improper interference in proposed chairmanship and membership of a select committee*

On 6 April 2005, in accordance with SO 71, a Member raised with the Speaker a possible breach of privilege. The Member had queried whether a Minister's action in offering a position on a proposed select committee to a cross bench member, allegedly in return for their support in a vote for the chairmanship of that committee, constituted a breach of privilege in that it could be construed as offering a benefit to a Member, and that the Member in accepting the offer was also in breach of privilege.

The Speaker declined to give precedence to the matter, stating he "had to distinguish between what is part of the cut and thrust of political life in a parliament, where it would be expected that pressures would be brought to bear on a whole range of decisions, and, on the other hand, ensure that members are not improperly influenced in the way they perform their duties, in coming to a decision on whether this matter warrants privilege or not.".

Subsequently, by leave, an unsuccessful attempt was made to suspend standing orders in order to move a motion disagreeing with the Speaker's decision not to grant precedence.

## New South Wales Legislative Assembly

Whilst there were no significant cases of breaches of privilege or contempt established in the Legislative Assembly of New South Wales in 2005, two privilege issues were raised and are worthy of note.

The first occurred when a member rose on a matter of privilege in relation to a notice of motion standing in his name on the business paper. He noted that there was a discrepancy in the numbering of his motion on the business paper as shown on the Parliament's website and on the programme for the day. He also noted that a paragraph was missing from his motion. The member sought the advice of the Speaker as to why the discrepancy has occurred and why a paragraph had been removed from his notice of motion. The Speaker noted that he had referred the matter to the Clerk for investigation and that he did not regard it as a matter of privilege. The Speaker did

however note that if there had been an error in the recording of the motion, that an explanation would be provided to the member and the error corrected. (PD 30/11/2005, p 20367)

The second case occurred when a member rose on a matter of privilege in relation to a question on notice submitted by him that had been rewritten by the Clerks. The Speaker noted that questions on notice may be corrected by the Clerks to assist members and that it is often done in consultation with the member who has submitted the question. The Speaker advised the member that if he was unhappy with the way the question had been recorded he should discuss it with the Clerks and arrive at a version with which he was happy and that complied with the standing orders. (PD 30/11/2005, p 20367)

## New South Wales Legislative Council

### *Seizure of a member's documents under search warrant—update*

On 22 March 2005 the Hon Peter Breen (Independent) gave notice of a motion that the Privileges Committee inquire into and report on whether the search warrant used in the seizure of documents from his office was properly obtained, with particular regard to: whether the information used by the Independent Commission Against Corruption (ICAC) in securing the warrant was reliable; whether information provided in certain transcripts of interview referred to the application for the warrant was consistent with assertions made in the application itself; whether officers of the ICAC knowingly and/or deliberately falsified or misconstrued the evidence presented to the justice in obtaining the warrant; and whether the justice issuing the warrant was aware of or briefed in relation to parliamentary privilege as it applied in this matter.

Mr Breen's motion has not yet been considered, but on 6 April 2005 the House agreed to a motion by the Chair of the Privileges Committee, the Hon Peter Primrose (Australian Labor Party), that the committee inquire into and report on appropriate protocols to be adopted for the execution of search warrants on members' offices by law enforcement agencies and investigative bodies, with particular regard to the procedures to be followed: (a) in obtaining a search warrant; (b) prior to executing a search warrant; (c) in executing a search warrant; (d) if privilege or immunity was claimed; and (e) for the resolution of disputed claims of privilege. The committee had recommended in December 2003 in its first report concerning the seizure of documents that it be referred such an inquiry.

On 9 June the Legislative Council received a message from the Legislative Assembly advising that the Assembly had agreed to a reference to its Committee on Parliamentary Privilege and Ethics concerning protocols for the execution of search warrants, requesting that leave be given to the Council committee to confer with the Assembly committee in relation to this and other issues. On 22 June the Council informed the Assembly that under the standing orders of the Council the Privileges Committee has power to join together with any committee of the Assembly to take evidence, deliberate and make joint reports on matters of mutual concern.

In July 2005 the Privileges Committee circulated an issues paper regarding protocols for search warrant execution to members of parliament, the ICAC, and to other interested parties for comment. The Committee considered responses to the issues paper and prepared a draft final report for consideration.

### *Defamation Bill 2005*

The Defamation Bill 2005, introduced in the Council on 13 October 2005 and passed by the Council on 19 October 2005, repealed and replaced the Defamation Act 1974. The Defamation Act 2005 commenced on 1 January 2006.

The Act introduces uniform model provisions agreed to by State and Territory Attorneys General and provides for developments in technology which allows material to be simultaneously published across national jurisdictions and internationally. The Minister in his second reading speech stated: "Essentially, the bill retains some of the best features of the current NSW Defamation Act 1974, jettisons some of its more problematic provisions, and introduces some worthwhile reforms".[1]

Of particular interest are the defences set out in Division 2 of the Act. Under clause 27, it is a defence to the publication of defamatory matter if the defendant proves that the matter was published on an occasion of absolute privilege. Occasions of absolute privilege include proceedings of parliamentary bodies, proceedings of courts and tribunals including royal commissions and special commissions of inquiry, occasions of absolute privilege under corresponding provisions in other Australian jurisdictions, and publication of matter specified in Schedule 1. The list of publications in Schedule 1 are drawn from the 1975 Act and include publications by a range of bodies including the Ombudsman, the Independent Commission Against Corruption, and the Police Integrity Commission.

[1] NSW Legislative Council Hansard, 18 October 2005, p. 18681.

The Act defines 'parliamentary body' as a parliament or legislature of any country, or a house of a parliament or legislature of any country, or a committee of a parliament or legislature of any country, or a committee of a house or houses of a parliament or legislature of any country.
'Matter' is defined by the Act as:

- an article, report, advertisement or other thing communicated by means of a newspaper, magazine or other periodical;
- a programme, report, advertisement or other thing communicated by means of television, radio, the Internet or any other form of electronic communication;
- a letter, note or other writing;
- a picture, gesture or oral utterance; or
- any other thing by means of which something may be communicated to a person.

Clause 28 sets out the defence for publication of a 'public document', including parliamentary reports, civil judgments and other publicly available material. Clause 29 sets out the defence of fair report of proceedings of public concern, defined in the Act to cover a wide range of proceedings including those of parliamentary committees, commissions of inquiry, law reform bodies, local councils, a range of corporate, professional, trade, sport and recreation bodies. Clause 30 provides for a defence of qualified privilege in a range of situations where there is a moral or legal duty to make what might otherwise be defamatory statements.

The defences in clauses 28 to 30 are extended to publication and proceedings referred to in the schedules of corresponding State and Territory laws and are defeated if the plaintiff proves that the defamatory matter was not published honestly for the information of the public, or the advancement of education.

Clause 31 provides for a number of defences relating to the publication of matter that expresses an opinion that is honestly held by its maker rather than a statement of fact.

Section 32 sets out the defence of innocent dissemination. The Minister, in his second reading speech, explained that the difference between the proposed defence and the common law is that the clause seeks to accommodate providers of Internet and other electronic and communication services.

Section 35 sets the maximum amount of damages for non-economic loss for defamation to be $250,000.

CANADA

## House of Commons

Allegations of misuse of the franking privileges (a term used for the right of sending letters or postal packages free of charge) enjoyed by Members of Parliament fuelled a number of questions of privilege during 2005.

On 1 February an MP charged that a publication that had been printed and mailed to 4,000 of his constituents in his name and without his knowledge constituted a 'usurpation' of his franking privilege. As both the printing and mailing had been authorised by way of a letter from the Chief Government Whip, the latter apologised to all involved, and assured the House that such a procedure would not be allowed in future. In a final ruling on 15 February, the Speaker noted the apology, and found no *prima facie* breach of privilege.

On 21 March an MP was charged with having used his franking privilege to send a misleading flyer to constituents in the riding of another Member. The matter was eventually referred to the Standing Committee on Procedure and House Affairs which reported, on 11 May 2005, that the Member's privileges had indeed been infringed, and recommended that the Speaker issue a press release in the affected communities explaining what had occurred.

On 3 and 10 May the Speaker ruled, in connection with three separate questions of privilege, that unauthorised insertions into franked mailings, and the use of the franking privilege to send partisan material to constituents in other Member's ridings, were also *prima facie* breaches of privilege. These matters were referred to the Standing Committee on Procedure and House Affairs, which eventually reported its conclusion that no breach of privilege had occurred in any of these cases.

In another similar question of privilege on 27 October, a Member alleged that he and other members of the governing party had been defamed in franked mailings. The Speaker, in a ruling delivered on 3 November, found that since the printing and distribution of the documents in question were privileges enjoyed by Members, there did appear to be a *prima facie* case of privilege. The opposition used its majority in the House to block referral of the matter to the Standing Committee on Procedure and House Affairs.

In an unrelated question of privilege raised on 26 September, a Member alleged that the Ethics Commissioner, an Officer of Parliament, had failed to afford him reasonable written notice of an inquiry into his conduct, had neglected to inform him of the reasons for the inquiry, and had leaked infor-

mation about the investigation to the media in contravention of the *Conflict of Interest Code for Members of the House of Commons*. The matter was referred to the Standing Committee on Procedure and House Affairs, which found the Ethics Commissioner in contempt of the House, but did not recommend specific remedial measures.

## Senate

Although there were no findings of breach of privilege or contempt of the Senate in 2005, the following two questions of privilege were raised.

On 18 October Senator Marjory LeBreton complained that her privileges as a senator had been violated by the Standing Senate Committee on National Security and Defence, which held a meeting without public notice, without simultaneous interpretation and outside the committee's normal timeslot. By way of response, the Chair of the Committee advised the Senate that the meeting in question was not a formal committee meeting but a private meeting of senators with staff and other individuals. The Speaker reviewed the matter and ruled that the complaint did not constitute a question of privilege since it was indeed a private meeting. However, he cautioned that while private meetings can be useful to prepare for formal committee meetings, they should not to be used to replace them.

On 22 November Senator Mira Spivak raised a question of privilege regarding contradictions between responses she received to questions on the Order Paper and Notice Paper and those given to a member of the House of Commons. The Speaker did not find a *prima facie* case of privilege since there was no evidence that the discrepancies were deliberate and that a clarification of the information given could be sought by other means such as another question on the Order Paper and Notice Paper or at a committee hearing.

## British Columbia Legislative Assembly

On 25 October 2005 the official opposition's education critic rose on a matter of privilege pertaining to the appointment of an industrial inquiry commissioner to review a labour dispute between the British Columbia Public School Employers Association and the British Columbia Teachers Federation. Citing the industrial inquiry commissioner's preliminary report, the education critic noted that the commissioner identified that he received his terms of reference from the government on 10 October. The education

critic for the Official Opposition charged that Minister of Labour had repeatedly cited 6 October as the date in which he had appointed the industrial inquiry commissioner.

