Journal

of the

Society of Clerks-at-the-Table

in

Empire Parliaments

EDITED BY

OWEN CLOUGH, C.M.G.

"Our Parliamentary procedure is nothing but a mass of conventional law."—DICEY

VOL. IV

FOR 1935

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USUAL SESSION MONTHS OF EMPIRE PARLIAMENTS

Parliament.	*Jan.*	*Feb.*	*Mar.*	*April.*	*May.*	*June.*	*July.*	*Aug.*	*Sept.*	*Oct.*	*Nov.*	*Dec.*
UNITED KINGDOM		*	*	*	*	*	*				*	*
CANADIAN DOMINION ..	*	*	*	*	*	*	*					
CANADIAN PROVINICAL: ..												
Ontario		*	*									
Quebec	*	*	*									*
Nova Scotia			*	*								
New Brunswick		*	*	*								
Manitoba		*	*	*								
British Columbia		*	*	*								
Prince Edward Island ..			*	*								
Saskatchewan	*	*	*									*
Alberta		*	*	*								
AUSTRALIAN COMMONWEALTH ..			*	*	*				*	*	*	*
AUSTRALIAN STATES:												
New South Wales					*	*	*	*	*	*	*	*
Queensland					*	*	*	*	*	*	*	*
South Australia							*	*	*	*	*	*
Tasmania							*	*	*	*	*	*
Victoria							*	*	*	*	*	*
Western Australia							*	*	*	*	*	*
NEW ZEALAND							*	*	*	*		
UNION OF SOUTH AFRICA ..	*	*	*	*	*	*	*					
UNION PROVINCIAL:												
Cape of Good Hope		*			*				*			
Natal			*	*	*	*						
Transvaal			*	*	*							
Orange Free State			*				*					
SOUTH WEST AFRICA			*	*	*							
IRISH FREE STATE	*	*	*	*	*	*	*			*	*	*
SOUTHERN RHODESIA			*	*	*							
INDIAN CENTRAL		*	*	*				*	*			
INDIAN PROVINCIAL:												
Bengal			*	*				*	*			
Madras	*	*	*									
Bombay		*	*			*	*		*	*		
United Provinces		*	*			*				*		*
Punjab		*	*				*		*		*	
Bihar	*	*	*					*	*			
Burma		*		*	*			*				
Central Provinces	*	*	*					*				
Assam			*						*			
CEYLON	*	*		*	*	*	*	*	*	*	*	*
BRITISH GUIANA										*	*	

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* A subject standing over from the *Questionnaire Schedule* for Volume II.

Journal
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Society of Clerks-at-the-Table
in Empire Parliaments

VOL. IV. FOR 1935

George V.

At the head of the Editorial in our last issue, we, as members of this Society, tendered to His Majesty King George V. and to Her Majesty the Queen our loyal and deep-felt congratulations upon the celebration of the Silver Jubilee of His Majesty's accession to the Throne, and wished Their Majesties long life, health and happiness in the discharge of their important share in the government of the peoples of the Empire. His late Majesty, in graciously consenting to accept a copy of the Jubilee issue of our JOURNAL, expressed the wish that no expense be involved in having the copy specially bound, which was yet another, though minor, instance of his consideration for others, which marked the whole length of King George's glorious reign.

In this issue of our JOURNAL, we mourn his loss; a King has passed, whose whole Empire was almost as familiar to him as the gardens around his Palace. In every part of his far-flung Dominion was his death mourned by his people of all colours, creeds and races; bells were tolled; Parliament Buildings draped; flags flown half-mast, while the people mourned, for not only had they lost a good King, but a kind Father and dear Friend, ever thoughtful

of their interests and a sharer with them in their joys and sorrows. Prime Ministers throughout the Empire vied with one another, in their appreciation of his unselfish and unswerving devotion to duty and their common grief in the great loss.

The members of this Society serving His Majesty's Parliaments in Canada, Australia, New Zealand, South Africa, the Irish Free State, Southern Rhodesia, the Empire of India, the Bahamas, Ceylon, Northern Rhodesia, British Guiana and in the Mandated Territory of South-West Africa, respectfully offer their heart-felt sympathies to His Majesty King Edward VIII., to Her Majesty Queen Mary, and to all the Members of the Royal Family in their great grief. It is our fervent prayer that Almighty God grant them comfort in their deep sorrow.

Edward VIII.

There being no break in Kingship, while our hearts still mourn the death of our late King, we, as members of this Society, serving Parliaments in which the Crown is the ruling constituent, humbly offer to our new King, His Majesty King Edward VIII., our sincere congratulations upon his Accession to the Throne; in the words with which King's Speeches close at the Opening of Sessions of the Empire's Parliaments, we pray—" that the Blessing of Almighty God may guide and sustain " His Majesty in his labours and that his reign may be great and glorious. Long may our King discharge the duties of his high and important office, under the many Constitutions of our Ocean Commonwealth.

In regard to the messages of condolence and congratulation conveyed to His Majesty the King on behalf of the members of this Society, His Majesty has graciously commanded that the sincere and heartfelt thanks of the King, Queen Mary and the Members of the Royal Family be conveyed to the members of our Society for their kind message of sympathy, and His Majesty expresses his sincere thanks to our members for their kind message of congratulation on his Accession to the Throne.

I. EDITORIAL

Volume IV.—Owing to the removal of the office of the Society from London to Capetown, and to other causes, the publication of the JOURNAL this year has been delayed.

The year 1935 has been particularly rich in constitutional issues. The most significant constitutional milestone of all has been, of course, the passing of the new Constitution for India, from which Burma is now to be separated. There have been constitutional agitations both in Canada and Australia, with a view to the better working of their respective Constitutions; Newfoundland is still being governed by Commission and Malta is now to be taken back along the road of constitutional development, while the two Rhodesias, with their growing interests, are demanding full control of their vast territories. The Irish Free State is again contemplating constitutional changes and the Mandated Territory of South-West Africa is concerned with internal conditions.

It has been possible to give treatment in this issue to a subject standing over from previous years, namely, "Language Rights," but we have not been able to deal with many other subjects, treatment of which has been requested from one part of the Empire or another. In this and future issues an Article will be included dealing with the Application of Privilege in the various Parliaments during the year.

In regard to the practice and working of Parliament, many instances of particular interest have occurred during the year; these are given hereunder.

Questionnaire for Volume IV.—Owing to the causes mentioned in the previous paragraph, it was not possible to send out to members of the Society the Questionnaire for this Volume until the 25th January, 1936. Therefore, sufficient time has not been given, in many cases, for replies to be received before the despatch of the MSS. to the printers. Most replies, however, have been received, but until all are in it is not possible to deal with the subjects in question. Their treatment will therefore be reserved for Volume V.

We regret to announce the death, on 12th March, at Fredericton, New Brunswick, Canada, of George Bidlake, the able and respected Clerk of the Legislative Assembly of that Province. Mr. Bidlake had suffered from indifferent health during the last few years, yet there was no slackening off in his duties. The funeral, which took place at Fredericton two days later, was attended by His Excellency the Lieutenant-Governor of the Province and Staff, the Premier, Judges, Members of the Provincial Cabinet, Members of Parliament and many others from all walks of life. The service at Christchurch Cathedral was conducted by His Grace the Archbishop of Fredericton. Mr. Bidlake was born at Great Bidlake, Devonshire, England, 64 years ago and went to Canada in 1905. Before his appointment to the Parliamentary Staff of the Province in 1919, Mr. Bidlake, who first took up farming, had been a journalist and editor of several newspapers in the Province. In 1884 he was admitted a Solicitor in London.

Mr. Bidlake was the recognized authority in the Province on all Parliamentary matters, and a very ardent and helpful member of this Society. On his death the following official statement was issued from the Premier's Office:

> The death of George Bidlake, Clerk of the Legislative Assembly, will be sincerely mourned. In the Public Service, he won general recognition for his faithful and meticulous attention to the duties of his office. The Government Service loses an exemplary servant and the community a thorough gentleman.

The writer, during his visits to Fredericton in 1926 and 1928, well remembers his pleasant intercourse with Mr. Bidlake, and can testify to the high esteem in which he was held, not only in Parliamentary circles in the Maritime Provinces, but at Ottawa. Our sincere sympathies are respectfully offered to his sons and daughters and other members of his family in their deep sorrow.

Acknowledgements to Contributors. — The thanks of the Society are due to the Clerk of the Parliaments at Westminster, Sir Henry J. F. Badeley, K.C.B., C.B.E., for the contribution of his two most interesting articles, as well as to Mr. William Angus, Keeper of the Register and Records of Scotland, for his description of the election of the Scottish Representative Peers. We are also indebted to Mr. E. W. Parkes, C.M.G., Clerk of the Commonwealth House of Representatives, and to Mr. D. H. Visser, Clerk of the Union House of Assembly, for their valuable instances of unusual points of procedure in their respective Houses. Our thanks are also warmly given to Mian Muhammad Rafi, B.A., the Secretary of the Indian Legislative Assembly, for his splendid Article on procedure in regard to Indian legislation,[1] and we acknowledge the kind courtesy of Saiyid Sir Raza Ali, C.B.E., the Agent-General for India in South Africa, in supplying statistical information in regard to Burma.

The Clerks Oversea. — The Editor also desires to express his warmest thanks to all the Clerks of the Houses of the Oversea Parliaments and Legislatures for supplying him so willingly, so fully and so promptly with information for this Volume. There is no doubt that the usefulness of this Society and its annual JOURNAL to all those who are responsible for the working of the Parliamentary machine is now fully realized by all, and the value and importance of whole-hearted co-operation appreciated. As we have often remarked in our correspondence with the members of the Society over the Seven Seas, that 100 per cent. co-operation will ensure 100 per cent. results, from which all the Parliaments will benefit.

Further Reply to Questionnaire for Volume III.—As the replies to the abovementioned Questionnaire in respect of the Transvaal Province of the Union of South Africa were received after Volume III of the JOURNAL had gone to press, such replies in respect of Questions I and V are given hereunder—

(a) Disputed Election Returns.—

Transvaal.—Disputed election returns are in the hands of the Courts under the Union Electoral Act (No. 12 of 1918, as amended by Union Acts Nos. 11 of 1926, 24 of 1928, and 34 of 1931).

[1] We are also grateful to the Mian for his kind thoughtfulness in sending his Article by air-mail, which on the same day and by the same method was passed on to the Printers.—[ED.]

(b) Seating of Members.

Transvaal.—The seating of Members in the House is arranged by the Whips of each Party, subject, of course, to the numerical claims of the parties.

Governor of Sind.—His Excellency, Sir Lancelot Graham, K.C.I.E. (as Mr. L. Graham, C.I.E., I.C.S., the Secretary of the Council of State for India, a former member of our Society), has recently been appointed to the Governorship of the newly-constituted Province of Sind under the new Constitution for India, and we offer him on behalf of the members of the Society our sincere congratulations upon his appointment. We trust he will be given health and strength to discharge the onerous duties of this important office for many years to come.

Houses of Lords[1] (Life Peers).—Following an Address[2] to His Majesty and the Royal Message in reply,[3] on the 4th April[4] a Bill[5] was introduced into this House providing for the appointment of a limited number of life Peers, not exceeding 5 in any one calendar year, from amongst persons who hold or have held, high judicial office, or attained the rank of rear-admiral, major-general or air vice-marshal in H.M. Forces, or served with marked distinction in the diplomatic, civil, consular or colonial services, or as a governor or lieutenant-governor of any dominion, province or colony, or has been for not less than 20 years a Member of the House of Commons, or has achieved pre-eminence in law, medicine, science, art, literature, commerce, or in social and industrial work. It was further provided that the total number of Peers appointed under the Act should not at any time exceed fifty.

To the question for second reading the following amendment was moved:

> That having regard to the resolution passed on June 20, 1927, by a very large majority that—" this House would welcome a reasonable measure limiting and defining membership of this House and dealing with the defects which are inherent in certain of the provisions of the Parliament Act," this House declines to proceed with a measure which makes no provision for dealing with the long-standing declaration of Ministers that reform of the Second Chamber is of urgent importance to the public service.

The amendment was negatived and the Bill read the second time but not proceeded with. The Peer in charge moved[6] for

[1] *See also* JOURNAL, Vol. II, p. 14.
[2] 96 H.L. Deb. 5. s. 28-38.
[3] *Ib.* 155.
[4] 96 H.L. Deb. 5. s. 577-613.
[5] H.L. (49).
[6] 97 H.L. Deb. 5. s. 51-56.

facilities to be granted the Bill in "Another Place," but withdrew the motion upon the Government being unable to give what might be considered as a hypothetical and unprecedented pledge.

House of Lords (Peers as Members of the Commons).—On the 12th February[1] the following motion was moved in this House:

> That all Peers of the Realm be entitled to record their votes for the election of members of the Commons House of Parliament, and that all Peers of the Realm be entitled to offer themselves for election to the House of Commons, provided that during his membership of that House no Peer shall have the right to sit or vote in the House of Lords.

The question, however, was negatived by 27 votes to 16.

House of Lords (Parliament Act 1911).—On the 9th April,[2] a Bill[3] was introduced into this House to amend the Parliament Act, 1911, by providing for the amendments of section 2 thereof[4] (which section deals with the restriction of the powers of the House of Lords as to Bills other than Money Bills) in order to remove from the operation of such clause also Bills affecting any matter concerning:

(*a*) The prerogative and rights of the Crown including any provision for His Majesty's Civil List.
(*b*) The succession to the Crown.
(*c*) The composition, powers and privileges of either House of Parliament.