In response, the Minister of Labour first raised a procedural objection, that the Member had not brought the privilege issue at the earliest opportunity. Second, the Minister provided the Speaker with evidence from the Hansard transcript and a press release from 6 October reviewing the commissioner's terms of reference. The Minister acknowledged that he could not account for the date of 10 October in the commissioner's report.

In his decision, the Speaker of the House, Bill Barisoff, responded to both the procedural issue and the matter of privilege. Speaker Barisoff found that the Member had not reserved his right to raise the matter of privilege at the first opportunity. With respect to the matter of privilege, the Speaker found that while no explanation was given on why 10 October 2005 was provided in the commissioner's report, the documents provided by the Minister of Labour confirmed that the industrial inquiry commissioner had been appointed on 6 October.

### Newfoundland and Labrador House of Assembly

During the Fall sitting the Opposition House Leader raised a point of privilege concerning the presence of the Speaker, Hon Harvey Hodder MHA, and the Deputy Chair of Committees, Sheila Osborne MHA, at the nomination photo-opportunity of a candidate in the Federal Election which took place on 23 January. The photo appeared in a local newspaper. The Speaker ruled that there was no *prima facie* case of breach of privilege but did acknowledge that taking part in the event was an error in judgment for which he apologised.

### Yukon Legislative Assembly

On the opening day of the 2005 Spring sitting the leader of the third party, Pat Duncan (Porter Creek South, Liberal), rose on a question of privilege. At issue was the government's divulging of budget-related information in advance of the presentation of the 2005-06 estimates in the Assembly. This, Ms Duncan argued, constituted a contempt of the Assembly. Those familiar with the situation that developed in Ontario in 2003[2] will understand the issue presented in Yukon. In fact Ms Duncan, in presenting her case to the

[2] See *The Table*, 72 (2004), pp. 174–179.

Assembly, relied heavily on the argument presented by the former member of the Legislative Assembly of Ontario for Renfrew-Nipissing-Pembroke, Sean Conway, and the ruling of Ontario's then-Speaker, Gary Carr.

In this case, however, the Speaker, Hon Ted Staffen, did not find a *prima facie* case of contempt. In his ruling the Speaker accepted the definition of contempt offered by Joseph Maingot in *Parliamentary Privilege in Canada* as "an offence against the authority and dignity of the House." However Speaker Staffen found that the authority of the House had not been adversely affected by the government's action. The Speaker concluded that, "No matter what announcements the government makes outside this House all appropriations have to be submitted to, and passed by, this Assembly before they become law and the government acquires the lawful authority to spend those appropriations."

As for the dignity of the House, the Speaker found significant differences between the actions taken by the Government of Ontario in 2003 and the Government of Yukon in 2005:

> "In the case ruled upon by Speaker Carr the Government of Ontario divulged its entire budget outside the Assembly. The announcement, equivalent to our finance minister's second reading speech on the main appropriation act, was held in, and televised from, a private facility outside the assembly. Prior to the announcement the government also conducted a media lock-up and released the budget papers to the media and the public. Members of the Assembly were invited to the budget announcement. All this took place six weeks before the Assembly reconvened … The effect of these actions was to marginalise the Assembly in the budget process. Speaker Carr also noted that this process exposed the Assembly to a large volume of public ridicule. This, to Speaker Carr, added up to an apparent contempt of the Assembly.
>
> There were some significant differences between the situations here and in Ontario. Important information about the government's proposed appropriations was made public before the House reconvened. However, most of the spending priorities subsequently announced by the Premier had not been made public. The entire budget speech was delivered for the first time in this House, as it always is, and Members of the Assembly were in their places by right of their election, not as the invited guests of the government. Also, the papers that accompany the budget bill were not released to the public in advance of the moving of the motion for second reading of Bill Number 15 [First Appropriation Act, 2005-06].

> The lock-ups for opposition members and the media took place in the usual fashion."

While he found no *prima facie* case of contempt the Speaker stated that:

> "The issue is not settled for all time. The Chair believes that it is the extent and manner of the budget release in Ontario that inspired Speaker Carr's ruling. Should the extent and manner of pre-budget releases in Yukon become more elaborate the Chair might legitimately be called upon to revisit this issue as a matter of contempt. The Chair might reach a different conclusion at that time."

In closing his ruling Speaker Staffen advised the government that it should "take care in how it announces its intention for spending money that the House has yet to appropriate. In researching this ruling the Chair noted that *not* all government news releases acknowledged that such spending was subject to the approval of the legislature. The Chair believes this statement should be included in all such statements to ensure that the assembly's authority is respected, its dignity is protected and the public is properly informed."

## NEW ZEALAND

### House of Representatives

#### *Members of Parliament and defamation: the Jennings case*

The Privileges Committee presented to the House of Representatives on 31 May 2005 its final report on the question of privilege referred on 21 July 1998 concerning *Buchanan v Jennings*. This was a defamation action brought against Mr Owen Jennings, a Member of Parliament at the time, for a comment he had allegedly effectively repeated outside the House. The litigation concluded, with delivery of a judgment by the Privy Council, on 14 July 2004.

In the course of a debate in the House in late 1997 on producer boards legislation the Member had criticised activities of the New Zealand Wool Board, in particular the actions of an employee relating to arranging sponsorship of a sporting tour. In February 1998 the Member renewed his criticisms of the Board without repeating his allegations against the employee. However, the Member was reported by a journalist as stating that "he did not resile from his claim about the official's relationship".

In the defamation action against the Member the plaintiff alleged that in

that interview the member had "adopted, repeated and confirmed as true" what he had said earlier in the House (although he had not *actually* repeated the statement). This became known as the litigation proceeded as the principle of 'effective repetition'.

Interlocutory applications to strike out the action were declined by the High Court and at the trial of the action the Member was held liable in defamation and NZ $50,000 in damages awarded against him.

The House, through the Speaker, then intervened in the Court of Appeal and Privy Council hearings, with the Solicitor-General appearing to present submissions on parliamentary privilege.

The appeals to the Court of Appeal and the Privy Council were dismissed. The Court of Appeal, by majority, held that freedom of speech in debate was not infringed when a Member was sued on later unprivileged statements which either affirmed or effectively repeated earlier parliamentary statements, even where a record of those parliamentary statements was essential in order to give meaning to the statement made outside the House. Whether a statement made outside the House did effectively repeat a parliamentary statement was a question of fact and in the *Jennings* case it was determined that there was effective repetition.

A dissenting judgment accepted the view that the words used outside the House were incapable of bearing a defamatory meaning unless they were understood in the light of the words used in the House and that to admit the parliamentary record in these circumstances must involve examining and judging it in a way that is prohibited by article 9 of the Bill of Rights 1688, which prevents proceedings in Parliament being impeached or questioned in any court.

For the Privy Council the case turned on the application of basic defamation principles. A person who, in a second unprivileged statement, verifies the truth of an earlier statement that is privileged is liable on that second statement. The order in which the statements are made is important. It was the Member's elucidation, in his 1998 interview, of his statement in the House that opened him up to liability. If the events had unfolded in the reverse order, with a vague interview remark followed by a specific criticism in the House, no liability would have arisen.

Reconvening to consider the implications of the Privy Council's judgment, the Privileges Committee did not believe that taking no action at all in response to it was practicable. The committee considered that the effective repetition principle does involve the courts in examining and making judgments on parliamentary proceedings, thereby endangering the principle of

mutual restraint between the courts and the legislature whereby one does not interfere in the work of the other. The effective repetition principle would adversely affect the willingness of Members and witnesses to contribute in parliamentary proceedings and it would have a 'chilling effect' on public debate, with Members and witnesses reluctant to respond to interviews for fear of losing their parliamentary immunity and the news media also liable to action against them. The committee observed too that 'effective repetition' could be developed judicially beyond the context of defamation, opening up other potential liability for Members and witnesses in criminal or other civil proceedings if a statement in the House is followed by an adoption or reassertion of that statement outside it.

On the basis of suggestions from legal experts, the committee considered four broad approaches for legislation to deal with the *Jennings* decision: simply reversing the decision by an amendment to the Defamation Act 1992, so that a parliamentary statement could not be linked with remarks made outside the House to establish defamation; limiting effective repetition to circumstances in which a Member adds something to the parliamentary statement; creating a new head of qualified privilege for interviews about matters discussed in Parliament; and, more broadly, abolishing 'effective repetition' as a general doctrine. The committee favoured the last option.

The Privileges Committee accordingly recommended that the Legislature Act be amended to provide that no person may incur criminal or civil liability for making any oral or written statement that affirms, adopts or endorses words written or spoken in proceedings in Parliament where the oral or written statement would not, but for the proceedings in Parliament, give rise to criminal or civil liability.

The Privileges Committee's report was debated and noted by the House on 1 June 2005. No legislation to implement the recommendation of the Privileges Committee has so far been introduced.

# STANDING ORDERS

## AUSTRALIA

### House of Representatives

As recommended by the Procedure Committee in 2004 (see *Table* 73), on 17 March 2005 standing order 77 (anticipating discussion) was amended by sessional order and standing order 100(f) (rules for questions, anticipate discussion) was suspended for the remainder of the current parliament.

Standing orders 192 (Main Committee's order of business) and 193 (Member's three minute statements) were amended by sessional order on 10 August. These sessional orders allow the Main Committee to meet at 9.30 a.m., giving an extra 10 minutes for Member's statements. Under the existing standing order the Main Committee met at 9.40 a.m.

### Senate

#### *Chasing up answers*

The Procedure Committee presented a report in November 2005 recommending two changes to the standing orders, to extend to estimates questions on notice and to orders for documents the procedure applying to ordinary questions on notice, whereby a senator may initiate a debate after question time on any day on a government failure to respond after 30 days (see the note in Miscellaneous Notes). The changes were adopted by the Senate, and represent a significant expansion of senators' rights to hold government accountable.

### Australian Capital Territory Legislative Assembly

In June 2005, the Standing Committee on Administration and Procedure resolved to undertake a review of the standing orders. This review will be the first major overhaul of the standing orders since self-government in 1989.

### New South Wales Legislative Assembly

No new standing orders were adopted during 2005. However, a number were amended by sessional orders. The following sessional orders were adopted by the Legislative Assembly in November 2005.

### *Petitions*

Under the standing orders the Clerk is to announce the petitions received in the House, indicating the Members who lodged them and the identity and subject matter of the petitions. The new sessional order has shortened the time taken in relation to the presentation of petitions by providing for the Clerk to announce that certain petitions have been received rather than reading out a list in the House. The list of petitions continues to be incorporated in the Votes and Proceedings, detailing a summarised version of the prayer (i.e. request of the petition) and recording the name of the Member submitting the petition. The entry in the Votes and Hansard has not changed.