After a short debate of particular interest the Bill was, however, withdrawn.

The Speaker's Seat.—In connection with the article which appeared on this subject in our last issue,[5] it is of interest to note that the Speaker of the House of Commons at the last general election was opposed in his constituency, in which, in accordance with custom, he had as retiring Speaker been returned unopposed at the previous general elections. Captain FitzRoy announced at his adoption meeting in his constituency that he would thereafter make no speeches and do no canvassing during the campaign. He read letters from Mr. Baldwin, Mr. Ramsay MacDonald, Sir John Simon, Mr. Lloyd George and Sir Herbert Samuel, as leaders of parties in the House, deploring the Labour Party's decision to oppose him. Captain FitzRoy was again returned as M.P. for the Daventry Division and—for the fourth time in succession—re-elected to the Speakership of the House of Commons.

Ministers without Portfolio.—Interesting debates took place

[1] 99 H.L. Deb. 5. s. 536. [2] 96 H.L. Deb. 5. s. 619-658. [3] H.L. (48).
[4] 1 & 2 Geo. V. c. 13. [5] JOURNAL, Vol. III, pp. 48-53.

in the Imperial House of Commons on the 17th and 20th June,[1] in regard to the appointment of Ministers without Portfolio.

Chairman and Deputy Chairman of Committees.—On the 4th July[2] in the Imperial House of Commons, the Prime Minister was asked by a Member, if he would consider taking steps to see how far agreement could be reached between all parties in the House, that when the next vacancies occurred, such officers should be elected by free choice of the House itself, regardless of party considerations, to which the Prime Minister replied that the suggestion had been noted.

Ministers' Powers.—In reply to a question in the Imperial House of Commons on the 10th July[3] the Prime Minister said that in view of the congested state of public business, he could hold out no hope of an opportunity being afforded for a discussion of the Report of the Committee on Ministers' Powers,[4] and the views expressed in the Report were being borne in mind in relation to current legislation as occasion arose.[5]

Lighting Failure.[6]—On the 11th July,[7] the lighting of the House of Commons failed from 9.30 to 9.50 p.m., and candles were brought in. The Member who continued his speech during the failure, said that he felt a sense of great despondency, and that he was faced with a new complexity and was never so moved to pray for light.

Ministers without Seats in Parliament. — On the 5th December[8] a Member asked the Prime Minister in the Imperial House of Commons if he proposed fixing a time-limit within which Ministers without seats in that House or the House of Lords, and without public trust, might hold their present appointments. The Prime Minister replied that no such time-limit could be imposed without legislation, which the Government did not propose to bring before the House.

Ministerial Under-Secretaries at Westminster. — A Bill was introduced on the 10th July and passed[9] through Parliament declaring that there may be two Parliamentary Under-Secretaries to the Secretary of State for Foreign Affairs, and that in that case neither Under-Secretary should be disqualified for membership of the House of Commons, and also to make similar provision in regard to certain Ministers without Portfolio. It will be remembered[10] that in the United Kingdom,

[1] 303 H.C. Deb. 5. s. 26 and 567, 568.
[2] *Ib.* 2001.
[3] 304 *Ib.*, 324, 325.
[4] *See* JOURNAL, Vol. I, p. 12.
[5] *See also* 304 H.C. Deb. 5. s. 3087-3092; 295 *Ib.*, 1234, 1235; 301 *Ib.*, 366, 367; 295 *Ib.*, 699-705, 767; 298 *Ib.*, 2125, 2126.
[6] *See also* JOURNAL, Vol. III, p. 34.
[7] 304 H.C. Deb. 5. s. 604.
[8] 307 H.C. Deb. 5. s. 293.
[9] 25 & 26 Geo. V. c. 38.
[10] May 13th ed.

Ministers and Under-Secretaries with the right to sit in the respective Houses of Parliament are limited by certain statutes.

Debates (Selection of speakers). — On the 5th December[1] in the Imperial House of Commons, the Speaker was questioned by a Member regarding the large proportion, in previous Sessions, of Members of the Opposition, compared with Government supporters, who were selected to take part in debate. To which Mr. Speaker replied that if the question had been put to him in the form of a complaint as to his selection of Members who happened to catch his eye, he should have ruled it out of order as a reflection on the conduct of the Chair, for dealing with which there is a proper procedure laid down, but as the question had been put as a request for information he might say that the task of the Speaker in giving fair opportunity for all shades of opinion to be properly expressed was much more difficult than when parties were less numerous. To call upon speakers according to the numerical strength of parties would not improve the character of the debates. It had always been the practice, and he hoped it would continue to be the practice, for minorities to get not only their full share, but, if anything, a more generous share than majorities, of opportunity to express their views. That had always been his endeavour.

The Member thanked Mr. Speaker, in whom, he said, the House had the utmost confidence.

Government of India Bill (Time-Table).—In the Imperial House of Commons on the 13th February[2] the Prime Minister made a statement with reference to the consideration of the Government of India Bill in Committee of the Whole House, and announced that the committee, representing all parties and sections which the Lord President of the Council had already announced in the House, would be set up to consider a time-table for the Committee stage of the Bill, had met, under the chairmanship of the Chairman of Ways and Means, and that the following had been agreed upon by mutual arrangement:

Committee Stage: Allocation of Time.	*Days.*
Proceedings on Instructions and Parts I and II ..	6
Parts III and IV	3
Parts V to VIII both inclusive	4
Parts IX to XIII both inclusive	4
Parts XIV and XV	2
New Clauses and Schedules 1 to 4 both inclusive ..	3
Schedules 5 to 15 both inclusive, new schedules, postponed clauses (if any) and all other matter necessary to complete the Committee stage ..	4
Total	26

[1] 307 H.C. Deb. 5. s. 300-302.

[2] 297 H.C. Deb. 5. s. 1936-1939.

The remaining 4 days of the 30 days allocated by the Government for the Committee stage were held in reserve, to be used if it should appear, as the Bill proceeded, that any apportionment made under the time-table was inadequate.

Canada.—On 28th January, 1935, the House of Commons passed the following Resolution:

> That in the opinion of this House, a special committee should be set up to study and report on the best method by which the British North America Act[1] may be amended so that while safeguarding the existing rights of racial and religious minorities and legitimate provincial claims to autonomy, the Dominion Government may be given adequate power to deal effectively with urgent economic problems which are essentially national in scope.

In consequence of this Resolution on the 12th February following it was *Ordered*:

> That a Select Committee consisting of Messrs. Cowan, Guthrie, Turnbull, Ernst, Gagnon, Lapointe, Mackenzie (*Vancouver Centre*), Ralston and Woodsworth, be appointed in accordance with the Resolution passed by this House on the 28th January, 1935, to study and report upon the best method, etc. (as in the above Resolution);
> And that the said Committee shall have power to report from time to time and to send for persons, papers and records.

On the 18th *idem* it was further *Ordered*:

> That the said Committee be empowered to print its day to day proceedings and evidence, 500 copies in English and 250 copies in French, and that Standing Order 64[2] be suspended in relation thereto.

By an Order issued on the following day, the names of Messrs. Bourassa, Stewart (*Lethbridge*), and Veniot were added to the Committee, which held 11 meetings and heard 7 witnesses, between the 18th February and 18th June, when the Report[3] of the Committee was agreed upon for presentation to the House. The evidence covers 138 pages of the publication and is full of interest to the constitutional student. The Report, which was the Second Report from such Committee, recited telegrams sent to the respective Attorneys-General of

[1] 30 Vict. c. 3. This Constitution, it will be remembered, can only be amended by the Imperial Parliament upon Address from the Canadian Parliament; this was specially so provided by the Fathers of Confederation in 1867.

[2] Requiring a motion for printing any paper to be first submitted to the Joint Committee on Printing, for report, before question is put on the motion.

[3] Special Committee on B.N.A. Act, Session 1935, House of Commons (King's Printer, Ottawa, 25 *cents*).

the 9 Provinces, desiring the views of their Governments in regard to methods of securing amendments to the Constitution, quoting the Commons Resolution above-quoted, and stating that while the Committee did not object to the personal attendance of a representative from such Governments it was thought less costly to ask for a written submission; copies of the proceedings were also sent. Seven Provinces replied, suggesting that the subject should be discussed at a conference between the Dominion and Provincial Governments, the eighth replied formally and the other stated that it did not desire to make any representation before the Committee on amendments to the Constitution, as no good purpose would be served by attempting to advise the Dominion Government at the present time. The Committee went on to report that it recognized:

> that there is a divergence of opinion with respect to the question of whether or not the British North America Act is a statutory recognition of a compact among the four original provinces of the Dominion and as to the necessity or otherwise of provincial concurrence in amendments. Without expressing any opinion upon that question, the Committee feels that in the present case and at the present time it is advisable in the interests of harmony and unity that there should be consultation with the provinces with respect to the adoption of a definite mode of amendment on the enactment of amending legislation which might seriously alter the legislative jurisdiction of the provinces and the dominion.
>
> Many interesting suggestions were made. Dr. Kennedy, Professor of Law at Toronto University, suggested that a Royal Commission should be appointed to study the workings of the Act, with a view to recommending a re-arrangement of powers if thought necessary.
>
> Dr. Ollivier, Joint Law Clerk of the House of Commons, suggested that:
>
> (*a*) Obsolete sections should be dropped;
> (*b*) Certain sections should be subject to amendment without consultation of the provinces.
> (*c*) Certain sections should be amended only with the concurrence of a majority of the provinces;
> (*d*) Certain sections might be amended with the consent of one province only;
> (*e*) Other sections should be amended only on consent of all the provinces.
>
> Dr. Scott, Professor of Civil Law at McGill University, expressed the view that as the Dominion Parliament represented the population of the provinces, ordinary amendments should be made upon a majority vote of both Houses and amendments affecting minority rights should be approved in addition by all provincial legislatures, in order to become law.

Professor Rogers, Professor of Political Science at Queen's University, suggested that a Dominion-Provincial Conference or a National Convention might appoint a committee to draft an amended constitution to be thereafter approved by the conference or convention and subsequently by the Dominion and provincial legislatures. He was of the opinion that the question of consulting the provinces was a matter of political expediency rather than one of legal right.

Dr. Beauchesne, K.C., C.M.G., LL.D., Clerk of the House of Commons, would have a new constitution drafted by a constituent assembly composed of delegates representing the various provinces and the Dominion, made up of all classes of people. The constitution so drafted would be thereafter adopted by the Dominion and the provinces, approved by the King, and the present act thereupon repealed.

The Committee recognizes the urgent necessity for prompt consideration of amendments to the British North America Act with reference to a re-distribution of legislative power and to clarify the field of taxation.

It is further of opinion that the conference hereafter proposed should carefully consider the adoption of a recognized yet flexible method of amendment.

In view of the fact that the several provinces did not feel it advisable to give the committee the benefit of their views with respect to the method of procedure to be followed in amending the constitution, the Committee is of the opinion that before any decision upon the subject-matter of the resolution is finally made, the opinions of the provinces should be obtained otherwise if at all possible and for that reason recommends that a Dominion-Provincial Conference be held as early as possible in the present year to study the subject-matter of the resolution. The proposed conference should have ample time in which to study every phase of the question.

In view of the above recommendation the committee expressly refrains from recommending any form of procedure for amendment so as to leave the proposed conference entirely free in its study of the question, except that the committee is definitely of the opinion that minority rights agreed upon and granted under the provisions of the British North America Act should not be interfered with.

A Dominion-Provincial Conference was convened in the House of Commons Railway Committee Room on the 9th December following, under the Chairmanship of the Prime Minister, who, as also the Premiers of all the 9 Provinces, addressed the Conference, which was attended by Delegates from each, numbering 82 in all, including officials in an advisory capacity. The Conference held an Opening Plenary Session on the 9th *idem* and its Closing Plenary Session on the 13th *idem*, Sub-Conferences meeting on the intervening days, each to consider the subject referred to them, namely, Tourist Traffic; Mining Development and Taxation; Agriculture

and Marketing; Constitutional Questions; Unemployment and Relief; and Financial Questions.

It is, however, with the sub-Conference on Constitutional Questions that we have here to deal. This Sub-Conference, over which the Dominion Minister of Justice presided, consisted of 26 Delegates, including the Provincial Attorneys-General, met for the purpose of discussing:

1. Revision of the British North America Act.
2. Agreement on future action with reference to social legislation.[1]

The Proceedings of the Closing Plenary Session went on to report that:

> With respect to the first question, namely, revision of the British North America Act, the Sub-conference had before it the proceedings, evidence and report of the special committee of the House of Commons, 1935, respecting methods by which the British North America Act may be amended, together with memoranda containing additional suggested methods of procedure for such purpose. After a general discussion on the subject it was considered generally by the members of the Sub-conference that the principle which should be adopted as a basis on which such a method of procedure might be worked out should be that Canada, as in the case of all other self-governing dominions, should have the power to amend the Canadian Constitution, provided that a method of procedure therefor satisfactory to the Dominion Parliament and the provincial legislatures be devised and that the details of any such method would require to be worked out by experts before the Sub-conference would be in a position to satisfactorily discuss the same. Accordingly a resolution was passed on a majority vote of nine to one (Mr. McNair, representative of the province of New Brunswick, cast the negative vote for the reason that he was unable to agree to the resolution in its entirety),[2] reading as follows:
>
> This Conference, in the interests of the Dominion and of the provinces, is of the opinion:
>
> (*a*) That amendments to the British North America Act are now and subsequently may be necessary and imperative.
>
> (*b*) That, as in the case of all the other self-governing Dominions, Canada should have the power to amend the Canadian Constitution provided a method of procedure therefor satisfactory to the Dominion Parliament and the provincial legislatures be devised.

[1] Undiscussed because still before the Supreme Court of Canada, the question being the Constitutional validity of Bills passed by the late Dominion Parliament, dealing with social reform.

[2] New Brunswick, one of the "Maritime Provinces," did not want to enter Confederation at the outset; it was only pressure from the Colonial Office that made their then Legislators change their minds.

(*c*) That the Minister of Justice convene at an early date a meeting of appropriate officials of the Dominion and of the provinces to prepare a draft of such method of procedure, to be submitted to a subsequent conference.

(*d*) That a conference be held at an early date after such draft has been prepared to consider such a method of procedure.

In connection with paragraph (*c*) of the above resolution, the Minister of Justice intimated that he would convene a meeting of the appropriate officials at the earliest possible date.

As a matter of fact the invitations are being prepared to-day.

With respect to the second question, namely, agreement on future action with reference to social legislation, the Sub-conference considered that, as the matter is now before the Supreme Court of Canada by way of reference, no useful purpose would be served by discussion of this question at the present time.

The Sub-Conference also passed a Resolution in regard to the question of securing uniformity throughout Canada in Company Laws, recommending the convening of a committee of appropriate officials of the Dominion and provinces to prepare a draft law or amendments to the present one for submission to the Dominion and Provincial Parliaments.

Australia[1].—*Apology by Suspended Member.*—On the 19th November,[2] in the Commonwealth House of Representatives, the Member for Batman raised the question of the action of the Chairman of Committees. It appears that on the 7th *idem*,[3] when the House was in Committee on the Sanctions Bill, the hon. member for Batman drew the attention of the Chair to the question of who should be called to speak, suggesting that, where the guillotine had been put into operation, and the time for discussion was very limited, those who had not already spoken should have preference. The Chairman replied that the Standing Orders contained no such provision. After debate had resumed, the member for Batman rose again to draw the attention of the Chair to conversations and disturbances being allowed against another Member (for Barker) being permitted to speak. The Member for Batman asked the Chairman what steps he proposed to take, either to call upon the Member for Barker to resume his seat or to deal with those who had caused disturbance. The Chairman replied, that despite his frequent calls for order, Members had persisted in interjecting and prevented the Member for Barker from speaking; the Chairman then named the hon. Member for

[1] *See also* Article V hereof.
[2] Commonwealth Hans. No. 19—1935, col. 1733-37.
[3] *Ib.* No. 17, col. 1414.

Batman for disregarding the authority of the Chair; whereupon the Member withdrew what he had said, and offered apology. The Chairman, however, stated that he had named the Member, and one of the Ministers moved—

> That the honorable member for Batman be suspended from the service of the Committee.

Upon the Member for Batman again tendering apology and expressing regret, his apology was accepted by the Chair and the motion not proceeded with.

On the 14th *idem*,[1] a somewhat similar occurrence took place, when the Chairman remarked:

> I named an honorable Member from this Chair last week. He offered a humble apology, and its acceptance was recommended by the Chair; but that honorable Member immediately proceeded to impede the progress of business after his apology had been accepted. While I am Chairman of this Committee I do not wish it to be understood that an honorable Member can irritate the Chair and bring indignity on the Committee, and then escape by an apology. I have given ample warning. I desire that every honorable Member should receive a fair hearing and that the dignity of this Chamber should be maintained.

Although motion for suspension was offered by a Minister, it was not accepted by the Chair.

Action of Chairman of Committees.—On the 19th *idem*[2] the Member for Batman moved—

> That in the opinion of this House, the Chairman of Committees, Mr. J. H. Prowse, on the 14th[3] instant offended against the privileges of Parliament by reflecting from his place, as Chairman of Committees, on the conduct in Parliament of an honorable Member in terms which were not in accordance with the facts nor on other grounds justifiable.

Whereupon the Chairman of Committees (the Member for Forrest) in his place, stated, as given above, what took place, and the Prime Minister moved the adjournment of the debate. Mr. Speaker, after quoting the Standing Orders in regard to the precedence of questions of Order and Privilege, remarked:

> On previous occasions the question has been raised in this House, whether a debate on a motion of privilege can be adjourned, and there have been instances where such debates have been adjourned. However, in view of the Standing Orders which I have just read, and which cannot very well be misunderstood, I am of opinion that the leave of the House should be given to submit the motion.

[1] *Ib.* No. 18, col. 1656-57.
[2] *Ib.* No. 19—1935, col. 1733-1737.
[3] *See* above.

Leave was then granted, and the debate adjourned.

Upon the resumption of the debate on the following day[1] and after the carrying of the closure, the motion moved by the Member for Batman was negatived on a division.

Western Australia.—Reference was made[2] in the last issue of the JOURNAL to constitutional agitation in regard to the relationship between the State of Western Australia and the Commonwealth Government.

On the 20th June in the Imperial House of Commons,[3] on the motion for adjournment, a member raised the question of the Western Australian Petition[2] and the Attorney-General replied that nothing had been said to justify the view that the House would differ from the Report presented by the Committee. The House had always regarded the receivability of petitions as a question for settlement by the House itself. The Committee did not enter into the merits of the case, as that would have been wholly outside their powers.

On the 17th July,[4] a Member of the House of Commons asked the Prime Minister whether time could be made for the discussion of the following motion standing in his name:

> That the petition of the people of Western Australia and the Report of the Joint Select Committee thereon be considered by the House " with a view to taking a decision of the House as to whether it will receive, or not receive the said petition, or make such other order thereon as the House may deem fit."

The Prime Minister replied that the matter had already been raised (as above).

The same Member on the same day[5] asked the Dominion Secretary whether he would issue as a White Paper all the correspondence between the Dominion Office and the Western Australian and Commonwealth of Australia authorities and other relevant papers in connection with the Western Australian Secession Petition? To which the Dominion Secretary replied that he did not consider the subject of sufficient interest, relating, as it did, for the most part with procedure, to justify it being presented to the House as a Command Paper, but that he would be glad to arrange for a copy of the principal correspondence to be placed in the Library of the House. It was not for the Dominion Office to intervene as between a State and the Commonwealth.

The evidence heard before the Joint Committee above re-

[1] Commonwealth Hansard, 1935, No. 19, 1789-1800.
[2] Vol. III, p. 15.
[3] 303 H.C. Deb. 5. s. 696-704.
[4] 304 *Ib.*, 1044, 1045.
[5] 304 H.C. Deb. 5. s. 1044, 1045.

ferred to has now been issued as a Command Paper along with the paper H.L. (75) and H.C. 88—1935 (dealt with in our last issue[1] as Paper H.L. (52), (75) and H.C. 88).

In Australia, the Federal Cabinet, after travelling 2,000 miles from the Federal Capital, held their first meeting in Perth, Western Australia, on the 24th June, 35 years after Federation. The Acting Prime Minister advocated a scheme of joint State and Federal Councils for handling economic questions, on the lines of the Loan Council, which makes for a certain amount of co-ordination in financial policy. Deputations were received.

Later in the year a Royal Commission of Western Australia recommended a four-year term for the Legislative Assembly and a redistribution of seats for the Legislative Council, with the constitution of 15 provinces, instead of 10, as at present, each returning 2 M.L.C.'s, half the Members for each province to retire about the time of general elections for the Assembly. Other changes included postal voting, revision of property qualifications for Council elections, and that the franchise be extended to include half-castes and indigents.[2]

A Bill was introduced into the Legislative Assembly in 1935, to amend and consolidate the laws relating to Parliamentary Elections and passed that House, but the amendments of the Legislative Council were mostly unacceptable to the Assembly and the Bill was not proceeded with. It sought to liberalize the qualifications of electors to the Council and to make voting at elections for the Assembly compulsory.

Election of Speaker (New South Wales).—The following amendments have been made in the Standing Orders of the Legislative Assembly in connection with the election of Speaker and debate thereupon—

> 9. (*a*) After the Members present have been sworn, a Member, addressing himself to the Clerk, shall propose some other Member, then present, to the House, for their Speaker, and move that "Mr..... do take the Chair of this House as Speaker," which motion must be seconded.
>
> (*b*) A Member when proposed and seconded, shall stand up in his place and inform the House whether he accepts nomination.[3]
>
> 9A. At any time during the proceedings relating to the election of Speaker, whether any Member is addressing the House or not, the Premier or a Minister may move, without notice or debate, "That the Question be now put."
>
> Before putting the question "That the Question be now put," the Clerk shall ask, "Is there any further proposal for the Office

[1] Vol. III, p. 15 *et seq.*
[2] *The Times*, 31st July, 1935.
[3] VOTES, No. III (3), 11th April, 1935.

of Speaker?" and the Clerk shall receive any nomination or nominations then made, no debate being allowed.

The Clerk shall then put the question, without debate, "That the Question be now put." In the event of the numbers being equal, the question shall be decided in the negative.

The carrying of the question "That the Question be now put" shall be deemed to be an instruction to the Clerk to put forthwith, and without further debate, the necessary Questions in relation to the candidates, in the order and manner prescribed by Standing Order No. 14.[1]

14. The Clerk shall, in the order in which the Members have been proposed, put the question "That Mr..... do take the Chair of this House as Speaker," and if resolved in the affirmative the Member shall be conducted to the Chair, but if in the negative, or in the event of the numbers being equal, the question shall then be put by the Clerk "That (*the Member next proposed*) do take the Chair of this House as Speaker," and so on until a majority has been recorded in favour of one of the candidates.[1]

Union of South Africa.—Sections 56 and 73 of the Constitution[2] were amended during last Session by Act No. 43 of 1935, the first section of which allows a Member 25 days absence from Parliamentary duties instead of 15 and increases the penalty of absence beyond this period from £2 to £6 per day. The second section, however, is an important constitutional amendment, by which the life of Provincial Councils is increased from 3 to 5 years.

South-West Africa.—This Territory, comprising 317,725 square miles, with a combined population of 273,333, of which 31,600 are White, before the Great War was a German Possession, but is now governed under a Mandate (C) conferred by the League of Nations upon His Britannic Majesty for and on behalf of the Government of the Union of South Africa. Additional to the area abovementioned, but transferred by the Union to the Government of South-West Africa for administrative purposes, is the Territory of Walvis Bay, formerly under the government of the old Colony of the Cape of Good Hope. Under the Mandate, South-West Africa is administered under the laws of the Union as an integral portion of its Territory.

Briefly the Constitution of the Mandated Territory consists of an Administrator appointed by the Union Government, an Executive Committee, an Advisory Council and a Legislative Assembly. The Executive Committee, which is presided over by the Administrator, consists of 4 members of the Assembly elected by them (if the election is contested, by P.R.) for the life of the Assembly and until their successors

[1] VOTES, No. III (3), 11th April, 1935. [2] South Africa Act, 1909.

are chosen. The Advisory Council to the Administrator upon certain matters consists of 8 members, including the Administrator, who is Chairman, the Executive Committee and 3 members appointed by the Administrator, subject to the approval of the Governor-General, one of whom must be an official who is thoroughly acquainted with the reasonable wants and wishes of the non-European races in the Territory. Members of the Advisory Council hold their seats for the same period as the Executive Committee. The Assembly consists of 18 members, of whom 6 are appointed by the Administrator, subject to the approval abovementioned, and the remainder to be directly elected for a fixed term of 5 years. Dutch and English are the official languages and any member may address the Assembly in German, which language is also recognized for official correspondence and in the Courts. The reserved powers of the Assembly are considerable. Legislation is effected in three ways—(*a*) by Act of the Union Parliament, by Governor-General's Proclamation or Union Government Notice; (*b*) by Statutory Proclamation by the Administrator; and (*c*) by Ordinance passed by the Legislative Assembly.

The German Forces of the Territory surrendered to General Louis Botha on the 9th July, 1915, the terms of surrender being signed on that day at kilo. 500, between Otavi and Khorab. In 1925 a Constitution for the Territory—Union Act No. 42 of 1925—was passed by the Union Parliament and came into operation on the 5th August of that year.

Following successive years of drought, the economic depression had become so acute in 1931 that some leaders of the European population came to the conclusion that a greater measure of co-operation between the Union and German sections, the latter representing about 40 per cent., would result in an improvement of the economic position in the Territory. Up to this time such co-operation had been very limited. A Conference of leaders of both sections was therefore called at Windhoek, in November of that year, but proved abortive. Economic conditions became worse and a further such effort was made in March of the following year. After days of deliberation an agreement was reached which was embodied in the following Resolution[1] of the Legislative Assembly agreed to unanimously on 27th April, 1932.

> WHEREAS the European inhabitants of this Mandated Territory have declared their desire henceforth to be regarded as one people without distinction of race or origin, participating

[1] VOTES, No. 3 of 1932, p. 10.

equally in the government of the Territory and sharing equally the rights, privileges, and obligations appertaining thereto:

AND WHEREAS the said inhabitants have further declared their desire to be permitted, as far as possible, under existing conditions, themselves to work out the development and destiny of the Territory, and to that end to secure the greatest possible measure of self government;

This House is of opinion that it is desirable and expedient that the Government of the Union of South Africa should delegate to the Assembly of the Territory of South-West Africa power to make Ordinances in respect of the following subject-matters, viz.:

A. *Subject-matters reserved under Section 27 of the South West Africa Constitution Act (No. 42 of 1925):*

(*a*) The establishment or control of any Police Force in the Territory;
(*b*) Civil Aviation;
(*c*) Primary or secondary education in schools, supported or aided from the revenues of the Territory;
(*d*) The establishment, management or control of any Land or Agricultural Bank in the Territory; and
(*e*) The allotment, sale, lease or disposal of Government lands in the Territory.