The new sessional orders regarding petitions are:

> "That during the current session, unless otherwise ordered, Standing Orders 132 and 133 shall read as follows:
>
> 132. The procedure for the lodging and presentation of a petition is as follows:
>
> (1) The Member must be acquainted with the contents of the petition.
> (2) The Member must ensure that the petition is in conformity with the standing orders.
> (3) The Member must sign the front sheet.
> (4) The petition is lodged for presentation with the Clerk.
> (5) The Clerk shall announce to the House that petitions have been received.
> (6) The terms of the petition presented shall be printed in Hansard and in the Votes and Proceedings.
> (7) No discussion upon the subject matter of a petition shall be allowed.
>
> 133. Petitions shall be deemed to be received by the House unless a motion, moved on the next sitting day (not being a Friday), is agreed to, without debate or amendment, that a petition be not received."

### *Formal Business*

Under the standing orders provision is made for the Speaker to give the House the opportunity to deal with any notice of motion or order on the business paper formally. Under this procedure the Speaker inquires whether there is any objection to each notice and each order of the day for the third reading of the bill on the business paper. Usually the Speaker groups items and the whips of each party object. If no objection is taken by any member, the motion or order shall be deemed to be formal and the member having

carriage of the matter may move the motion at the appropriate time. The question is then decided without amendment or debate.

The procedure of going through the business paper with a view to taking formal business prior to question time each sitting day has been deemed unnecessary by the Government. This is due to the fact that in recent times Members have not availed themselves of the opportunity to move a motion formally without debate. Rather Members prefer to have the opportunity to debate and amend motions. Accordingly, the House has adopted a sessional order suspending the standing order relating to formal business for the remainder of the session.

### *Notices of motions*

Under the standing orders notices of motions are to be given prior to Question Time. The timing has resulted in Members increasingly giving general business notices with large amounts of information as they are unlikely to come on for debate, and which would not be given at a lower profile time of day.

The sessional order adopted by the House has removed the capacity for private members to give notices of motions prior to question time unless they are for bills, no confidence or censure motions, or a notice of motion for business with precedence such as the disallowance of a regulation. However, private members still have the capacity to give notices of motions for general business other than bills verbally in the House prior to private members' statements. Due to the changes that have been made by the new sessional orders a new routine of business has been adopted.

### *Placing and disposal of general business*

Under the standing orders the placing and disposal of business of general business notices of motions for bills and general notices are conducted on the day before general business days (i.e. Wednesdays). The process enables a draft programme to be established for the following day.

Under this procedure the Speaker is required to "call over each category on the Business paper for that day" to allow a member to withdraw or postpone/discharge a notice or order. In practice the Speaker calls all general business notices or order for bills but only calls general business notices for general business until ten notices have been identified as proceeding.

The sessional adopted by the House in November 2005 provides for Members or Party Whips to advise the Clerk in writing which general business notices or orders are to be postponed. The first ten notices on the busi-

ness paper not advised to be postponed by 1.00 p.m. on the day preceding a general business day will be deemed to be proceeding.

Members are still able to withdraw or discharge items of business standing in their name during the placing or disposal of business on any sitting day. In addition, members retain the ability to move that notices or orders of the day be re-ordered to give them precedence on the next general business day.

## New South Wales Legislative Council

### *Sessional Orders*

A new sessional order was adopted on 6 May 2005, which varied the precedence of business and sitting times for the consideration of private members' business. The sessional order provided for private members' business to be dealt with at set times on Tuesdays, Wednesdays and Thursdays of each sitting week, rather than taking precedence each Thursday. The rationale for this change was that by having a scheduled time for private members' business every day there would be fewer instances of the suspension of standing orders to interrupt government business for private members' business.

The new sitting times provided for a 10.00 a.m. start on Wednesdays and Thursdays. The new sessional order applied until the adjournment of the House for the winter recess.

On 22 September 2005 the House resolved that the Procedure Committee inquire into and report on sitting times and the precedence of business having regard to the experience with the sessional order adopted by the House in the previous session. The Committee is expected to report in 2006.

### *Functions of a Parliamentary Secretary*

On 22 June the House adopted a sessional order varying the provisions under standing order 25 relating to the role of a Parliamentary Secretary when acting as a Minister in the House.

Standing order 25 states that a Parliamentary Secretary "may act as a Minister in the House in all respects, except in relation to answering questions with and without notice". The sessional order inserts an additional provision that a Parliamentary Secretary may act as a Minister in all respects except when speaking on a motion for the adjournment of the House, thereby ensuring that in speaking to the adjournment debate, a Parliamentary Secretary is limited to five minutes, as are other members, and is not speaking in reply to the motion.

## Northern Territory Legislative Assembly

A major review of standing orders as they relate to Parliamentary Committees was undertaken and substantially completed. Generally, it was an exercise in updating the orders to be consistent with other jurisdictions, to remove gender-specific language and to remove anomalies and/or ambiguities. The Chairman of the Standing Orders Committee tabled the Third Report of the 10th Assembly in February 2006, which the Assembly adopted.

At the behest of the Standing Orders Committee, the balance of standing orders will be reviewed in the first half of calendar year 2006.

## Victoria Legislative Council

The Council's Standing Orders Committee commenced its review of standing and sessional orders in August 2005. The Committee is chaired by the President and its membership includes the Leader of the Government and the Leader of the Opposition in the Council.

The overall objective of the review is to consolidate the standing and sessional orders and to modernise their wording. However, in the course of deliberations, the Committee's priority turned to the development of a Legislation Committee system capable of replacing the Committee of the whole stage for selected bills, which is a new initiative for the Council. Consideration of various Legislation Committee models in Australia and New Zealand was undertaken.

The Committee tabled an interim report, *Appointment of a Legislation Committee*, on 24 November 2005, the last sitting day of the calendar year. The report recommended that the Council adopt trial Sessional Orders establishing a Legislation Committee.

The major features of the proposed model included:

- the Committee's membership to be six members, not being Ministers, with the membership being proportional to "party, minority group or independent membership in the Council";
- a bill could be referred by resolution of the Council at any time after the second reading and before the third reading stage;
- the Committee could meet at any time including when the House is sitting;
- the Committee would be required to consider a bill in the same manner that bills were considered in the House;

- a Minister, Minister representing or member in charge of a bill could give evidence to the Committee, as could other persons if authorised by the Council; and
- the Committee would report to the Council no later than the first sitting day that occurred after two sitting weeks or four calendar weeks following the referral of the bill, whichever was the shorter period.

Various options would be in place for the Council to proceed expeditiously with the bill once reported by the Committee, but nothing would prevent the bill from being further committed to a Committee of the whole and nothing would prevent further amendments being proposed in Committee of the whole if a member so wished.

## Western Australia Legislative Council

The Council commenced its 2005 sittings on 29 March under its Standing Orders. This brought to an end, temporarily, the Sessional Orders regime that had operated since March 2003. The original Sessional Orders arose from recommendations of the *Report of the Select Committee on the Rules, Orders and Usages of the House*, tabled on 12 March 2003.[1]

### *Sessional Orders 2004-2004*

The 2003 Sessional Orders radically altered the previous schedule of sittings and times allocated for specific business during sitting days. The traditional three day weekly sitting pattern which included two evening sittings on Tuesday and Wednesday nights was altered to omit the Wednesday night sitting and to include Friday in a four day sitting week.[2] The number of sitting weeks was reduced from the usual 24-26 to 19.[3] As far as possible a two week sitting was followed by a two week recess, longer in the case of school holiday periods which traditionally coincided with the winter (July) and summer (January/ February) recesses.

The objects of the Sessional Orders were to provide more time for Government business, to provide a clear delineation between parliamentary work and electorate commitments and to provide more 'family friendly'

[1] Tabled Paper No. 838. See also Report of the Select Committee on the Rules, Orders and Usages of the House - interim report - tabled on 5 March 2003 (Tabled Paper No. 793).

[2] Friday sittings were not scheduled for 4 of the scheduled 19 sitting weeks for 2004.

[3] Included in the 19 sitting weeks were the special meeting of the two Houses to commemorate the 100th anniversary of the Parliament building (28 July 2004), Estimates Week (8-10 June 2004) and the first regional sitting of the House in Kalgoorlie-Boulder (28-29 September 2004). Only the latter was an official sitting of the House.

hours whilst at the same time maintaining the previous total hours of sitting during the parliamentary year.[4]

The Sessional Orders allocated specified times for Government business (Orders of the Day), motions, non-official business (private Members' business) and for the consideration of ministerial statements and committee reports. Members' Statements took the place of the traditional adjournment debate and the House ended each sitting day at a certain time unless the Sessional Orders were suspended by absolute majority to extend the sitting.[5]

Variations of the Sessional Order regime were introduced in March and December 2003, with only minor modifications, and operated until they expired by the effluxion of time in December 2004 prior to the 2005 State general election.

### *Temporary Order 2005*

Due to the priority accorded to the Government's electoral reform agenda, the House put in place a Temporary Order from 27 April to 21 May 2005, the latter date being the day on which the term of Council Members elected in the 2001 general election expired. The Temporary Order permitted the House to sit extended hours, including Fridays, on a motion agreed to by simple majority. The motion for extended sittings could not be amended and was to be resolved without debate. The Standing Orders were also amended for the same period to permit the House to commence sittings earlier on two of its usual sitting days.

### *Sessional Order 2005*

The 34 Members elected at the 2005 general election were sworn in on 23 May.[6] The new Council commenced its sittings on 24 May. The Council operated under the Standing Orders until 30 June when the House agreed to a further Sessional Order for the remainder of 2005 sittings. This Sessional Order largely reflected the two previous Sessional Orders that had been put in place in March and December 2003 but with the significant alteration of omitting the Friday sittings. The tables below represent graphically the Order of Business under the Sessional Order 2005; and the Order of Business under Standing Orders 2005.

[4] For example in 1994, during the second session of the 34th Parliament (5 May – 16 December 1994) in which the Liberal-Coalition Government held a majority of seats in both Houses, the Council sat after midnight on 21 of the 47 sitting days of the session.

[5] Requiring the vote of 18 out of 34 Members.

[6] Thirteen Members were elected for the first time.