B. *Subject-matters reserved under Section 26 of the said Act:*

(*a*) The administration, management and working of the Postal, Telegraph and Telephone Services;
(*b*) All powers at present exercised by the Administrator in regard to the organization of and discipline and conditions of employment of persons in the Public Service who are serving in the Territory, and the payment of pensions, retiring allowances and financial benefits to such persons within such Departments as may be controlled by the Administrator-in-Executive-Committee;

but that, in order to ensure a more equitable participation in the government of the Territory by all sections of the population, no such powers should be granted unless and until legislation shall have been introduced or, where appropriate, administrative measures shall have been taken to provide for:

(*a*) The acknowledgment of German as an official language of the Territory on a basis of full and complete equality with the Dutch and English languages, *subject always* to the condition that so far as the Public Service, the Railways and Harbours Service, except the clerical branch thereof, the Education Department, and all other Public Services in the Territory are concerned, proficiency in any two of the three official languages shall qualify for admission to these Services within the Territory, and so far as the clerical branch of the Railways and Harbours Service is concerned, that the qualifications for admission to that branch shall remain as heretofore, preference, however, to be given, all other things being equal, in

all cases to candidates proficient in all three of the official languages; *and subject* to the further condition that no existing or potential rights, claims, or privileges of Public or Railway servants to retention, promotion, or any other advantage or advancement in or in connection with their service shall in any way be affected or prejudiced by the introduction of German as an official language as aforesaid.

(*b*) The automatic naturalization of all European persons domiciled within the Territory on 31st December, 1931; and

(*c*) The application to all European persons, other than Union or British subjects, who may in future become domiciled within the Territory of the Naturalisation of Aliens Act, 1910 (No. 4 of 1910).

AND this House hereby recommends the introduction of such legislation and the adoption of such administrative measures as may be necessary in the premises.

This House is further of opinion that it is desirable and expedient that the life of the present Assembly be extended for a period of One Year to permit of the passing of the legislation and the adoption of the administrative measures aforesaid before the election of a new Assembly, and recommends that the South West Africa Constitution Act be amended forthwith accordingly.

However, economic conditions daily became worse, the drought continued and as a result of these and other forces, a further Resolution[1] was also agreed to unanimously as follows, and passed by the Legislative Assembly on 20th May, 1933:

WHEREAS owing to the formation of a new Government in the Union of South Africa it was not possible to introduce the necessary legislation giving effect to the resolution of the Legislative Assembly, passed on the 27th day of April, 1932; and

WHEREAS the co-operation and team work of the inhabitants of South West Africa is urgently required and is essential to work out the development and destiny of the Territory as set out in the said resolution;

AND WHEREAS, since the passing of the said resolution, the actions of certain responsible German-speaking Union subjects and of certain associations composed largely of German-speaking Union subjects have tended to raise grave doubts in the minds of other Union subjects as to the sincerity of German-speaking persons in regard to the allegiance they now owe to His Majesty King George and in regard to their professed desire to co-operate with the other sections of the people of South West Africa;

Now therefore this House recommends that the life of the present Assembly be extended for a further period of one year, but requests the Union Government to refrain from carrying out the terms of the said resolution until it is satisfied that no grounds exist for the distrust of the other sections of the people of South

[1] VOTES, No. 7—1933.

West Africa as to the good faith of the German-speaking persons already naturalized, and is confident that German nationals who desire to become subjects of the Union of South Africa are animated by a proper regard for the privileges and obligations associated with Union nationality, as well as by a genuine desire for co-operation with the other sections of the people of South West Africa in the administration of the Mandated Territory on lines consistent with those obligations;

AND WHEREAS the German-speaking Union subjects strongly protest against the alleged charges of doubt and distrust and assert that the German-speaking persons already naturalized have always shown good faith and been anxious to co-operate;

AND WHEREAS, since the passing of the said resolution the actions of certain responsible Union citizens of Union origin and of certain associations composed of Union citizens of Union origin are responsible for arousing distrust in the minds of the German-speaking Union subjects in regard to the faithful carrying out of the resolution passed by this House on the 27th April, 1932, inasmuch as it is alleged by German-speaking Union subjects that an agitation was started within a few months of the passing of the said resolution for incorporation of the Mandated Territory in the Union as a fifth Province in order to undermine the principles of the Mandate by arresting the constitutional development of the Territory which might result in the ultimate abolition of the present Mandate;

This House is of opinion that this unfortunate dispute between the sections in South West Africa is a matter that should be settled immediately by the Union Government in such manner as the Government thinks fit, before giving effect to the terms of the said resolution passed by this House on the 27th day of April, 1932.

Nothing having transpired in regard to either of the Resolutions, the Legislative Assembly on 22nd May, 1934, adopted, with the casting vote of the Chairman, the following Resolution:[1]

WHEREAS it is laid down in the Mandate for South West Africa as given at Geneva on 17th day of December, 1920, by the Council of the League of Nations that the Government of the Union of South Africa in its capacity as Mandatory shall have full power of administration and legislation over the Territory of South West Africa as an integral portion of the Union of South Africa;

AND WHEREAS it is also provided that the Mandatory shall promote to the utmost the material and moral wellbeing and the social progress of the inhabitants of this Territory;

NOW THEREFORE, this House is of opinion that the time has arrived to amend the Treaty of Peace and South West Africa Mandate Act, 1919 (Act of the Parliament of the Union of South Africa No. 49 of 1919), and the South West Africa Constitution Act, 1925 (Act of the Parliament of the Union of South Africa No. 42 of 1925), so as to provide—

[1] VOTES, No. 3—1934, p. 19.

(*a*) that this Territory be administered as a fifth Province of the Union, subject to the provisions of the said Mandate;
(*b*) that accordingly this Territory be represented in the House of Assembly of the Union of South Africa and the Senate thereof;
(*c*) that this Assembly be called a Provincial Council and that the powers given to this Assembly be altered so as to bring them in conformity with those possessed by a Provincial Council of the Union of South Africa in terms of the South Africa Act, 1909;
(*d*) that the Parliament of the Union of South Africa have full power to make laws for the peace, order and good government of this Territory;
(*e*) that the Governor-General's powers of legislation as laid down in the Treaty of Peace and South West Africa Mandate Act, 1919, be altered so as to bring them in conformity with the general powers exercised by him over any province of the Union in terms of the South Africa Act, 1909.

The last general election took place in October, 1934, and on the 29th of the following month, the Legislative Assembly by the requisite two-thirds support (including a deliberative vote by the Chairman) adopted the Resolution[1] given below:

WHEREAS it is laid down in the Mandate for South West Africa as given at Geneva on the 17th day of December, 1920, by the Council of the League of Nations that the Government of the Union of South Africa in its capacity as Mandatory shall have full power of administration and legislation over the Territory of South West Africa as an integral portion of the Union of South Africa;

AND WHEREAS it is also provided that the Mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of this Territory;

AND WHEREAS this House is satisfied that the obligations of the Mandatory will be best discharged by the administration of the Mandated Territory as an integral portion of the Mandatory State aforesaid;

AND WHEREAS this House has received a mandate from the people of South West Africa forthwith to take all necessary steps within its power to procure the administration of the Mandated Territory of South West Africa as an integral portion of the Union of South Africa but subject to the terms of the Mandate of South West Africa aforesaid, and upon such further terms and conditions as may be agreed upon by the Mandatory Government and this House;

NOW THEREFORE this House respectfully requests the Mandatory Government to amend the South West Africa Constitution Act, 1925 (Act of the Parliament of the Union of South Africa No. 42 of 1925) and any other relevant legislation and to provide, upon terms to be laid down by agreement to be entered into between the Mandatory Government and this House;

[1] VOTES, No. 5—1934, p. 24.

That this Territory be administered as a fifth Province of the Union or otherwise as an integral portion of the Union, subject to the provisions of the said Mandate for South West Africa; and

That accordingly this Territory be represented in the Parliament of the Union of South Africa; and

This House instructs the Executive Committee, forthwith to appoint a deputation consisting of citizens of this Mandated Territory for the purpose of:

(*a*) laying this Resolution before the Mandatory Government; and

(*b*) negotiating with the Mandatory Government, with a view to the agreement aforesaid, the terms and conditions upon which the Mandatory Government may be prepared to administer this Mandated Territory as an integral portion of the Union and to grant it representation in the Parliament thereof.

In April, 1935, the Union Government appointed[1] a Commission, known as the South-West Africa Commission, with the following terms of reference.

It is hereby notified for general information that His Excellency the Governor-General has been pleased to appoint a Commission with the following terms of reference:

In view of the dissatisfaction in the Mandated Territory of South West Africa with the existing form of Government, as evidenced by the Resolution of the Legislative Assembly of the Territory, dated the 29th of November, 1934, and other symptoms—

(1) to inquire into, and to report on, the effectiveness of the existing form of Government of the Territory, the reasons for the existing dissatisfaction therewith and the apparent failure thereof;

(2) to consider, from a constitutional as well as State financial point of view, in what way the Government of the Territory could best be regulated so as to secure a more efficient administration and a greater measure of content amongst the inhabitants, due regard being had to the character of the Territory as Mandated Territory and the rules of international law governing the mandate and to the constitutional law of the Union, and to advise thereon.

Irish Free State.—The position in regard to the abolition of the Senate remains the same as when it was last referred to in these columns;[2] the Constitution (Amendment No. 24) Bill abolishing the Senate and establishing a uni-cameral Legislature, can now be brought into effect at any time by simple

[1] Union Government Notice No. 584, dd. 26th April, 1935; S.W.A. *Official Gazette Extraordinary*, No. 615, dd. 13th May, 1935. The Report of this Commission (U.G. No. 26, 1936) was published after these pages were in section form. It will therefore be dealt with in the next issue of the JOURNAL.

[2] *See* JOURNAL, Vol. III, pp. 21, 22.

resolution of the Dáil (the Lower House), the suspensory periods of 18 months and 60 days having expired.[1]

With reference to Constitution (Amendment No. 23)[2] Bill abolishing University representation in the Dáil, which was originally held up by the Senate, and after the expiration of the suspensory period was again sent to the Senate, under Article 38A, as the 60-day period in respect of such Bill expired on the 6th April, the Bill now becomes law and the 6 Members of the Universities will cease to represent the Universities in Parliament as and from the next dissolution.

Constitution (Amendment No. 26) Act, which has no direct relationship to Parliament, deals with the extension of Irish Free State citizenship.

A question of " monetary " Privilege of the Dáil arose on the last day of the year, owing to the Speaker of the Dáil having certified the Land Purchase (Guarantee Fund) Bill to be a Money Bill, which meant that the Senate would thereby be precluded from amending the Bill. On the 12th December, the President of the Senate ruled that as it had come to his knowledge that steps were being taken by Members of the Dáil to challenge the Speaker's certification by demanding a Committee of Privileges[3] under Article 35 of the Constitution, 3 days should be available to such Dáil Members to take action, he had come to the conclusion that the second stage of the Bill could not be taken before the expiration of such time.

The President's Ruling was then in accordance with Senate S.O. No. 39[4] referred to the Committee on Procedure and Privileges, which, after quoting certain points in connection with the Senate procedure upon Dáil Bills, reported[5] that the Ruling of the President was justified and recommended the adoption of a new Standing Order (98A) to the effect that when a Dáil Bill is under reference to the Joint Committee on Privileges, all proceedings on such Bill in the Senate shall be suspended. The Joint Committee on Privileges decided, by the

[1] As we go to Press this Resolution has passed the Dáil by 74 to 52 votes, and an official announcement was made (*The Times*, 10th June, 1936) that a Commission had been appointed to make recommendations as to the functions, powers, and composition of a Second Chamber, should one be included in the Constitution.—[ED.]

[2] *See* JOURNAL, Vol. III, pp. 21, 22.

[3] A Joint Committee of not more than 3 members elected by each House, presided over by the Senior Judge of the Supreme Court.

[4] Which provides that in any matter not provided for by the Standing Orders, the President may rule as to him shall seem right, but such Ruling may be referred to the Committee on Procedure and Privileges on motion supported by not less than 15 Senators.

[5] Dated 31st December.

casting vote of its Chairman, that the Land Purchase (Guarantee Fund) Bill was a Money Bill, as it had been previously certified by the Speaker of the Dáil.

Amalgamation of the Rhodesias.—These two Territories, consisting of Northern Rhodesia, comprising 290,320 square miles, with a combined population of 1,383,667, of which 11,278 are white, and Southern Rhodesia, comprising 150,354 square miles with a combined population of 1,109,012, of which 49,910 are white, have recently been in contact, at first more or less unofficially, in regard to the amalgamation of the two Territories, and perhaps also that of the adjacent Protectorate of Nyasaland.

Northern Rhodesia.—The following motion was introduced into the First Session of the Fifth Legislative Council of Northern Rhodesia on the 2nd December,[1] by an unofficial and elected Member representing the Northern Area—

> That the Constitution under which Northern Rhodesia is governed is in need of amendment.