Order of Business under Sessional Order 2005 (Adopted by resolution of the House, June 30 2005

| TIMES | TUESDAY | WEDNESDAY | THURSDAY | TIMES |
|---|---|---|---|---|
| 10.00am - 11.00pm | | | FORMAL BUSINESS AND ORDERS OF THE DAY | 10.00am - 11.00pm |
| 11.00am - 12.00pm | | | | 11.00am - 12.00pm |
| 12.00pm - 1.00pm | | | | 12.00pm - 1.00pm |
| 1.00pm - 2.00pm | | | LUNCH (1.00pm) | 1.00pm - 2.00pm |
| 2.00pm - 2.15pm | | FORMAL BUSINESS | NON-OFFICIAL BUSINESS | 2.00pm - 2.15pm |
| 2.15pm - 3.00pm | | MOTIONS ON NOTICE | | 2.15pm - 3.00pm |
| 3.00pm - 3.15pm | FORMAL BUSINESS AND ORDERS OF THE DAY | | | 3.00pm - 3.15pm |
| 3.15pm - 3.30pm | | | | 3.15pm - 3.30pm |
| 3.30pm - 4.15pm | | | | 3.30pm - 4.15pm |
| 4.15pm - 4.30pm | | AFTERNOON TEA (4.15pm) | AFTERNOON TEA (4.15pm) | 4.15pm - 4.30pm |
| 4.30pm - 5.00pm | QUESTIONS WITHOUT NOTICE | QUESTIONS WITHOUT NOTICE | QUESTIONS WITHOUT NOTICE | 4.30pm - 5.00pm |
| 5.00pm - 5.30pm | ORDERS OF THE DAY | ORDERS OF THE DAY | COMMITTEE REPORTS / MINISTERIAL STATEMENTS* | 5.00pm - 5.30pm |
| 5.30pm - 6.00pm | | | | 5.30pm - 6.00pm |
| 6.00pm - 6.40pm | DINNER (6.00pm) | DINNER (6.00pm) | MEMBERS' STATEMENTS** | 6.00pm - 6.40pm |
| 6.40pm - 7.30pm | | | | 6.40pm - 7.30pm |
| 7.30pm - 8.00pm | ORDERS OF THE DAY | ORDERS OF THE DAY* | | 7.30pm - 8.00pm |
| 8.00pm - 8.30pm | | | | 8.00pm - 8.30pm |
| 8.30pm - 9.00pm | | | | 8.30pm - 9.00pm |
| 9.00pm - 9.30pm | | | | 9.00pm - 9.30pm |
| 9.30pm - 10.00pm | | MEMBERS' STATEMENTS** | | 9.30pm - 10.00pm |
| 10.00pm - 10.10pm | | | | 10.00pm - 10.10pm |
| | | * Debate interrupted at either 9.30pm, or 9.25pm if in Committee<br>** Maximum debating time - 40mins | * Debate interrupted at 5.55pm<br>** Maximum debating time - 40mins | |

Legislative Council Order of Business on a Sitting Day (Standing Orders)

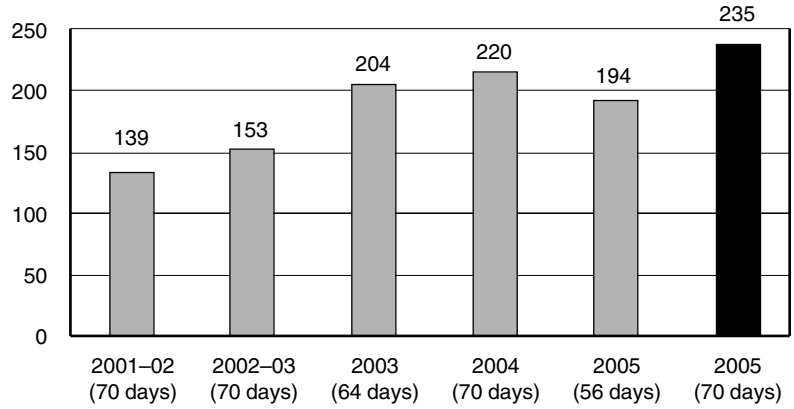
| TIMES | TUESDAY | WEDNESDAY | THURSDAY | TIMES |
|---|---|---|---|---|
| 11.00am - 12.00pm | | | 11.00am<br>HOUSE MEETS<br>FORMAL BUSINESS*<br>AND MOTIONS | 11.00am - 12.00pm |
| 12.00pm - 1.00pm | | | CONSIDERATION OF<br>COMMITTEE REPORTS | 12.00pm - 1.00pm |
| 1.00pm - 2.00pm | | | LUNCH (1.00pm) | 1.00pm - 2.00pm |
| 2.00pm - 3.30pm | | | ORDERS OF THE DAY | 2.00pm - 3.30pm |
| 3.30pm - 3.45pm | 3.30pm<br>HOUSE MEETS<br>FORMAL BUSINESS*<br>AND URGENCY MOTION | | | 3.30pm - 3.45pm |
| 3.45pm - 4.00pm | | | AFTERNOON TEA (3.45pm) | 3.45pm - 4.00pm |
| 4.00pm - 4.30pm | | 4.00pm<br>HOUSE MEETS<br>FORMAL BUSINESS*<br>AND MOTIONS | **QUESTIONS WITHOUT NOTICE** | 4.00pm - 4.30pm |
| 4.30pm - 5.00pm | ORDERS OF THE DAY | | **ORDERS OF THE DAY^** | 4.30pm - 5.00pm |
| 5.00pm - 5.30pm | **QUESTIONS WITHOUT NOTICE** | **QUESTIONS WITHOUT NOTICE** | 5.00pm<br>ADJOURNMENT DEBATE#<br>(MAX 40 MINUTES) | 5.00pm - 5.30pm |
| 5.30pm - 5.40pm | ***ORDERS OF THE DAY*** | ORDERS OF THE DAY | | 5.30pm - 5.40pm |
| 5.40pm - 6.00pm | | | | 5.40pm - 6.00pm |
| 6.00pm - 7.30pm | DINNER (6.00pm) | DINNER (6.00pm) | | 6.00pm - 7.30pm |
| 7.30pm - 10.00pm | ORDERS OF THE DAY^ | ORDERS OF THE DAY^ | | 7.30pm - 10.00pm |
| 10.00pm - 10.40pm | 10.00pm<br>ADJOURNMENT DEBATE#<br>(MAX 40 MINUTES) | 10.00pm<br>ADJOURNMENT DEBATE#<br>(MAX 40 MINUTES) | | 10.00pm - 10.40pm |

* Formal Business includes: Petitions, Ministerial Statements, Papers for Tabling, Notice of Questions, Notice of Motions to Introduce Bills, Notice of Motions for Disallowance, Notice of Motions, Motions without Notice

\# The adjournment time is only approximate.

^ Debate interrupted 5 minutes prior to adjournment time if in Committee.

Government Business Hours 2001–2005




### *Effect of Sessional Orders on Government business time*

There has been a trend indicating increased Government business time since Sessional Orders were first put in place in March 2003. If there had been 70 sitting days in 2005 under Sessional Orders as there were in 2004, projected Government business time would have been approximately 235 hours, taking into account the Address-in-Reply and Budget debates in the first half of the year of approximately 33 hours.

Figure 1 shows Government business hours from 2001 to 2005. The right hand bar indicates the estimated number of hours of Government business if the House had operated under Sessional Orders for 70 sitting days during 2005.

## BELIZE

Standing order 74(1A) has been amended by changing from three to two the number of members who can request a meeting of a standing committee if the Chairman is unable to do so for any reason. This amendment is significant because the proportion of members representing the two parties in the House of Representatives gives the governing party four members and the opposition two members on each standing committee. This change enables the two opposition members to request a meeting of a standing committee pursuant to the powers granted to each committee by standing orders.

CANADA

## House of Commons

On 18 February 2005 the House adopted a motion approving changes to the standing orders to come into effect at 11.00 a.m. on Monday 7 March, and to remain in effect for the duration of the current Parliament and during the first sixty sitting days of the succeeding Parliament:

- The standing orders respecting time limits on speeches were modified with a view to making it easier for members to comment on speeches and to share their own speaking time with other members.
- Also modified were the standing orders respecting the (maximum) three hours of debate on motions for concurrence in committee reports. The standing orders now provide for the consideration within ten days, of motions for concurrence in committee reports on which debate is interrupted, and for the putting of the question and the deferral of the recorded division if one is requested. Because motions to concur in committee reports are moved and debated under the rubric 'Motions' during Routine Proceedings, members repeatedly took advantage of the three hours provided for debate to frustrate the government's ability to proceed to Government Orders.
- Other changes to the Standing orders increase the time available for debate on motions to refer Government bills to committee before Second Reading, from three hours to five, and to increase the time permitted to the first Members speaking on such bills at report stage.
- The maximum number of sitting days allotted to the Business of Supply was increased to 22: seven for the period ending not later than 10 December; seven in the period ending not later than 26 March; and eight in the period ending not later than 23 June.
- Forty-eight hours' written notice is now required for opposition motions on allotted days. All opposition motions (as opposed to the previous maximum of 14) are now votable unless the sponsor of such a motion designates it as non-votable.
- The number of days allowed after the receipt by the clerk of a standing committee of a request signed by four members of the committee for the Chair to convene a meeting has been reduced from 10 sitting days to five calendar days.
- Whips, or their designates, of any recognised party not having a Member on the Liaison Committee, may now take part in the proceedings of the

Committee, but may not vote, move any motion, or be counted as part of any quorum.

- The time allowed to the government, upon request, following the presentation of a report from a standing or special committee, to table a comprehensive response has been reduced from 150 to 120 days.

On 11 May the adoption of the Thirty-Seventh Report of the Standing Committee on Procedure and House Affairs made the provisional Standing orders governing Private Members' Business permanent.

## Senate

### *Rule on dispensing with clause-by-clause consideration*

On 14 June 2005 the Senate amended its rules which dealt with the way committees conduct their review of legislation. Prior to the rule change, some committees dispensed with their clause-by-clause consideration of a bill by vote and reported it back to the Senate without amendment.

On 18 May a point of order had been raised in the Senate with respect to Bill C-15, An Act to amend the Migratory Birds Convention Act, 1994, and the Canadian Environmental Protection Act, 1999. At a meeting the previous day, the Standing Senate Committee on Energy, the Environment and Natural Resources had, by a majority vote of seven to three, adopted a motion to dispense with clause-by-clause consideration of the bill and to report it unamended to the Senate. The Speaker *pro tempore* ruled that, while committees are regarded as the masters of their own proceedings, the motion to dispense with clause-by-clause of a bill appeared to be irregular. In fact, it had the effect of preventing members of the committee from having the ability to move amendments. The Speaker *pro tempore* did not feel that she had the authority to undo decisions that had already been taken by the committee and accepted by the Senate.

Subsequently, the issue was referred to the Standing Committee on Rules, Procedures and the Rights of Parliament for further study and concluded that a change to the rules governing the process of dispensing with clause-by-clause consideration was needed. The Senate adopted the following rule change: "(7.1) Except with leave of its members present, a committee cannot dispense with clause-by-clause consideration of a bill."

### *Conflict of Interest Code*

On 18 May the Senate of Canada introduced a *Conflict of Interest Code for Senators* pursuant to the provisions to the Parliament of Canada Act.