The present form of Constitution, which was established by an Order-in-Council of 1924, is of the Crown Colony type and provides for the appointment of a Governor, an Executive Council of Officials, as well as a Legislative Council, consisting of the members of the Executive Council and nine Official Members and the seven unofficial Members elected to represent that number of areas in the Territory; both such bodies, however, are advisory to the Governor.

On the question being put upon the motion of the Member representing the Northern Area, the voting was Ayes 7 and Noes 9, all the Unofficial Members voting Aye, and all the Official Members voting No. The question was therefore negatived.

On the 9th December,[2] and in the same Session, another of the Unofficial Members (representing the Livingstone and Western Electoral area) introduced the following motion into the Legislative Council—

> That this Council approves in the principle of the amalgamation of Northern and Southern Rhodesia.

Upon this motion, which reaffirmed a similar motion submitted to the Council two years before, being put, the voting was Ayes 7 and Noes 9; as before, all the Unofficial Members voted Aye, and the Official Members No. The question was therefore negatived.

[1] N.R. Hans. No. 25, col. 195-222. [2] *Ib.*, col. 480-505.

Victoria Falls Convention.—A Convention of Representatives of both Northern and Southern Rhodesia, which consisted of Representative Delegations of the three political parties in Southern Rhodesia and all the elected Unofficial Members of the Legislative Council of Northern Rhodesia, met at the Victoria Falls on 22nd, 23rd and 24th January, 1936. After recording a vote of sympathy with Queen Mary and the Royal Family and of loyalty to the Throne, a resolution was adopted declaring that the early amalgamation of Northern and Southern Rhodesia under a Constitution conferring the right of complete self-government was in the best interests of all the inhabitants of both Colonies. It was agreed that the following were suitable terms for the amalgamation:[1]

> The establishment of one Government embracing both Northern and Southern Rhodesia, and consisting of a Governor, Legislative Assembly, Legislative Council, public services, and High Court.
>
> The headquarters of the Government of Rhodesia to be Salisbury.
>
> The Electoral Acts of the two territories to apply to each respectively until changed by enactment of the Government of Rhodesia, the representation of Northern Rhodesia in the new Parliament not to be less than seven as against 30 from Southern Rhodesia.[2]
>
> The respective public debts of both Colonies to be a debt charge on the Colony of Rhodesia.
>
> The Legislative Council to be partly nominated and partly elective. Of the Nominated Members not more than three to be nominated in the interests of the natives.
>
> The Law administered in Northern and Southern Rhodesia to be the same as that now respectively administered in the two territories, until changed by enactment of the Government of Rhodesia.
>
> The Government of Southern Rhodesia to be requested to settle details consequent on the foregoing resolutions.
>
> The Government of Southern Rhodesia to ask the Imperial Government to receive a deputation from the Government of Southern Rhodesia, and the Elected Members of Northern Rhodesia to discuss the principle of amalgamation and the drafting of a Constitution for the proposed Colony of Rhodesia.
>
> The draft Constitution to be submitted to the electorates of Northern Rhodesia and Southern Rhodesia respectively by means of a referendum.
>
> The resolutions to be forwarded to the Governments of Northern Rhodesia and Southern Rhodesia respectively, for transmission to the Secretaries of State concerned.

Southern Rhodesia.—Although subsequent proceedings in regard to the amalgamation of the Rhodesias did not occur in the year to which this Volume of the JOURNAL applies, the

[1] *The Times*, 25th January, 1936.
[2] This paragraph is as quoted from the *Cape Times* of the same date.

account of this movement will be brought up to the time of going to press. The following motion was introduced into the Legislative Assembly on the 1st April, 1936,[1] by the Member for Bulawayo Central:

> That this House is of opinion that the early amalgamation of Northern and Southern Rhodesia, under a Constitution conferring the right of complete self-government, is in the best interests of all inhabitants of both Colonies.

Debate upon the question was adjourned and resumed on the 29th April,[2] 6th May[3] and 7th May,[4] when the following amendment was proposed by the Member for Motopo, namely, to omit all words after the first word " that," and to substitute the following:

> it is in the opinion of this House that if the Imperial Government are not prepared to grant full self-government, giving sovereign control of the two and a half million natives in the two Rhodesias to the sixty thousand Europeans in these Colonies, amalgamation will not be in the interests of the inhabitants of Northern and Southern Rhodesia.

This amendment, however, was ruled out of order as it was in the nature of a direct negative. The same Member then moved another amendment, namely, to omit all words after the first word " that " and to substitute:

> if the Imperial Government is prepared to grant full self-government, giving sovereign control of the two and a half million natives in the Rhodesias to sixty thousand Europeans in those Colonies, then in the opinion of this House amalgamation of Northern and Southern Rhodesia will be in the best interests of the inhabitants of the two Colonies.

There being no seconder, the amendment dropped, and on the main question being put by the Speaker, and fewer than five Members voting in the minority, the Resolution of the Member for Bulawayo was adopted.

Southern Rhodesia.—On the 13th May, 1936,[5] the Member for Bulawayo South moved:

> That, in the opinion of this House, the Government should take immediate and definite steps for removal of all reservations in the Constitution and other legislation of the Colony restricting the power of Parliament to enact any law which it may deem necessary and desirable in the interests of the people of Southern Rhodesia.

The debate was adjourned until the 27th May. Upon the resumption of the debate on the 3rd June,[6] the question on the

[1] *Ib.*, S.R. Hans., 525-536.
[2] *Ib.*, 1129-1174.
[3] *Ib.*, 1442-1474.
[4] *Ib.*, 1532-1560.
[5] 16 S.R. Hans., 1725-1744.
[6] 16 S.R. Hans. No. 49, 2669, 2700.

motion was put and negatived, the voting being, Ayes, 5; Noes, 16.

The Bahamas Parliamentary Manual.—The Second Edition of the *Manual of Procedure in the Business of the General Assembly* (as the Lower House of the Legislature is called) was published in 1934; the previous edition having been issued in 1905. By the publication of this Manual, readers of the JOURNAL are afforded the opportunity of acquainting themselves with the operation of the Parliamentary machine under one of the old West Indian Constitutions, the Parliament of which first met on the 29th September, 1729, after the granting of its Constitution in the previous year.

It is rarely that a Speaker devotes himself to the preparation of a Manual for the use of his Members, and this one is so thoroughly and so carefully prepared, that it might well serve as a model to many other Oversea Parliaments. Practically the only other Parliament in respect of which such a Manual has been issued in recent years is Canada,[1] although one[2] embracing the four Responsible Government Parliaments in South Africa before Union was published in 1909. There are, of course, the Manual for South Australia and the Speaker's decisions (1857-1884) of the House of Commons by the late Mr. E. G. Blackmore (1885), and that for Tasmania by the late Mr. E. C. Nowell (1887). The Bahamas Manual is published by the House of Assembly and printed by the Nassau Guardian Ltd., the Printers to the Legislature. The Bahamas Speaker—the Hon. Harcourt Malcolm, K.C., O.B.E.—deserves the warm appreciation of the members of our profession for undertaking this onerous work, for which his occupation of the Chair for 21 years, and of the Deputy-Speakership for 13 years before that, also well qualifies him.

Burma.—A resolution was adopted in the Legislative Council on the 22nd February[3] removing the President from office, the voting being 56 for and 38 against, and three days later the Governor's order was made known.

Indore.—It was reported on the 11th September[4] that in connection with the celebration of his birthday, the Maharajah of Indore (one of the Indian States) had ordered that, for the purpose of bringing about a closer association of representatives of the people with the Administration, the Legislative Committee, established in 1925, should be enlarged. The Con-

[1] Beauchesne, 2nd ed., 1927.
[2] *South African Parliamentary Manual*, by E. M. O. Clough.
[3] *The Times*, 23rd February, 1935.
[4] *Ib.*, 11th September, 1935.

stitution is therefore to be revised with the object of conferring wider powers on the Committee, which will in future be known as the Legislative Council, consisting of 30 Members, of whom 15 will be elected and the remainder nominated, with power, subject to reservations, to move resolutions and submit representations on matters of public importance for the consideration of the Maharajah and his Government.

British Guiana.—By an Order of the King in Council dated 13th August, 1935, the provisions of the British Guiana (Constitution) Order in Council, 1928, with regard to the qualifications of voters, the amendment of Regulations and Proclamations made under the Principal Order and the consequences of corrupt or illegal practice committed in reference to elections, were amplified and amended.

Malta.[1]—On the 30th July,[2] the following motion was moved in the House of Lords:

> That an humble Address be presented to His Majesty praying for the appointment of a Royal Commission to take evidence and report on the manner in which Malta has been governed since the suspension of Parliamentary elections, and on the most suitable method for implementing the treaties and solemn promises to the Maltese as to the enjoyment of representative institutions first set up by the Norman Kings of Sicily, and also to enquire and report on the administration of justice.

The Under-Secretary of State for the Colonies referred to the Royal Commissions of 1911 and 1931 and said that in the view of the Government there was no case for the appointment of another Commission, so soon after the last one, and that the great need of the island was rest from political strife and agitation, and a period of calm in which constructive schemes for the welfare of the population could be carried on. Question on the motion was put and negatived.[3]

Ceylon (Privileges).—Towards the end of the year[4] a Draft Ordinance was introduced into the State Council, to define the privileges, immunities and powers of the State Council and its Members,[5] but objection was taken in debate to the measure, both on the ground that such Council has never enjoyed full responsibility, and also that its provisions, therefore, went too far. On the 22nd November, the Acting Attorney-General moved to withdraw the draft ordinance, but

[1] *See also* JOURNAL, Vol. I, pp. 10, 11; II, p. 9; and III, p. 27.
[2] 98 H.L. Deb. 5. s. 926-953.
[3] As we go to press a Bill has been introduced into the Imperial Parliament, which means a return to Crown Colony Constitution in Malta.—[ED.]
[4] *The Times*, 7th November, 1935.
[5] *Government Gazette Extraordinary*, 31st July, 1935.

there was objection. The First State Council came to the end of its appointed term in December last.

Newfoundland.—On the 17th December,[1] the question was asked in the House of Commons whether the Government had yet considered the desirability, raised in debate in the House in 1934, of the direct representation of Newfoundland in the Imperial House of Commons. The Under-Secretary of State for Dominion Affairs replied that it was clear that a proposal raising such wide issues could not be considered in relation to Newfoundland alone. Another Member, therefore, asked as a supplementary question, whether the Under-Secretary was aware that there was considerable sympathy in Newfoundland with the suggestion and if the Government would therefore consider the Newfoundland case on its merits, apart from any other Dominion. To this the Under-Secretary replied that one of the difficulties would be the danger of Newfoundland representatives in the Imperial House of Commons being in disagreement with the Commissioners[2] in their own country.

Presiding Officers, Procedure at Election of. *Commonwealth.*—With reference to the treatment of this subject in previous issues[3] S.O. 16 of the Senate has been amended in order to vest in the Clerk the powers of the President while acting as Chairman at the election of President. S.O. 17 is also amended limiting all speeches on such occasions to 15 minutes.

New South Wales.—In the Legislative Assembly the Standing Orders in regard to this subject have been amended[4] by the rescinding of S.O.'s 10 to 13 both inclusive, and the addition of a paragraph (*b*) to S.O. 9, providing that a Member when proposed and seconded as Speaker shall stand up in his place and inform the House whether he accepts nomination. The new Standing Order, 9A, empowers the Premier, or a Minister, at any time during the proceedings at the election of Speaker, to move the closure without notice or debate and before putting the closure motion the Clerk, who presides as Chairman, is required to ask if there is any further proposal for the office of Speaker, and to receive any other nominations, but no debate is allowed. The Clerk is then empowered to put the closure motion and in event of the votes being equal it is provided that the question shall be decided in the negative. The carrying of the closure is an instruction to the Clerk to put forthwith and without debate the necessary questions in relation to the candidates in the order and manner prescribed

[1] 307 H.C. Deb. 5. s. 1527-1529.
[2] *See* JOURNAL, Vol. II, p. 8.
[3] *See* JOURNAL, Vol. II, pp. 114-124; III, 10-14.
[4] 11th April, 1935.

by S.O. 14, under which he must put, in the order in which Members have been proposed, the question "that Mr. —— do take the Chair of this House as Speaker." If this is agreed to, the Member is conducted to the Chair, but if negatived, or in event of the votes being equal, the Clerk must then put the question in regard to the Member next proposed, and so on until a majority has been recorded in favour of one of the candidates.

"Flash Voting."—Volume II contained an Article on this subject, contributed as a result of the friendly association which exists between our Society and the American Legislators' Association, which most courteously furnished us with every possible information on the subject. The Article attracted the attention of the Clerk of the Union House of Assembly, who, after obtaining from the Union Minister Plenipotentiary in Washington a confirmatory report on the working of the system in the United States, together with plans, diagrams, and other documents, submitted the question of the installation of the system in the Union Assembly to his Select Committee on Standing Orders, which has adopted in principle a system of "flash voting" for the House, but before the matter can be further proceeded with, certain further details are being enquired into and possibly tenders may be called for by the P.W.D. with the object of bringing the matter to a finality early next Session.