Following its adoption, the *Rules of the Senate* were amended to incorporate the procedural provisions for the application of the new Code. These changes included a provision to limit the Speaker's role to only review the application of the rules and not the administration of the code itself, a change to the process of making declarations of conflicts of interest and providing directions for the functioning of the Standing Senate Committee on Conflict of Interest for Senators.

### British Columbia Legislative Assembly

In the spirit of developing a more co-operative Legislative Assembly in the new 38th Parliament, on 13 September 2005 the House adopted three sessional orders amending the standing orders.

Standing order 14 (Deputy Speaker and Deputy Chairperson), was amended to provide for the election of opposition Member Sue Hammell to fill the new position of Assistant Deputy Speaker. Her election marks the first time that an Opposition MLA has held a position as one of the Assembly's senior presiding officers.

Standing order 25B (Statements) was amended to double the number of daily two-minute Private Member Statements from three to six.

Arguably the most significant change to the practices of the Legislative Assembly of British Columbia was an amendment to standing order 47A (Oral Questions) increasing the time allotted to oral questions by Members from fifteen to thirty minutes. Prior to the amendment, British Columbia had one of the shortest question periods among Commonwealth parliaments.

The Legislative Assembly permanently adopted these provisions with amendments to the standing orders of the House on 15 February 2006.

### Newfoundland and Labrador House of Assembly

The standing orders were amended in 2005. The most significant amendments were: the abolition of the Rule of Anticipation; the limitation of the time allocated to the Member replying to the Minister of Finance delivering the Budget address to twice the amount of time used by the Minister or three hours, whichever is greater; and clarification of the standing order providing that Speakers' rulings are not appealable.

## NEW ZEALAND

### House of Representatives

On the sitting day of 2 August 2005 the House adopted amendments to the Standing Orders set out in the report of the Standing Orders Committee, *Review of Standing Orders* (which had been presented to the House on 23 June), and also on a supplementary order paper relating to pecuniary interests of members of Parliament. The amendments came into force on 12 August, in anticipation of a new Parliament, which met on 7 November after the general election.

Most of the changes to the Standing Orders were consequential on those made to legislation arising from the Public Finance (State Sector Management) Bill, which rearranged financial management and accountability measures within the State sector, that was enacted in December 2004, and amendments to the Constitution Act 1986 enacted early in 2005. Amendments to the Constitution Act 1986 replaced a provision that allowed an outgoing House to resolve to carry business forward to the next Parliament (so effectively setting the agenda of the successor Parliament even when there had been a change of government) with a provision enabling a new Parliament to reinstate business that had lapsed on the dissolution of the previous Parliament. Also, the appropriation rule in the Constitution Act 1986 was repealed, so that the Government now relies entirely on the financial veto provisions in the Standing Orders if it does not concur with a proposal that in its view would have more than a minor impact on the Government's financial aggregates if it became law.

A new set of procedures was introduced for the declaration and publication of the pecuniary interests of members of Parliament. Some of the other changes related to procedures for consideration of bills in committee of the whole House, to considering the civil defence emergency management strategy and plan, and tidying up terminology.[7]

## SWAZILAND

Parliament is currently working on amending the standing orders to bring them into line with the country's new constitution.

[7] The reports of the Standing Orders Committee on these matters may be viewed on http://www.clerk.parliament.govt.nz/Publications/Committee Report - go to items 1 and 2.

## UNITED KINGDOM

### House of Commons

On 26 January 2005 the standing orders relating to sitting hours of the House were amended. The House had been experimenting with new sitting hours (11.30 a.m.) on Tuesdays and Wednesdays. The Government proposed that from the beginning of the next Parliament the Tuesday and Wednesday hours be made permanent and that on Thursdays the House should sit an hour earlier with the moment of interruption also being brought forward an hour (to 10.30 a.m. and 6 p.m. respectively). Members opted to return to the previous sitting time of 2.30 p.m. on Tuesdays, but otherwise supported the Government's motion.

On 13 July the House repealed the standing orders relating to the Select Committee on Broadcasting and the Domestic Committees and passed a new standing order which established an Administration Committee "to consider the services provided for and by the House and to make recommendations thereon to the House of Commons Commission or to the Speaker."

The standing order on Term Limits for Chairmen of Select Committees was amended, so that no select committee may now have as its chairman any member who has served as chairman of that committee for the two previous Parliaments or a continuous period of eight years, whichever is the greater period.

The Welsh Affairs Committee was given the power to invite members of any specified committee of the National Assembly for Wales to attend and participate in its proceedings, but not to vote.

## WALES

The most significant amendments to standing orders were as follows.

#### *Committee to scrutinise the First Minister*

The membership of the Committee to scrutinise the First Minister comprises subject committee Chairs, the Chair of the Audit Committee, the Chair of the Equality of Opportunity Committee and the Chair of the European and External Affairs Committee. It is chaired by the Chair of Audit Committee and meets in public once every 16 weeks that the Assembly meets in Plenary i.e. twice a year.

### *Reform of standing order 31 (Proposals made by Assembly Members for Subordinate Legislation)*

The arrangements for members' proposals for legislation were amended so that, in the first instance, the member who wins the ballot will bring forward a motion to approve the principle of his/her proposed legislation. If the initial motion is approved, a minister will produce a report on the feasibility of the proposals along with a recommendation. A debate on a second motion, on whether legislation should be brought forward to give effect to the proposals, will then be debated in Plenary. It was agreed that there should be at least 24 ballots during the course of an Assembly.

# SITTING TIMES

Lines in Roman show figures for 2005; lines in Italic show a previous year. An asterisk indicates that sittings have been interrupted by an election in the course of the year.