Seating in Union House of Assembly.—The size and shape of a debating chamber and its dimensions are no less an important factor in securing satisfactory acoustic properties as is the seating of its Members. In Continental and other Foreign Legislative Chambers where Members do not speak from their seats but from a tribune in some particular part of the Chamber, a different shape of Chamber and system of Members' seating can no doubt be adopted with success, but under the British system where Members speak from their places in the House, seats on either side of the Chair, with a good floor space between, is the most satisfactory, and whenever any House conducted under the House of Commons system has adopted any other, it has generally proved a failure. The writer had experience as Clerk of the Crown Colony Legislative Council of the Transvaal, which sat in the old South African Republic Volksraad Chamber where the seats of Members were arranged in semi-circular fashion, but it was unsatisfactory and its reversion to the House of Commons system was a success.

The Union House of Assembly recently altered its seating by placing the Speaker's Chair at the side of the Chamber, thereby securing a larger number of rows of Members' places on either side, but it did not prove a success. During last Session, therefore, the seating of Members and the position of the Speaker's Chair were changed back to the House of Commons plan. The length of the Union Assembly Chamber is 82′ 4″ and width 43′. The dimensions of the Floor of the House from the Bar to the Speaker's Chair (including the Table with a well in which the *Hansard* reporters sit) was 36′ long by 13′ 6″ broad. These measurements are now 60′ and 14′ respectively, thus giving a greater floor space for sound. The height of the Chamber to the top of the lantern was 47′ (40′ to the springing). This has now been altered to 34′ from the Floor to the new glass ceiling. The new ceiling is constructed with acoustic plaster, and a new glass ceiling has been provided under the lantern portion. A new ventilating system was installed as well as heating when required, and a special artificial automatic daylight lighting system controlled by electro-photo cell equipment has been provided. Alterations have also been made to some of the galleries. The Chamber seats 164 Members, all with desks, and both the acoustics and lighting are pronounced very good —in fact, so good that the microphones, previously installed, have been dispensed with.

Honours.—On behalf of all their fellow-members of the Society, we wish to congratulate the undermentioned members of our profession who have been granted marks of Royal Favour during 1935:

C.M.G.

E. W. Parkes,
Clerk of the Australian House of Representative.

O.B.E.

J. G. Jearey,
Clerk of the Legislative Assembly of Southern Rhodesia.

M.P.'s Air-Travel Facilities.[1] *At Westminster.* — On the 15th July[2] in the Commons, the Government, in reply to a

[1] *See also* JOURNAL, Vol. I, pp. 101-106.
[2] 304 H.C. Deb. 5. s. 748, 749, 2637, 2638.

Member, stated that a scheme had been drawn up in consultation with the Air Ministry under which M.P.'s desirous of travelling by air will be asked to send in their names to the Fees-Office, and that where suitable arrangements can be made such M.P.'s will be supplied by that Office with a book of Special Warrants which will enable them, on payment of the excess over the first-class railway fare, to travel to and from their constituencies by certain approved air-lines.

Union of South Africa.—Members are afforded the following facilities to travel in Union aircraft.

When they journey on urgent State business, that is business not of a private or political nature, and they are compelled to travel by air, they are, at the discretion of the General Manager of Railways and Harbours, allowed to make use of their railway passes for such air travel, provided accommodation is available and no fare-paying passengers are displaced.

They are permitted to travel by air for any purpose on payment of a surcharge, provided no full-fare passenger is displaced. The concession is limited to aircraft carrying ten or more passengers. The following list shows the amount of the surcharge on the various routes:

Scale of Charges to be maintained in Respect of Holders of Free Railway Passes travelling by Air.

	Cape Town	Beaufort West	Kimberley	Germiston	Durban	East London
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Beaufort West	2 0 0					
Kimberley	4 0 0	2 0 0				
Johannesburg	5 0 0	4 0 0	2 0 0			
Durban	5 0 0	6 0 0	4 0 0	2 0 0		
East London	4 0 0	6 0 0	6 0 0	4 0 0	2 0 0	
Port Elizabeth	3 0 0	5 0 0	7 0 0	5 0 0	3 0 0	1 0 0

[See reply of Minister of Railways and Harbours to Question No. IX of 17th March, 1936. Assem. Hansard, 1936, 1392-1393.]

Remuneration and Free Facilities Granted to M.P's.[1] *Commonwealth.*—The postage stamp allowance to Members of Parliament has been increased from £4 to £5 *p.m.*

South Australia.—The cut in the remuneration of £400 a year to Members of both Houses has by Act No. 2213 of 1935 been restored; this remuneration reverts to £400 as from 1st July, 1936.

Southern Rhodesia.—In addition to the Parliamentary allowance payable quarterly to M.P.'s, those ordinarily residing outside a radius of 25 miles from Parliament are paid a subsistence allowance of £50 *p.a.* A deduction at the rate of £1 *p.d.* is made from this allowance for each day's absence from a sitting of the House in excess of three. No subsistence allowance, however, is paid to a Member who is absent from the whole of any Session. Members' letters and telegrams, if of a public nature, are sent " official free," and Members are also granted free non-trunk telephone calls, provided the calls are made from the telephones in the Parliament Building.

India.—In the Central Legislature, there is in the Article in Volume I[2] an inaccuracy in regard to the rates of travelling allowance to Members of the Council of State. The actual allowance is at the rate of $1\frac{1}{8}$ first class fare and the conveyance allowance admissible is *Rs.* 150 a month for a Member residing at Old Delhi and not claiming haulage for his car; where a Member claims haulage and resides in Old Delhi, he receives a petrol allowance of *Rs.* 75 *p.m.*

Parliamentary Running Costs. *India.*—In the Article on this subject in our last issue[3] the Budget provisions for the Council of State for 1935-36 are: Voted *Rs.* 1,34,000, Non-voted *Rs.* 8,000. Total estimate *Rs.* 1,42,000.

"Strangers." *India.*—In the Article on this subject in our last issue[4] footnote No. 1, in regard to the Central Legislature, should read—" 20th January, 1930, pp. 1 to 3."

Supplementary Questions to Ministers. *India.*—In the Article on this subject in Volume II the reference in footnote 2 of p. 127 should be " Indian Legislature Rule 10."

Appeal against Mr. Speaker's Ruling. *India.*—An error occurred in the Article on this subject in Volume I[5] where " Rule 15 of the Indian Legislative Rules " should be substituted for S.O. 58.

Ceremonial and Regalia. *India.*—In the Article on this

[1] *See* JOURNAL, Vol. I, pp. 101-106; II, p. 17.
[2] JOURNAL, Vol. I, p. 105.
[3] *Ib.*, Vol. III, p. 84.
[4] *Ib.*, Vol. III, pp. 70-77.
[5] *Ib.*, Vol. I, p. 58.

subject in Volume I[1] in regard to the Council of State, it should be noted that Mr. President also wears a wig and gown while presiding over the proceedings of the Council of State. Only the Secretary of the Council of State is an official belonging to the Legislative Department.

Parliamentary Catering at Westminster.—A special report[2] from the Select Committee appointed to control the Kitchen and Refreshment-Rooms (House of Commons) in the department of the Serjeant-at-Arms at Westminster was issued early in 1936 in respect of the calendar year 1935. It contains information of interest to the Clerks of the Two Houses of Parliament Oversea, who are usually in charge of this work under a corresponding or joint committee.

The total receipts amounted to £25,931 17s. 1d., as against £28,290 17s. 5d. in 1934, and the total expenditure for 1935 £26,535 10s. 5d., showing a deficit of £603 13s. 4d. on the year as compared with a deficit of £568 1s. 4d. for 1934, after, in both instances, providing free meals during the Session to all Staff and defraying the expenditure of £9,090 14s. on wages, salaries, health and pension insurance; £462 19s. 10d. on expenses, laundry, postage, etc.; and £455 19s 1d. on repairs and renewals. Purchases amounted to £16,525 17s. 6d. as against £18,086 1s. 3d. for 1934.

During the year 1935 the House sat in Session 144 days in comparison with 158 in the previous year, and the number of meals served (including teas and meals served at Bars) was: Breakfasts nil; Luncheons 18,972; Dinners 34,040; Teas 75,420; Suppers 39; and Bar meals 10,155.

The Committee point out that the decrease in revenue and number of meals served as compared with the previous year is mainly accounted for by the business of the House occupying only 144 as against 158 days in 1934, and the Committee draws attention to the serious decline in revenue in recent years, and the impossibility of working to a balance with a falling revenue, and expenses remaining of necessity high.

As an example, states the Committee, the receipts in 1930 were £38,377 7s. 4d., this year £25,931 17s. 1d.—a decrease of £12,445 10s. 3d., even if it is taken into consideration the House being in Session for a longer period in 1930, 21 days, and presume the daily average of receipts to be £180=£3,780 it still shows a very serious decrease—£8,665 10s. 3d.

The Committee also remarks that although the reserve represented by stock on hand, etc., has made it possible to

[1] JOURNAL, Vol. I, p. 111. [2] H.C. 81 of 1936.

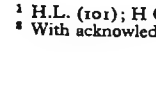
carry on up to the present, the time is approaching when it will become necessary that the annual subvention from the Treasury, which was terminated in 1922, should be restored or, alternatively and preferably, that the Treasury should defray the cost of stall and equipment, as in other departments of the House, thus allowing the whole of the receipts to be expended on the food supplied.

After providing for all liabilities the amount standing to the credit of Capital Account in the Balance Sheet, represented by Stock-on-hand, Cash-in-hand, and at Bank, and Sundry Creditors, is £4,453 12s. 8d.

The total Membership of the House is 615, namely, 492 representing England, 36 Wales and Monmouth, 74 Scotland, and 13 Northern Ireland.

A Joint Select Committee of the two Houses was appointed to consider and report upon the accommodation for refreshment rooms and lavatories in the Palace of Westminster. The Committee, however, did not make a report, but the evidence was printed.[1]

The nature of the evidence indicated a desire, if possible, to have a joint kitchen for the refreshment rooms of the Lords and Commons, and especially with a view to improving the existing arrangements in the Commons, to remove certain lavatories and dustbins from such close proximity to the larder, etc., to consider the question of a concentration of the refreshment rooms of both Houses, all to be administered by a Joint Committee of the two Houses, and the provision of a drawing room for ladies. It was also said that attempts had been made to get a large and responsible firm to take over the catering for the Commons, but it had always been rejected on the ground that it would not be a paying proposition. Further consideration of these questions, however, it was suggested, should be referred to a sub-Committee in consultation with H.M. Office of Works, which is the equivalent to the P.W.D. in Oversea Government Administrations.



New Royal Cypher.[2]—The design here shown is that of the new Royal Cypher as approved by the King as that used by Departments of State, etc., and may prove useful to Oversea Parliaments where the Royal Cypher is used on furniture, interior

[1] H.L. (101); H C. 135—1935.
[2] With acknowledgments to *The Times* newspaper of the 2nd May, 1936.

and exterior decoration, etc., as the correct one to follow. This is also the cypher which normally appears on regimental colours, standards, guidons, badges, arms, and appointments.

The Imperial Cypher is that used in England for similar purposes.

Parliament Note Paper.—The design here shown, which follows that used by the House of Commons, is suggested as an embossed die for note paper and envelopes used by the Members and Officers of each House of Parliament, the Upper House die to be in red and that of the Lower House in green, thus following the traditional practice as referred to in a previous issue of the JOURNAL.[1]

Librarians of Parliament.—Our Editorial would be incomplete without an expression of our appreciation of the valuable assistance we have always received from the Parliamentary Librarians of the Empire. During the years the JOURNAL was prepared in London, unfailing courtesy was always extended to us by the Librarians of the Lords and Commons, of the British Museum, of the Royal Empire Society, and especially by the Librarian and Staff of the Colonial Office in Whitehall. In the production of the present Volume our acknowledgments are due to the Librarian and Staff of the Union Parliament at Cape Town, whose kind help has been so willingly given. It is, therefore, with particular regret that an Article on the administration of the Libraries of the Parliaments of the Empire, which was prepared for this issue, has had to be held over until next year.

[1] Vol. I, p. 8.

II. PRESENTATION OF ADDRESSES OF THE TWO HOUSES OF PARLIAMENT, WESTMINSTER HALL, 9TH MAY, 1935

BY

SIR HENRY J. F. BADELEY, K.C.B., C.B.E.
Clerk of the Parliaments.

SINCE its completion in the XIVth century Westminster Hall has been the theatre in which many an act of history has been played; in the past nine months it has twice been the centre of the Empire's thoughts. In May its walls were echoing with the cheers of the two Houses of Parliament as they rejoiced in the twenty-fifth anniversary of the accession of a beloved Sovereign; in February those same walls heard the "soft footfalls of the numberless throng" who realized, as they passed the silent catafalque, how much that Sovereign had come to mean in their lives. Surely Westminster Hall, in all its long history, has never witnessed, at so short an interval of time, so swift a change in a nation's heart from joy to sorrow.

On 9th May, 1935, King George, accompanied by Queen Mary, came to Westminster to receive the Addresses of congratulation from the two Houses of Parliament. Precedent pointed to the House of Lords itself as the place in which the Sovereign meets the estates of the realm; to that Chamber come the Commons when the Sovereign opens Parliament in person, and to that Chamber the Commons are summoned to hear the Royal Assent given to Bills. It was, however, felt that the occasion demanded a more public ceremony than was possible in the House of Lords. Ruling Princes of India, Prime Ministers of the Dominions, High Commissioners for both Dominions and Colonies were in this country, and the ceremony took on the complexion of an Empire's congratulations rather than the mere presentation of Addresses by the two Houses of Parliament.