| | Jan | Feb | Mar | Apr | May | June | July | Aug | Sep | Oct | Nov | Dec | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Ant & Barb HR* | *1* | *0* | *2* | *1* | *1* | *1* | *1* | *1* | *1* | *1* | *3* | *3* | *16* |
| *Ant & Barb Sen* | *0* | *1* | *2* | *1* | *1* | *1* | *1* | *0* | *1* | *2* | *2* | *2* | *14* |
| Aus H Reps | 0 | 7 | 8 | 0 | 9 | 10 | 0 | 6 | 8 | 5 | 10 | 5 | 68 |
| Aus Sen | 0 | 3 | 8 | 0 | 3 | 7 | 0 | 6 | 8 | 7 | 8 | 7 | 57 |
| Aus ACT | 0 | 3 | 6 | 3 | 4 | 6 | 1 | 7 | 3 | 3 | 6 | 3 | 45 |
| Aus N Terr | 0 | 6 | 3 | 0 | 3 | 2 | 4 | 6 | 0 | 6 | 3 | 0 | 33 |
| Aus NSW LA | 0 | 3 | 6 | 3 | 3 | 6 | 0 | 0 | 6 | 6 | 8 | 1 | 42 |
| Aus NSW LC | 0 | 3 | 5 | 3 | 7 | 6 | 0 | 0 | 6 | 6 | 8 | 2 | 46 |
| *Aus Queens LA* | *0* | *3* | *6* | *5* | *7* | *4* | *0* | *3* | *3* | *9* | *6* | *0* | *46* |
| *Aus S Aus HA* | *0* | *8* | *7* | *1* | *9* | *7* | *5* | *0* | *7* | *8* | *8* | *4* | *64* |
| *Aus S Aus LC* | *0* | *8* | *7* | *1* | *9* | *6* | *5* | *0* | *7* | *8* | *8* | *4* | *63* |
| Aus Tasm HA | 0 | 0 | 6 | 3 | 6 | 6 | 0 | 3 | 3 | 5 | 8 | 1 | 41 |
| Aus Tasm LC | 0 | 0 | 4 | 5 | 10 | 7 | 0 | 6 | 1 | 7 | 8 | 1 | 49 |
| Aus Vict LA | 0 | 3 | 3 | 3 | 9 | 3 | 3 | 6 | 6 | 9 | 3 | 0 | 48 |
| Aus Vict LC | 0 | 1 | 3 | 3 | 9 | 4 | 3 | 6 | 6 | 9 | 6 | 0 | 50 |
| *Aus W Aus LA* | *0* | *3* | *9* | *6* | *9* | *10* | *0* | *6* | *9* | *6* | *9* | *3* | *70* |
| Aus W Aus LC | 0 | 0 | 3 | 7 | 10 | 6 | 0 | 8 | 7 | 6 | 8 | 1 | 56 |
| Bangladesh | 1 | 15 | 6 | 0 | 4 | 15 | 7 | 0 | 9 | 0 | 5 | 0 | 62 |
| Belize House | 2 | 1 | 1 | 0 | 0 | 1 | 0 | 1 | 1 | 0 | 1 | 2 | 10 |
| Belize Senate | 1 | 2 | 2 | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 1 | 2 | 11 |
| *Berm House* | *0* | *4* | *7* | *1* | *2* | *5* | *4* | *2* | *0* | *1* | *4* | *2* | *32* |
| *Berm Sen* | *0* | *1* | *7* | *0* | *1* | *2* | *4* | *4* | *0* | *1* | *2* | *2* | *24* |
| *Botswana* | *0* | *16* | *23* | *0* | *0* | *9* | *18* | *0* | *0* | *0* | *17* | *13* | *96* |
| Canada HC* | 1 | 19 | 9 | 14 | 17 | 19 | 0 | 0 | 5 | 15 | 15 | 0 | 114 |
| Canada Sen* | 0 | 12 | 7 | 6 | 11 | 15 | 6 | 0 | 2 | 6 | 7 | 0 | 72 |
| *Canada Alb* | *0* | *3* | *12* | *14* | *8* | *0* | *0* | *0* | *0* | *0* | *7* | *3* | *47* |
| Canada BC* | 0 | 11 | 7 | 0 | 0 | 0 | 0 | 0 | 8 | 14 | 11 | 0 | 51 |
| Canada Man | 0 | 0 | 13 | 12 | 17 | 10 | 0 | 0 | 1 | 1 | 19 | 5 | 78 |
| *Canada N Bruns* | *8* | *15* | *0* | *0* | *0* | *0* | *0* | *0* | *0* | *0* | *5* | *12* | *40* |
| Canada Newf | 0 | 0 | 8 | 12 | 16 | 6 | 0 | 0 | 0 | 0 | 7 | 9 | 58 |
| *Canada NWT* | *0* | *0* | *7* | *11* | *4* | *0* | *5* | *0* | *4* | *0* | *0* | *0* | *31* |
| Canada Ontario | 0 | 8 | 9 | 16 | 14 | 7 | 0 | 0 | 0 | 12 | 14 | 9 | 89 |
| *Canada PEI* | *0* | *0* | *2* | *16* | *11* | *0* | *0* | *0* | *0* | *0* | *7* | *10* | *46* |
| Canada Québec | 0 | 0 | 10 | 12 | 14 | 12 | 0 | 0 | 0 | 6 | 15 | 9 | 78 |
| Canada Sask | 0 | 0 | 11 | 20 | 16 | 0 | 0 | 0 | 0 | 0 | 16 | 2 | 65 |
| Canada Yukon | 0 | 0 | 4 | 16 | 10 | 0 | 0 | 0 | 0 | 2 | 18 | 10 | 60 |
| *Cayman Islands* | *0* | *0* | *13* | *0* | *0* | *7* | *0* | *0* | *10* | *0* | *15* | *0* | *45* |
| *Cook Islands* | | | | | | | | | | | | | *78* |
| *Cyprus* | *5* | *1* | *4* | *3* | *4* | *5* | *2* | *1* | *0* | *5* | *4* | *3* | *37* |
| *Dominica* | *0* | *0* | *0* | *3* | *1* | *3* | *4* | *0* | *1* | *0* | *3* | *2* | *17* |
| *Falklands* | *1* | *0* | *1* | *0* | *5* | *0* | *1* | *0* | *1* | *1* | *1* | *0* | *11* |
| *Ghana* | *13* | *16* | *13* | *0* | *13* | *18* | *16* | *4* | *0* | *18* | *18* | *11* | *140* |
| *Gibraltar* | *5* | *3* | *1* | *1* | *3* | *2* | *4* | *1* | *0* | *2* | *1* | *3* | *26* |
| *Grenada Reps* | *4* | *4* | *1* | *0* | *2* | *1* | *1* | *1* | *2* | *0* | *1* | *1* | *18* |
| *Grenada Sen* | *1* | *1* | *0* | *1* | *1* | *2* | *1* | *0* | *0* | *1* | *1* | *1* | *10* |
| *Guernsey* | *2* | *1* | *1* | *2* | *2* | *1* | *4* | *2* | *2* | *2* | *2* | *4* | *25* |
| *India LS* | *0* | *10* | *9* | *12* | *6* | *0* | *9* | *12* | *0* | *0* | *0* | *16* | *74* |
| India RS | 0 | 3 | 17 | 8 | 10 | 0 | 5 | 19 | 0 | 0 | 6 | 17 | 85 |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| India Gujarat | 0 | 10 | 17 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 30 |
| *India Haryana* | *2* | *8* | *0* | *0* | *0* | *1* | *3* | *0* | *0* | *0* | *2* | *0* | *16* |
| India Him Pr | | | | | | | | | | | | | 35 |
| *India Kerala** | *0* | *1* | *12* | *0* | *2* | *0* | *12* | *0* | *19* | *0* | *7* | *0* | *53* |
| *India Maharash* | | | | | | | | | | | | | *33* |
| *India Nagaland* | *0* | *0* | *4* | *0* | *0* | *5* | *0* | *0* | *0* | *0* | *0* | *1* | *10* |
| *India Orissa* | *0* | *0* | *12* | *0* | *0* | *0* | *12* | *3* | *0* | *0* | *0* | *7* | *34* |
| *India Punjab* | *0* | *0* | *13* | *0* | *0* | *0* | *0* | *0* | *2* | *0* | *0* | *0* | *15* |
| *India Rajasthan* | *0* | *5* | *19* | *6* | *0* | *0* | *0* | *0* | *10* | *0* | *0* | *0* | *40* |
| *India Sikkim* | | | | | | | | | | | | | *9* |
| *India Tamil Nadu* | *5* | *0* | *7* | *16* | *6* | *0* | *0* | *0* | *0* | *0* | *5* | *0* | *39* |
| *India Uttar P* | *0* | *10* | *0* | *0* | *0* | *0* | *7* | *5* | *0* | *0* | *6* | *0* | *28* |
| *IoM Keys* | *1* | *3* | *4* | *1* | *3* | *2* | *0* | *0* | *0* | *1* | *5* | *1* | *21* |
| *IoM LC* | *1* | *3* | *4* | *1* | *1* | *2* | *0* | *0* | *0* | *1* | *5* | *1* | *19* |
| *IoM Tynwald* | *1* | *3* | *1* | *2* | *1* | *1* | *3* | *0* | *0* | *2* | *1* | *1* | *16* |
| Jersey | 2 | 2 | 6 | 3 | 6 | 4 | 7 | 0 | 7 | 4 | 3 | 4 | 48 |
| *Kenya* | *0* | *0* | *6* | *12* | *5* | *12* | *13* | *7* | *0* | *13* | *13* | *5* | *86* |
| *Lesotho* | *0* | *0* | *16* | *0* | *1* | *18* | *3* | *1* | *16* | *17* | *9* | *0* | *81* |
| *Malawi* | | | | | | | | | | | | | |
| *Malaysia Reps* | *0* | *0* | *12* | *6* | *0* | *8* | *0* | *0* | *14* | *19* | *5* | *0* | *64* |
| Malaysia Sab | 0 | 0 | 0 | 4 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 6 | 11 |
| *Malaysia Sara* | *0* | *0* | *0* | *7* | *0* | *0* | *0* | *0* | *0* | *0* | *1* | *6* | *14* |
| *Malaysia Sen* | *0* | *0* | *0* | *11* | *0* | *0* | *6* | *0* | *0* | *0* | *12* | *0* | *29* |
| *Montserrat* | *0* | *0* | *0* | *2* | *0* | *0* | *1* | *0* | *1* | *1* | *1* | *1* | *7* |
| *Namibia* | *0* | *12* | *16* | *16* | *0* | *16* | *8* | *0* | *8* | *16* | *16* | *0* | *108* |
| NZ H Reps* | 0 | 9 | 12 | 6 | 10 | 12 | 3 | 2 | 0 | 0 | 9 | 6 | 69 |
| *Nigeria Borno* | *20* | *19* | *24* | *10* | *10* | *20* | *25* | *18* | *28* | *20* | *6* | *2* | *202* |
| *Pak MWFP* | *0* | *5* | *0* | *0* | *0* | *25* | *3* | *0* | *10* | *0* | *0* | *0* | *43* |
| *Pak Pun* | *15* | *0* | *0* | *11* | *0* | *12* | *0* | *11* | *10* | *0* | *0* | *0* | *59* |
| *St Lucia* | *0* | *1* | *1* | *3* | *1* | *0* | *1* | *1* | *1* | *0* | *1* | *1* | *11* |
| *St V & G* | *1* | *0* | *0* | *1* | *1* | *1* | *0* | *2* | *0* | *0* | *0* | *4* | *10* |
| *Samoa* | *10* | *0* | *0* | *4* | *1* | *12* | *0* | *0* | *0* | *1* | *0* | *2* | *30* |
| *Scotland* | *8* | *6* | *8* | *5* | *9* | *6* | *0* | *0* | *8* | *6* | *8* | *6* | *70* |
| Singapore | 6 | 2 | 9 | 4 | 1 | 0 | 4 | 1 | 1 | 2 | 1 | 0 | 31 |
| *S Africa NA** | *0* | *11* | *0* | *1* | *5* | *7* | *0* | *5* | *7* | *5* | *8* | *0* | *49* |
| *S Africa NCOP* | *0* | *3* | *9* | *3* | *6* | *10* | *0* | *2* | *7* | *2* | *7* | *0* | *49* |
| *S Africa NW PL* | *0* | *3* | *3* | *5* | *1* | *2* | *0* | *4* | *5* | *0* | *2* | *4* | *29* |
| *Sri Lanka** | *1* | *8* | *1* | *5* | *3* | *6* | *8* | *8* | *8* | *8* | *4* | *2* | *62* |
| Swaziland | 13 | 13 | 13 | 13 | 13 | 13 | 13 | 13 | 13 | 13 | 13 | 13 | 156 |
| *T&T HR* | *4* | *2* | *4* | *2* | *4* | *3* | *4* | *0* | *4* | *7* | *2* | *2* | *38* |
| *T&T Sen* | *2* | *4* | *3* | *5* | *4* | *4* | *4* | *0* | *3* | *4* | *4* | *3* | *40* |
| *Turks & Caic LC* | *2* | *0* | *0* | *0* | *4* | *1* | *0* | *2* | *2* | *1* | *0* | *1* | *13* |
| *Uganda* | | | | | | | | | | | | | *101* |
| UK Commons* | 13 | 14 | 17 | 4 | 10 | 16 | 12 | 0 | 0 | 16 | 19 | 12 | 133 |
| UK Lords* | 14 | 13 | 15 | 4 | 7 | 16 | 12 | 0 | 0 | 14 | 19 | 12 | 126 |
| Wales | | | | | | | | | | | | | 65 |
| *W Samoa* | *0* | *0* | *4* | *0* | *1* | *13* | *14* | *0* | *0* | *1* | *15* | *2* | *50* |
| *Zambia* | *9* | *16* | *14* | *0* | *0* | *0* | *3* | *11* | *0* | *0* | *16* | *0* | *69* |

# UNPARLIAMENTARY EXPRESSIONS

**AUSTRALIA**

**Australian Capital Territory Legislative Assembly**

| | |
|---|---|
| Making things up. | 6 June |
| Back to the schoolyard plonk. | 23 June |
| You are mooing. | 29 June |
| You hypocritical bastard. | 20 October |
| Judicial system is lax. | 16 November |
| Being a goose. | 16 November |
| Goose of the year. | 17 November |

**Northern Territory Legislative Assembly**

| | |
|---|---|
| If good news was a cow, this minister would be a cattle tick. | 8 February |
| You are a racist. Do you know that? | 9 February |
| We will talk about the Chief Minister's drug problem. | 10 February |
| It is unfortunate that the Minister is asleep. | 16 February |
| Pliant, weak Aboriginal members. | 17 February |
| Sheer bloody ignorance because he does not understand. | 22 March |
| This is a bloke who reckons that boys who are sexually assaulted turn out to be homosexuals. | 23 March |
| Get it off your liver, Delia. Come on, get it all off. | 7 July |
| The Lone Ranger, Dr Lim, turned up … He was out of there like a rat out of a drain. | 16 August |
| How dare you raise such a cowardly, gutless allegation! | 18 August |
| Have your argument later, Buggerlugs. | 19 October |
| Initiative and quick hands of the member for Katherine … and 'Fingers Fay' over there took an opportunity. | 1 December |
| What a blow job that was in your department! | 1 December |

**New South Wales Legislative Assembly**

| | |
|---|---|
| Darling. | 6 June |
| Love. | 6 June |
| Who cares if a woman gets promoted to the bench? | 7 June |
| The opposition has made an art form of human tragedy. | 8 November |
| Mate. | 17 November |
| Blood on their hands. | 1 December |
| The Government is indebted to some ethnic groups. | 15 December |

**Victoria Legislative Assembly**

| | |
|---|---|
| Wacky promise no. 2 is the now infamous Gilligan's Island proposal for an island container port in Western Port, as if best practice were a situation where you double, triple or quadruple-handle things with rafts and pulleys. I am sure there is a Lego model of this in the Leader of the Opposition's office. | 23 February |
| I grew up … just south of your electorate, Sport, so don't lecture me on what I do or do not know. | 15 June |

| | |
|---|---|
| He is calling Chief Inspector Carson a liar. | 15 September |
| Can you shut that prick up? | 17 November |
| **Victoria Legislative Council** | |
| You are as crooked as the rest of them! | 24 February |
| If you want to know anything about currying favour with local government, Bruce is the man! | 20 April |
| Goose. | 20 April |
| You ought to resign for stealing money from the ALP. | 16 June |
| Grossly inappropriate behaviour. | 9 August |
| Let me pick up the interjection by the moron form Geelong. | 20 October |
| They have come in here and deliberately misled this Chamber in this debate. | 17 November |

**CANADA**

| | |
|---|---|
| **House of Commons** | |
| Corrupt. | 22 February |
| Criminal conspiracy. | 7 April |
| Perjured. | 13 April |
| The Minister … should get his head out of the sand and stick it up his attic. | 13 April |
| Theft. | 16 June |
| Blackmailers. | 20 June |
| Liberal lawbreaker. | 23 June |
| **British Columbia Legislative Assembly** | |
| Bloody nerve. | 23 February |
| I once heard that partial information or omission of information is equivalent to a lie. | 9 March |
| In a backhanded, sneaky kind of way. | 10 March |
| Bloody awful. | 6 October |
| Grossly irresponsible. | 16 November |
| **Newfoundland and Labrador House of Assembly** | |
| The Member for Gander who got the gum in his hair, with the brown nose and the brown head and the brown shoulders and the brown rest of it. There is a good bit brown now. There is one fellow – I heard two expressions lately. For him to breathe these days, he has vents in his heels. It is the only way he can get a breath of air there is that much brown. The other one that I heard recently is about the gum. The Member for Gander got gum in his hair. Guess how it got there? The Premier swallowed it. The Premier swallowed the gum. He will be on Night Line, he will be on Open Line talking about those kinds of things. Other members are trying to learn from him about how to try to impress the Premier and get considered for the Cabinet. | 21 April |
| Old conflict of interest. | 5 May |
| Cracked. | 5 May |
| Thirty-three dictators opposite. | 17 May |
| **Québec National Assembly** | |
| Tromper la population. [Deceive the population.] | 20 April |
| Fraude intellectuelle. [Intellectual fraud.] | 27 April |

| | |
|---|---|
| Camoufler une manœuvre politique. [Camouflage a political manoeuvre.] | 28 April |
| Fausse publicité. [False advertising.] | 3 May |
| Sottise et vanité sont les compagnons inseparables du chef de l'opposition. [Stupidity and vanity are the leader of the opposition's inseparable companions.] | 10 May |
| Salissage (faire du). [Mudslinging (engage in).] (June 1) | 1 June |
| Distinguer un chien qui jappe d'un chien qui mord. [Distinguish a dog that barks from a dog that bites.] | 2 November |
| Sépulcre blanchi. [Whited sepulchre.] | 2 November |
| Clown. | 3 November |
| Démagogie. [Demagogy.] | 16 November |
| Politicaillerie (faire de la petite). [Practise small-time politics.] | 8 December |
| **Saskatchewan Legislative Assembly** | |
| Deliberately misunderstanding. | No date given |
| That Deputy Premier … never intended for a minute to honour that commitment. | No date given |
| Pig plutocrat. | No date given |
| Culture of gutter politics. | No date given |
| The reds over there. | No date given |
| **Yukon Legislative Assembly** | |
| The member … knows how to handle this in a way that is best for his own pocketbook. | 30 March |
| I think the minister disagrees with me; I can hear him shaking his head. | 7 April |
| A complete disgrace. | 12 April |
| Malicious. | 10 May |
| The department is doing a good job … despite the minister they have. | 10 May |
| The minister … should be apologizing for selling out the interests of Yukoners. | 2 November |
| They're going to use taxpayers' money to buy the vote. | 3 November |
| Blatant cover-up. | 15 November |
| Acting like a puppet for industry. | 22 November |
| Fearmongering. | 22 November |
| It's a blatant abuse of authority. | 5 December |
| The corrections consultation by this government has been a bait and switch. | 14 December |
| The new minister recognizes that his predecessor…was a bit of a dud. | 15 December |

**INDIA**

**Rajya Sabha**

| | |
|---|---|
| Tu-Tu-main-main [Low-level altercation] | 11 March |
| Dil aur demag ghar rakha hai [Heart and mind have been kept at home] | 16 March |
| If you forgot to hear that means you are not sitting in the Chair | 16 March |
| He has gone for marketing | 17 March |
| Gang of four | 19 March |
| Joker | 19 March |
| One a cat brother and another a dog brother | 23 March |
| Murderer | 23 March |

| | |
|---|---|
| Nikammi sarkar, khooni sarkar [Idle Government, bloody Government] | 21 April |
| Goondagardi [Hooliganism] | 25 April |
| Bhrasht Mantri [Corrupt Minister] | 26 April |
| Fascist | 26 April |
| Bhangi [Sweeper, low caste] | 6 May |
| Badnam aur Badmash [Infamous and wicked, bad character] | 12 May |
| Satta ke Dalal [Power brokers] | 26 July |
| Group of goondas, organised goondas, goondas in uniform, murderers in uniform | 26 July |
| Unke parivar dwara bhrashtachar ko badhava diya ja raha hai [His/Her family is promoting corruption] | 1 August |
| Beshram [Shameless] | 1 August |
| Daku [Dacoit] | 1 August |
| Jiadati [High-handedness] (referring to Presiding Officer) | 2 August |
| An old witch [referring to an ex-Prime Minister] | 4 August |
| Hatiyari aur Apradhi [Murderer and criminal] | 9 August |
| Badtamizi [Unmannerliness, intemperance] | 9 August |
| Desh ko lootane wale hain, beimaan hain, jhoote hain, dhokebaz hain, ghotale karne wale hain [They are looters of the country, dishonest, liars, deceitful scamsters] | 25 August |
| Guilty of favouritism, nepotism, corruption | 29 August |
| Naak cut gai hai [To lose face, to have one's fair name tarnished] | 13 December |
| You have not been able to control them [referring to Presiding Officer] | 15 December |

**NEW ZEALAND**

| | |
|---|---|
| Brownshirt | 1 February |
| Cock-up | 9 February |
| Tories | 8 March |
| Double-crossing | 6 April |
| Lackey | 4 May |
| Sanctimonious little jerk | 5 May |
| Smarmy | 10 May |
| Lapdog party | 18 May |
| Swamp-dweller | 18 May |
| Toerag | 18 May |
| Dope Dealers Party | 1 June |
| Scurrilous dogs | 1 June |
| Honkies | 9 June |
| Fishmonger's wife | 14 June |
| Mugabe clause | 14 June |
| Parasites | 14 June |
| Porkies | 21 June |
| Lacking courage | 22 June |
| Scumbag | 24 November |

# BOOKS AND VIDEOS ON PARLIAMENT

## AUSTRALIA

*House of Representatives Practice*, 5th Edition, ed. by I. C. Harris, assistant editors B. C. Wright and P. E. Fowler, Department of the House of Representatives, Canberra. ISBN 0 642 78510 4

Revised edition of the definitive text on the parliamentary law, procedures and practices of the House of Representatives. This edition incorporates the redrafted and renumbered standing orders which came into effect in November 2004.

*Guide to Procedures*, 2nd Edition, Department of the House of Representatives, Canberra. ISBN 0 642 78432 9

Revised edition of the concise introduction to the procedures of the House of Representatives, intended for participants in and observers of proceedings in the Chamber of the House and the Main Committee. This edition is updated with the redrafted and renumbered standing orders which came into effect in November 2004.

Mail order sales and electronic versions of these two publications are accessible from the House of Representatives website at http://www.aph.gov.au/house/pubs.

*Parliamentary Handbook of the Commonwealth of Australia*, 30th Edition, Parliamentary Library, Department of Parliamentary Services. ISSN 0813 541X

A comprehensive reference on many aspects of the Commonwealth Parliament and the Australian political system, updated for the 41st Parliament. Incudes a short biography of all Members of both Houses.

*Control of government action: text, cases and commentary,* by Robin Creyke and John McMillan, LexisNexis Butterworths, $A131.00, ISBN 0409311022.

*Decision and deliberation: the parliament of New South Wales 1856-2003*, by David Clune and Gareth Griffith, Federation Press, $A59.95, ISBN 186287591X.

*Head of state: the governor general, the monarchy, the republic and the dismissal*, by David Smith, Macleay Press, $A49.95, ISBN 1876492155.

*Law and government in Australia*, edited by Matthew Groves, Federation Press, $A99.00, ISBN 186287588X.

*Parliament and accountability: the role of Parliamentary Oversight Committees*,

by Gareth Griffith, Sydney, NSW Parliamentary Library Research Service (Briefing Paper: 12/05), no price, ISBN 0731317874.

The publication provides a useful synopsis on the accountability of government and the role played by parliamentary oversight committees. Its focus is on the role parliamentary oversight committees play as scrutiny mechanisms. The discussion is predicated on three central tenets. First, that due to the growth of the modern state and bureaucratic activity, there is a pressing need for the Parliament to effectively and efficiently exercise its accountability or scrutiny functions. Second, that due to this growth of government activities, Parliament cannot perform all of the accountability functions required. Third, Parliament must share the work of accountability with other agencies.

Consideration is given to issues that have arisen in the debate on accountability such as accountability and good governance, political accountability and ministerial responsibility, the 'agentification' and 'contracting-out' of government, and the role of the Parliament in oversighting independent statutory agencies that have been termed the 'integrity branch of government'.

It also discusses the different types of oversight committees including legislative review committees, public accounts committees, estimates committees, select or standing committees concerned with the scrutiny of policy and administration and specialised oversight committees that supervise independent investigatory bodies. It considers the advantages and disadvantages of oversight committees.

Consideration is also given to the performance of oversight committees in holding government agencies to account. The author postulates that each of the NSW parliamentary oversight committees have performed their role with some success. However, this view is balanced with criticisms that have been raised about the committees. Comparison is also made with oversight committees in other jurisdictions.

*Practising reconciliation?: the politics of reconciliation in the Australian Parliament, 1991-2000*, by Angela Pratt, Canberra, Dept. of Parliamentary Services, Parliamentary Library, no price.

*Reference of bills to Australian Senate Committees: with particular reference to the role of the Selection of Bills Committee*, by John Vander Wyk and Angie Lilley, Canberra: Dept. of the Senate, no price.