The vast hall, some 240 ft. long by 68 ft. wide in size, with the great south window glowing like a jewel, was carpeted in red from end to end; half-way up the steps which lead to the St. Stephen's Porch were built two stages draped with rich hangings of blue and gold, on which were seats for distinguished guests; on the level space at the top of the second flight of steps stood two gold chairs upholstered in crimson

silk for Their Majesties, and on each side of them were placed two smaller chairs for the four Royal Princes; on the lower landing were seats on the one side for the Lord Chancellor, his staff and the officers of the House of Lords, and on the other for the Speaker, his staff and the officers of the House of Commons; half-way down the hall on the stairs leading to the Grand Committee room stood four trumpeters of the Life Guards in their State uniforms. In front of the Lord Chancellor and the Speaker, respectively, were stands to receive the two Maces, the emblems of the Sovereign; when the Sovereign entered the building these two were immediately covered. In the body of the Hall were set rows of chairs on the east side for the Lords, on the west for the Commons; behind these, again, were rows of chairs for the peeresses and wives of Members. The number of those present when the two Houses had entered was about two thousand.

At 11 o'clock both Houses met in their respective Chambers. After Prayers the Commons, headed by the Speaker, preceded by the Mace, and followed by the officers of the House, Members of the Cabinet, ex-Ministers and the rank and file of the House of Commons, were the first to enter the Hall. When they were seated a similar procession of the Lords, headed by the Lord Chancellor, entered and took their seats.

Between 11.45 and 12.0 there arrived other members of the Royal Family, who were escorted to seats reserved for them in front of the boxes which were occupied by the distinguished guests. At 12 o'clock Their Majesties arrived at St. Stephen's Porch and were there received by the Lord Great Chamberlain, who presented the Civic Dignitaries of the City of Westminster. A fanfare of trumpets announced their arrival in Westminster Hall as, escorted by the First Commissioner of Works, they passed to their seats.

As soon as Their Majesties were seated the Lord Chancellor in his black and gold robes stepped forward followed by the Clerk of the Parliaments carrying the Address of the House of Lords; taking it from the Clerk the Lord Chancellor read the Address and then advanced and, kneeling, handed it to His Majesty. The Speaker also in his black and gold robes followed the same procedure. The King then read his Answer and handed copies of it to the Lord-in-waiting for the two Houses.

The terms of the Addresses and of the gracious Answer are common property and need not be given here; few of those who heard the King's reply can have failed to be moved

by the emotion which he obviously felt and which manifested itself for a moment when, with a slight break in his voice, he spoke of being blessed in his work by having beside him his dear wife.

Then the band of the Royal Artillery played the first bars of the National Anthem and the whole of that vast company, till then tense with silent feeling, sang " God Save the King " with meaning in hearts and voices. As the sounds died away another note, unprecedented and perhaps unconventional but none the less appropriate, was struck as the Lord Chancellor stepped forward and called for three cheers for Their Majesties; no crowd that had cheered them night after night of that week before Buckingham Palace gave more hearty or resounding cheers.

Their Majesties moved from the dais, and passed slowly down the steps and down the centre of the Hall between the two Houses, bowing as they went. When they reached the great north door they turned round and looked once more on a great scene and then the doors closed behind them as they left at 12.30. In that short half-hour history had broken new ground, the formal ceremonial of the presentation of an Address to the Crown had taken on a different character; the very terms of the Addresses were no longer the hackneyed and stilted expression of loyalty and congratulation—a deeper note was sounded in them, a wider scope given to what they embodied; the company was not limited by Parliamentary usage to Members of the two Houses, a representative of nearly every branch of the British Empire was present; and at the last, in place of the dignified silence in which the Sovereign has hitherto left at the conclusion of such ceremonies, there rang out an Empire's cheers.

III. AN ANCIENT RULE—THE NEGATIVE VOTE

BY

SIR HENRY J. F. BADELEY, K.C.B., C.B.E.
Clerk of the Parliaments.

THE ancient rule in the law " Semper præsumitur pro negante " finds its origin in the principle that on a division a majority of votes is necessary to justify a change. Consequently, if the numbers of votes cast are equal, no good cause has been shown for the motion proposed, be it motion, resolution or amendment.

Some confusion would appear to have arisen as to the proper interpretation of the phrase " pro negante." So great an authority as Sir Erskine May, who dismisses the question in a short paragraph (presumably as the practice cannot arise in the House of Commons where the Speaker has a casting vote), says: " In case of an equality of voices the not contents have it, and the question is declared to have been resolved in the negative " (Erskine May, 13th edition, p. 356), which might seem to infer that the person *Negans* must be " not content." It is perhaps less misleading to examine the phrase from another angle, when the conclusion which emerges is that the negative vote is rather in the nature of a denial of proof of justification for a change than a direct vote to negative a motion or amendment.

When the House is sitting for judicial business and comes to give judgment at the conclusion of the hearing of an appeal the question is always put, " That the Order (or Interlocutor) appealed from be Reversed," so that if the votes should be equal the rule " præsumitur pro negante " should come into operation, and in the absence of good cause shown to the contrary, there should be no interference with the Order of the Lower Court. An early instance of its application is found in 1842 (The Queen *v.* Miller, 10 Cl. and F. 534). There have been instances since that date, but the situation arises but rarely as the Court is practically always constituted of five or three members.

The first instance of an equality of votes during public business found in the Journals of the House of Lords is in the year 1580 on a Bill for the explanation of the Statute against Forging of Evidence and Writings " which coming to the question (*i.e.*, the Third Reading) and the numbers of the Contents on the one side, and the numbers of the Not Contents on the other side, found to be equal and alike with their

Proxies, it was commanded to be laid up in the Desk until the next Parliament " (*Lords Journals*, 2, p. 400). In the year 1601 the first mention of the rule is made. " Upon the Third Reading of the Bill (The Assurance of Lands Bill), objections were made against some points of the same by the Lord Bishop of London and divers others of the Lords; in so much that the House was divided in opinion . . . and the number both of the Affirmative Part and the Negative falling out to be equal (upon the accompting of them by the Lord Bishop of London and the Lord Grey, appointed by the Lords for that Purpose) it was judged that the voice of the Negative Part . . . should prevail; following therein the usual Rule in Law (whereof the Lord Keeper made mention) that where the number of the Affirmative and Negative are equal ' semper præsumitur pro negante ' . . ." (*Lords Journals*, 2, p. 245).

There are records of cases in 1661. On the proceedings concerning the claim of Aubrey de Vere, Earl of Oxon, touching his claim to the office of Lord Great Chamberlain of England. The question of the inclusion of the words " or new matter " in the order for hearing Counsel upon the matter of Error in former proceedings, produced a difference of opinion. The Lord Chamberlain and the Earl of Bedford were appointed to tell the number of the votes and upon Report thereof to the House it appeared that the votes togethe with the Proxies were even. " But there being urged by th Lord Privy Seal a precedent in the 43rd year of Queen Elizabetl where in the like case the votes were equal, in which it wa adjudged for the negatives according to Ancient Rule in the Law, Semper præsumitur pro negante; therefore it was resolved for the negative in this Case " (*Lords Journals*, 11, p. 288).

Again in the same year on the motion for the House to go into Committee on the " Bill for Conforming Three Acts." The question being put . . . the votes with the Proxies being equal, and the Earl of Dorsett reminding the House of the Ancient Rule in this Case " Semper præsumitur pro negante, it was determined accordingly in the negative " (*Lords Journals*, 11, p. 373).

The matter was explored by a Committee which sat in 1907 to report upon the Standing Orders of the House, to the report of which was added an appendix containing a memorandum on the subject.

Since the early XVIth Century instances of an equality of votes and application of the rule have not been very frequent;

up to the beginning of the XXth Century there had been some thirty instances of its occurrence during public business.

It is obvious that the application of the rule might result in a defeat of its object. A straightforward motion such as an abstract resolution, a motion for a stage of a Bill or for the House to go into Committee, if moved as a simple motion would present no difficulty, and an equality of votes would, when the rule operates, result in the defeat of the motion. When, however, the situation arises over an amendment to leave out certain words, either simply or for the purpose of inserting other words, the first question put to the House is " that the words proposed to be left out do stand part," and if on a division the votes were declared equal and the rule applied, the result would be that the words would be omitted and an alteration made in the Clause or Bill and the object of the rule defeated.

It is, of course, impossible that the form of the question should be altered, the division of opinion in the House is not known until the division has been taken, and the question once having been put, there is no opportunity for altering its terms. Effect, therefore, must be given to the rule by interpretation consequent on and subject to the result of the division. For example, if the question was that " the words proposed to be left out do stand part " and on a division the votes were equal, the interpretation which the House would wish to put upon the division—following the rule—would be that no good cause had been shown for any amendment; the question having been put as above, the principle of the rule would be carried out by declaring the result and that consequently the amendment was disagreed to.

This point was raised in 1864 on the Report of amendments to the Public and Refreshment Houses (Metropolis) Bill, when Lord Chancellor Westbury put the question that " Clause 9 be omitted "; the result of the division was an equality of votes, and though the House accepted the application of the rule to the effect that the motion was decided in the negative and the Clause remained part of the Bill, exception was taken to the way in which the question had been put, it being argued that had the usual form " that this Clause do stand part " been used the result would have been diametrically different. Lord Westbury defended the form in which he had put the question, quoting a precedent of 1861; the question of the general application of the rule was discussed but no decision was arrived at (*Hansard*, H.L., 1864).

As has been pointed out above, the situation is unlikely to arise during sittings of the House for judicial business as the number of the Court is practically always uneven. There have, however, been instances as recently as this century (Paquin, Ltd., *v.* Beauclerk, 1906; Eastern SS. Co., Ltd., *v.* Smith and others, 1891). The procedure adopted in Committees (other than Committee of the Whole House) is that the question should always be put " that this amendment be agreed to," which obviates the possibility of the rule operating in any way but the desired direction. Instances of cases of equality of votes on Committees have arisen—*e.g.*, 1893 Joint Committee on Electric Powers (Protective Clauses) Bill, and in 1894 on Railway Rates and Charges Bill.

In cases of consideration of amendments made by the Commons to a Lords Bill or *vice versa*, it is, of course, very important that adherence should be given to the principle that no charge should be made except by the vote of the majority; the question is always put either " That this House do agree " or " That this House do not insert " . . . so that in cases of equality whatever was previously settled in the House is adhered to on the principle that to make any change in what has been resolved upon by one House of Parliament a majority of votes is necessary—*e.g.*, County Coroners Bill, 1844; Divorce and Matrimonial Causes Bill, 1857; Agricultural Holdings (England) Bill, 1883.

It is probably due to the fact that equality of votes on a division has proved to be of but rare occurrence that the question has not been more fully considered and discussed. A general application of the principle of the rule and a review of the instances cited above establish the fact that the decision of the House should be announced in a form which bears out the principle of the rule, even though it may appear to be at variance with the form of the question put.

IV. THE ELECTION OF THE SIXTEEN SCOTTISH REPRESENTATIVE PEERS TO THE HOUSE OF LORDS[1]

BY

WILLIAM ANGUS

Keeper of the Registers and Records of Scotland.[2]

MANY attempts were made to bring about the Union of the Parliaments of England and Scotland, but it was not until 1702 that Commissioners were appointed to represent each country to consider the question. No progress was made until 1706, when new Commissioners were appointed and negotiations were seriously entered into. Agreement was reached in that year, and the Commissioners submitted the proposed treaty to their respective Parliaments, who ratified the adjusted Articles of Union in 1707.

Prior to the Union the Scottish Parliament consisted of what was known as the three Estates—viz.: (1) The Nobility; (2) the Barons from the Shires; and (3) Commissioners from Royal Burghs who all sat in one chamber. The nobility were summoned to Parliament by personal writ issued by

[1] Perhaps Mr. Angus, who has so courteously given a description of this unique provision in regard to the composition of the Imperial Second Chamber, will permit the Editor, on account of the distance between us, to insert a footnote as to the composition of the House of Lords, although the subject does not strictly come within the title of Mr. Angus's article.

To those members of our Society not so conversant with the composition of the House of Lords, perhaps we may be allowed a few words to act as a background for Mr. Angus's excellent picture. The House of Lords is often spoken of in the Dominions as an hereditary chamber, when it really contains several non-hereditary elements, such as the Archbishops, and the other Lords Spiritual, 24 of the Bishops, the Lords of Appeal (entitled to membership for life), the Lord Chancellor who acts as Speaker of the House of Lords (but who as Speaker could be a Commoner), the Scottish Representative Peers elected for each Parliament, and the Irish Representative Peers, elected for life, which last-named were originally planned to be 100, but to-day have dwindled, by deaths, to only 16. Other Irish Peers, not being eligible as such to membership of the Lords, are able to become Members of the House of Commons. Not so, however, are the solely Scottish Peers. although entitled to the privileges of Peerage. Except in the case of the Scottish and Irish Representative Peers, all others entitled to sit in the House of Lords receive writs of summons from the Crown upon the meeting of every new Parliament.

The House of Lords to-day numbers 773 and consists of 4 Peers of the Blood Royal; 2 Archbishops; 20 Dukes; 27 Marquesses; 129 Earls; 76 Viscounts; 24 Bishops; 459 Barons (including the Lords of Appeal who are Life Peers); and 16 Representative Peers, each for Scotland and Ireland. For further reference to the House of Lords *see* May, 13th ed.—[ED.]

[2] With acknowledgments also to the Lord Clerk Register and Keeper of the Signet, the Earl of Mar and Kellie, K.T.

Chancery. The Barons were elected by the freeholders of the Shires to which they belonged, and the Burgh Commissioners by the Burgesses.