*Scrutiny or secrecy?: committee oversight of foreign and national security policy in the Australian Parliament*, by Kate Burton, Canberra: Dept. of Parliamentary Services, Parliamentary Library, no price.

*Speaking for Australia: Parliamentary speeches that shaped the Nation*, edited by Rod Kemp and Marion Stanton, Allen & Unwin, $A19.95, paperback, ISBN 1741144302.

*Terms of trust: arguments over ethics in Australian government*, by John Uhr, UNSW Press, $A39.95, ISBN 0868406392.

*Election Finance Law: an update*, Talina Drabsch, Sydney, NSW Parliamentary Library, Briefing Paper No. 13/05, $A49.95, ISBN 0741417890.

The paper provides a good overview of the funding and disclosure schemes that regulate election finance in NSW and at the federal level. It compares the main features of the relevant schemes in Australian jurisdictions and notes weaknesses that have been identified with various schemes.

The paper also canvasses the various debates surrounding the provision of public funding, the disclosure of donations and electoral expenditure. In addition, it considers the issues specifically related to independent candidates and members.

The paper also provides an overview of funding and disclosure scheme that apply in a number of overseas jurisdictions in recent years including the United Kingdom, Canada and the United States. Discussion is included about significant changes that have occurred in these jurisdictions in recent years and the effects of these changes.

*Australian Electoral Systems: Origins,Variations and Consequences*, David M Farrell and Ian McAllister, Sydney UNSW Press, $A49.95, ISBN 0868408581. Price

Farrell and McAllister provide comprehensive information on the electoral systems employed in Australia namely, preferential and single transferable vote. It sets out the origins, evolution and operation of election methods and compares the various elements of the systems across Australia such as 'Robson rotation' and optional preferential voting.

The book provides analysis of the effects of the variants of the preferential and single transferable vote systems in place in Australia such as the degree to which a party's vote share corresponds with its seat share and whether certain features of the electoral systems employed in Australia influence which candidates actually get elected. This includes and examination of the rules regarding compulsory preferential voting as opposed to optional preferential voting and the alternative ways of transferring surplus votes under the single transferable vote system.

It also considers the impact of electoral systems on the behaviour of politicians and voters such as the effect of party control of votes, whether

different electoral systems encourage politicians to be more responsive to the demands of the people, and whether voter confusion with the complexities of electoral systems affects the way people vote.

*New South Wales By-elections 1965-2005*, Antony Green, Sydney, NSW Parliamentary Library, Background Paper No. 3/05, ISBN 0731317866.

*Westminster Legacies: democracy and responsible Government in Asia and the Pacific*, Haig Patapan, John Wanna and Patrick Weller (eds), Sydney, UNSW Press, ISBN 0868408484. Price – $A49.95

The book is a compilation of chapters written by political observers from Australia and a number of Asian-Pacific nations examining how the Westminster system of Government has shaped responsible government and democracy within the region.

It considers how the traditions of the Westminster system, such as cabinet government and collective responsibility, a two-party system, parliamentary sovereignty and accountability of ministers to parliament have been adapted to complement local cultures and traditions. It also examines the jurisdictions where the traditions of the Westminster system have created stable democracies and where the imported traditions have failed.

The information provided about the various jurisdictions provides for a comparative analysis of how the shared ideals of the Westminster system have become different across jurisdictions in the Asia-Pacific and which features have been the most resilient.

*The Western Australian Parliamentary Handbook*, by David Black, State Law Publisher, $A35.00, ISBN 1 920830 46 4.

## CANADA

*Annotated Standing Orders of the House of Commons, 2005* (Second Edition), Speaker of the House of Commons, ISBN 0662692063.

*Sharing Power:Women, Parliament, Democracy*, ed. by Manon Tremblay and Yvonne Galligan, Ashgate Publishing Ltd., $C117.05, ISBN 0754640892.

*Le Parlement de Québec : histoire, anecdotes et légendes*, by Gaston Deschênes, Éditions Multimondes, $C34.95, ISBN 2895440824.

*L'histoire du Québec à travers ses lieutenants-gouverneurs*, by Frédéric Lemieux, Christian Blais, Pierre Hamelin, Publications du Québec, $C39.95, ISBN 2551196965.

*Les partis et leurs transformations*, by Vincent Lemieux, Presses de l'Université

Laval, $C25.00, ISBN 2763781268.

*La démocratie: ses fondements, son histoire et ses pratiques*, Directeur général des élections, $C25.00, ISBN 2551227631. Also published in English under the title *Democracy: its foundation, history and practices.*

*L'observation électorale : guide pratique à l'intention des membres de missions d'observation électorale à l'étranger*, Directeur général des élections, Directeur général des élection. Also available in paper and electronic editions in French, English, Spanish, and Portuguese. ISBN 2550347870. Electronic address: http://www.electionsquebec.qc.ca/fr/guide_obs_electorales.asp.

*Femmes et parlements*, by Manon Tremblay, Éditions du remue-ménage, $C39.95, ISBN 2890912205.

*Québécoises et représentation parlementaire*, by Manon Tremblay, Presses de l'Université Laval, $C28.00, ISBN 2763782396.

## INDIA

*Celebrating Rajya Sabha: The 200th Session*, Rajya Sabha Secretariat, New Delhi, Rs. 150/-.

*Role and Relevance of Rajya Sabha in Indian Polity: Proceedings of the Seminar organised on the occasion of the 200th Session of Rajya Sabha on 14 December 2003 in Parliament House Annexe, New Delhi,* Rajya Sabha Secretariat, New Delhi, Rs. 75/-.

*Who's Who Rajya Sabha 2004,* Rajya Sabha Secretariat, New Delhi, Rs. 300/.

*Rajya Sabha Mein Rastrakavi Maithilisharan Gupta*, (Hindi) Rajya Sabha Secretariat, New Delhi.

*Rajya Sabha and its Secretariat: A Performance Profile 2004*, Rajya Sabha Secretariat, New Delhi, Rs. 25/-

*Rajya Sabha Practice and Procedure Series*, (a set of 21 booklets), Rajya Sabha Secretariat, New Delhi, Rs. 100/-.

*Parliamentary Terms and Phrases* (English-Hindi) Rajya Sabha Secretariat, New Delhi.

*Rules of Procedure and Conduct of Business in the Council of States*, Sixth Edition, Rajya Sabha Secretariat, New Delhi, Rs. 60/-.

## NEW ZEALAND

*Parliamentary Practice in New Zealand*, 3rd edition, by David McGee, Dunmore Publishing, NZ$74.99 plus p&p, ISBN 1-877399-06-X.

The third edition of *Parliamentary Practice in New Zealand* by the Clerk of the House, David McGee, CNZM, QC, was launched by the Speaker, Hon Margaret Wilson, at a function on 14 December 2005. It is over eleven years since the second edition was published. The new edition reflects the developments that have occurred with the advent of the Mixed Member Proportional system of representation (MMP).

Some particular procedures covered by the new edition are:

- the formal recognition in the House's rules of parties
- the establishment of a Business Committee representative of parties in the House to oversee arrangements for parliamentary business
- the financial procedures that apply
- the provision for referral of international treaties to select committees for examination before ratification
- procedures incorporating into the House's rules the principle of natural justice, including applications for responses to allegations made in Parliament
- provisions for the declaration and registration of members' pecuniary interests.

Content relating to parliamentary privilege has been extensively reworked. Copies may be obtained directly from the publisher, Dunmore Publishing, PO Box 25 080, Wellington, New Zealand (ph: +64 4 472 2705; fax: +64 4 471 0604; email: books@dunmore.co.nz.

*Party Politics in New Zealand*, by Raymond Miller, Oxford University Press, NZ$49.95, ISBN 0 19 558413 9.

*Speakers' Rulings 1867 to 2005 inclusive,* compiled by D G McGee, House of Representatives, New Zealand, NZ$16.95.

*Standing Orders of the House of Representatives*, brought into force 20 February 1996, amended (most recently) 2 August 2005 (with effect on 12 August 2005), House of Representatives, NZ$16.95.

## WALES

*Devolution, law making and the constitution*, ed. by Robert Hazell and Richard Rawlings, Imprint Academic, £35.00, ISBN 1845400372.

*Quango cull falters but continues: monitoring the National Assembly: September–December 2004*, ed. by John Osmond, Institute of Welsh Affairs, £10.00, ISBN 1904773001.

*Labour's majority in doubt: monitoring the National Assembly: December 2004–*

*April 2005,* ed. by John Osmond, Institute of Welsh Affairs, unpriced, ISBN 1904773028.

*Welsh politics comes of age: response to the Richard Commission*, ed. by John Osmond, Institute of Welsh Affairs, £14.99, ISBN 1071726379.

*Welsh hustings 1885-2004: a who's who guide of Parliamentary, European and Assembly candidates in Wales*, by Ivor Thomas Rees, Gwasg Dinefwr Press, £22.95, ISBN 190432309X.

*Minority government by selective co-operation: monitoring the National Assembly: May–June 2005*, ed. by David Rhys, Institute of Welsh Affairs, £10.00, ISBN 1904773052.

*The dynamics of devolution: the state of the nations 2005*, ed. by Alan Trench, Constitution Unit UCL/Imprint Academic, £17.95, ISBN 1845400364.

# CONSOLIDATED INDEX TO VOLUMES 70 (2002) – 74 (200)

This index is in three parts: a geographical index; an index of subjects; and finally lists, of members of the Society specially noted, of privilege cases, of the topics of the annual Questionnaire and of books reviewed.
The following regular features are not indexed: books (unless reviewed), sitting days, unparliamentary expressions. Miscellaneous notes and amendments to Standing Orders are not indexed in detail.

**ABBREVIATIONS**

| | |
|---|---|
| ACT | Australian Capital Territory |
| Austr. | Australia |
| BC | British Columbia |
| HA | House of Assembly |
| HC | House of Commons |
| HL | House of Lords |
| LA | Legislative Assembly |
| LC | Legislative Council |
| LS | Lok Sabha |
| NA | National Assembly |
| NI | Northern Ireland |
| NSW | New South Wales |
| N. Terr. | Northern Territory |
| NZ | New Zealand |
| Reps | House of Representatives |
| RS | Rajya Sabha |
| SA | South Africa |
| Sask. | Saskatchewan |
| Sen. | Senate |
| Vict. | Victoria |
| WA | Western Australia. |

## GEOGRAPHICAL INDEX

For replies to the annual Questionnaire, privilege cases and reviews see the separate lists.

## SUBJECT INDEX

Sources and authors of articles are given in brackets.

## LISTS

### Members of the Society

*Abbreviations:* R *retirement,* O *obituary.*



### Privilege Cases

★ *Marks cases when the House in question took substantive action*

## Questionnaires



## Reviews