Since the Union the Peerage of Scotland has been represented by sixteen members elected by open vote of the Peers themselves.

The number of Peers elected to sit and vote in the House of Lords fixed by the Articles of Union was in proportion to the number of representatives admitted to the House of Commons.

The various statutes dealing with the Scottish Representative Peers date from 1707 to 1928.

The Scots Act passed upon the Treaty of Union enacts—

> "That the said sixteen Peers who shall have right to sit in the House of Peers in the Parliament of Great Britain on the part of Scotland, by virtue of this treaty, shall be named by the said Peers of Scotland, whom they represent, their heirs or successors to their dignities and honours, out of their own number, and that by open election and plurality of voices of the Peers present, and of the proxies for such as shall be absent; the said proxies being Peers, and producing a mandate in writing, duly signed before witnesses, and both the constituent and proxy being qualified according to law: Declaring also, that such Peers as are absent, being qualified as aforesaid, may send to all such meetings lists of the Peers whom they judge fittest, validly signed by the said absent Peers, which shall be reckoned in the same manner as if the parties had been present, and given in the said list: And in the case of the death or legal incapacity of any of the said Sixteen Peers, that the aforesaid Peers of Scotland shall nominate another of their own number in place of the said Peer or Peers."

The Act of 25th June, 1847,[1] for the correction of certain abuses which have frequently prevailed at Elections, makes provision that no title of any Peerages shall be called in right of which no vote shall have been received and counted since 1800, and that the Lord Clerk Register or Returning Officer at any Election must conform in that respect to Orders of the House of Lords.

Section 3 of such Act provides that if at any meeting of Peers a Protest be made against any claim to vote the

[1] 10 and 11 Vic., c. 52.

Lord Clerk Register must transmit to the Clerk of the Parliaments a certified copy of such Protest, and the House of Lords shall inquire into the matter raised by such Protest, and the party against whom such Protest is made must establish his claim to the satisfaction of the House of Lords.

The Act of 7th August, 1851,[1] provides that in the event of a vacancy occurring through death, or otherwise, of a Representative Peer, a Certificate under the hands of two of the Representative Peers shall be held to be formal and sufficient evidence of the death of such Peer for the purpose of issuing a Proclamation for the holding of a bye-election to fill the vacancy.

Section 4 of such Act makes provision that a Return of those Peers who have not answered to the calling of their titles or voted at any election during the preceding fifty years must be sent to the Clerk of the Parliaments by the Lord Clerk Register or the Principal Clerk of Session.

The foregoing Acts are in so far as they relate to the Presiding Officer modified by the Re-organization of Offices (Scotland) Act, 1928, which provides that in the absence of the Lord Clerk Register, through any reason whatever, the meeting will be presided over by the Principal Clerk of Session, whom failing by a nominee of the Secretary of State for Scotland.

The actual Election of the Sixteen representative Peers of Scotland takes place at The Palace of Holyroodhouse after publishing of a Royal Proclamation at the " Mercat Cross " of Edinburgh, commanding all the Peers of Scotland to assemble on a specified date to nominate and vote for the Sixteen Peers whom they wish to represent them.

The meeting is presided over by the Lord Clerk Register, or as provided for by the said Re-organization of Offices (Scotland) Act, 1928.

The proceedings are opened by prayer by the Dean of the Thistle and of the Chapel Royal.

The Proclamation is then read along with Certificate to the effect that it has been duly proclaimed.

The Roll of Peers is then called and the Peers present answer to the calling of their titles. A Roll is made up of the Peers present in order of precedence together with any Proxies on behalf of absent Peers. Thereafter each Peer makes up a list of those Peers for whom he wishes to vote. He reads over this list, which is then read a second time, and the votes are noted.

[1] 14 and 15 Vic., c. 87, sec. 1.

Prior to the meeting Peers who are unable to attend personally may obtain blank forms for voting, known as Signed Lists. Those are returned to the Lord Clerk Register completed, signed, and witnessed, and they are produced and read over at the meeting, and those votes are also noted.

The votes are counted and a list of the successful Peers compiled, which is read over by the Presiding Officer.

A Return of the Election is signed and sealed by the Presiding Officer in presence of the Peers Electors and sent to the Clerk of the Crown, House of Lords, London.

The meeting is then closed with prayer by the Dean of the Thistle and of the Chapel Royal.

Minutes of the Proceedings are framed, signed by the Presiding Officer, and along with a Return of those Peers who have not answered to their titles, or voted, at any election of Peers during the past fifty years, are sent to the Clerk of the Parliaments in terms of Section 4 of the Act of 7th August, 1851.[1]

The number of Peers on the Roll prepared by the Lord Clerk Register at the time of the Union was 160. Since that time many of the peerages have become dormant or extinct, and the number of titles on the Roll at the present time is 113. Many of them are held by Peers who have either an English title or a British one and are thus entitled to sit in the House of Lords in virtue thereof. Again, some of the Peers hold more than one Scottish title and vote in respect of the one which takes precedence. The number of titles reported at last Election for which no vote had been received for fifty years was 17, most of which have become dormant or extinct.

[1] 14 and 15 Vic., c. 87.

V. PRECEDENTS AND UNUSUAL POINTS OF PROCEDURE IN THE AUSTRALIAN HOUSE OF REPRESENTATIVES DURING 1935

BY

E. W. PARKES, C.M.G.

Clerk of the House of Representatives.

THE following points of procedure occurred during the 1935 Session:

Chairman of Committees.—The Leader of the Opposition moved, on the 27th November,[1] upon notice, that "because of the gross partiality displayed by the Chairman of Committees he be declared unfit to continue in that office." In his speech, the Leader of the Opposition submitted that the Chairman of Committees had exhibited partiality in rulings, in interpretation of relevancy in speeches, and in the judging of the conduct of Members. Only a few Members had spoken to the motion when the closure was applied. The motion was defeated on division.

Naming a Member.—On the 21st November,[2] several Members called for a division on the question "That the House do now adjourn." While the bells were ringing, certain of the Members who desired the division attempted to leave the Chamber. The Speaker pointed out to them that they were required to remain and vote. One Member disregarded the Speaker's warning and left the Chamber. The question was resolved in the affirmative, and the House then adjourned until the next day. At the next sitting, the Speaker drew the attention of the House to the conduct of the Member who had disregarded the warning of the Chair, and named the offending Member. The Member was thereupon, on motion, suspended from the service of the House.

Suspension of Member and Count-out.—An unusual happening occurred on the 10th April.[3] While in Committee of the Whole on the Supplementary Appropriation (Works and Buildings) Bill, 1933-34, a Member was named and suspended from the Committee. The matter was reported to the House in accordance with the Standing Order, and the offending Member was, on division, suspended from the service of

[1] VOTES—1935, p. 368; Commonwealth Hans. No. 20—1935, 1926-1945.
[2] VOTES, p. 361; Commonwealth Hans. No. 20—1935, 1862-1868.
[3] VOTES—1935, pp. 252, 305; Commonwealth Hans. Sec. Period 1246-1248.

the House. Immediately after the Member had withdrawn from the Chamber, and while the Speaker was still in the Chair, a call for a quorum was made. The call was sustained, but the necessary number for a quorum could not be obtained. The House thereupon adjourned to the next sitting day. In order to resume proceedings on the Bill, a motion was made, at a later date, after notice, that the proceedings be resumed in Committee of the Whole.

Guillotine—(a) Annual Estimates.—In view of the approach of the end of the year and the amount of legislation to be considered, it was found necessary to expedite the passing of the Estimates and the Appropriation Bill. The Guillotine was invoked. The Treasurer declared that the Estimates, the Resolutions preliminary to the introduction of the Appropriation Bill, and the Appropriation Bill were urgent, and times were allotted for the consideration of the remaining Estimates, the Resolutions, and the stages of the Appropriation Bill. Of the departmental Estimates remaining to be considered, the Department of Defence was allotted the most time—viz., two hours. That the Guillotine is an effective time-saver is a claim that is well supported in this instance, for, prior to its application, 8 hours were devoted to the consideration of the Estimates of one Department alone.[1]

(b) Sugar Agreement Bill.—Times had been fixed under a Guillotine for the ordinary stages of the Bill. After the second reading, a motion was made by a private Member to refer the Bill to a Select Committee. Debate ensued on this motion, and a Minister moved the Closure. A point of order was taken as to the regularity of the Closure motion, and the Speaker ruled the motion to be in order. When giving his ruling, the Speaker pointed out that the Standing Order (262A) relating to the Guillotine provides that the Closure shall not be applied to any proceedings in respect of which time has been allotted, but that in this case the motion for a Select Committee had not been included in the stages of the Bill for which times had been allotted. In view of the time taken up by the Select Committee motion, it was found necessary to extend the times previously fixed for the remaining stages of the Bill.[2]

Sittings.—On the 11th April,[3] it was decided to complete on that day the business to be dealt with prior to the winter recess. Prior notice had not been given for the usual motion

[1] VOTES—1935, p. 369.
[2] *Ib.*, pp. 482, 483.
[3] *Ib.* pp. 253-257.

granting leave of absence to all Members during the recess. Owing to insufficient numbers, the Standing Orders could not be suspended to enable the motion to be moved without notice, and it was expected that leave would not be given to move the motion without notice. The situation was met by having two separate sittings on the same day. At the first sitting, which was at 2.30 p.m., the necessary notice was given by the Leader of the House of his intention to move at the next sitting the motion for leave, and at the second sitting on that day (5 p.m.) the motion was duly moved pursuant to the notice given at the first sitting.

Speaker's Casting Vote.—A motion to discuss a definite matter of urgent public importance, moved by a private Member, was being discussed on the 3rd December.[1] A motion for the Closure having been made and the question put, the division on the Closure disclosed that the voting was equal. The Speaker then gave his casting vote with the Noes. Under section 40 of the Commonwealth of Australia Constitution Act, the Speaker does not vote unless the numbers are equal, when he has a casting vote. By Standing Order 310, the Speaker may give reasons for the way he gives his casting vote and such reasons must be entered in the Votes and Proceedings. On this occasion no reasons were given.

Divisions.—83 divisions were taken during the sitting which extended over the 9th and 10th April,[2] 33 of them occurring on a Supply Bill.

[1] VOTES—1935, p. 480.

[2] *Ib.*, pp. 209-240.

VI. PRECEDENTS AND UNUSUAL POINTS OF PROCEDURE IN THE UNION HOUSE OF ASSEMBLY DURING 1935

BY

D. H. VISSER, J.P.

Clerk of the House of Assembly.

THE following points of procedure occurred during the 1935 Session.

Precedence of Motions of No-Confidence.—On the 17th January[1] Mr. Speaker ruled that as S.O. 41 expressly gave the Prime Minister the right of arranging the business of the House on Government days as he thought fit, it was not incumbent upon him to give precedence to motions of no-confidence. Subsequently, on the 26th February, a Member of the Opposition moved that it be an instruction to the Committee on Standing Rules and Orders to consider the advisability of submitting a Standing Order " incorporating the recognized Parliamentary practice " with regard to precedence for motions of no-confidence. The debate was adjourned to a futur day and the motion subsequently dropped owing to prorogatior but during the debate the Prime Minister stated the condition under which he was prepared to give precedence to such motions.

Adjournment of Debate Proposed by Mr. Speaker on Private Members' Day.—On the motion of a private Member[2] for the revival of a Bill Mr. Speaker, in view of the importance of several subsequent notices of motion on the paper for that day, exercised the discretion vested in him by S.O. 40 of putting the question " That the debate be now adjourned." The question was, however, negatived, and the motion was agreed to.

Minister takes Charge of Bill in Absence of Member-in-Charge.—The principle that a Bill is the property of the House was illustrated on the 8th February, 1935,[3] when, owing to the absence of the Member-in-charge of the *Protection of Names, Uniforms and Badges Bill*, the Minister of the Interior took charge of the Bill until the Member-in-charge returned to the House.

Debate on Motion that Speaker leave the Chair.—Under S.O. 79, adopted in 1922, the question " That Mr. Speaker leave the Chair," is put without amendment or debate in connection with Committee of Supply, Committee of Ways

[1] 24 Union Assem. Hans., 1935, 179. [2] 24 Union Assem. Hans., 763.
[3] VOTES—1935, p. 237.

and Means, Bills, and an Address to the Governor-General. But the rule does not apply to other Committees, and on the 6th February[1] the Minister of Agriculture, when moving that the Speaker leave the Chair for the House to go into Committee on the Second Report of the Select Committee on Irrigation Matters, took advantage of the opportunity to discuss the subject-matter of the report generally, leaving the details to be discussed *seriatim* in Committee.

Procedure on Motion impugning Conduct of a Judge.—On the 11th March, 1935,[2] Mr. Speaker ruled that the conduct of a Judge could only be discussed on a distinct substantive motion, and two days later, when notice had been given of a motion impugning the conduct of a Judge, he stated that he did not think it would be in the interests of the administration of justice for the House to entertain such a motion unless the conduct of the Judge was of such a nature that he should be dismissed on the ground of misconduct. Mr. Speaker then outlined the procedure which should be followed when a Member moves for the dismissal of a Judge.

Publication of Select Committee Report before Printed by House.—On the 27th March, 1935,[3] Mr. Speaker informed the House that his attention had been drawn to the fact that the substance of the report of the Select Committee on the proposed Address to the King, which had been brought up on the previous day, had been published by two local newspapers before the report was printed by Order of the House. After referring to S.O. 239 and 278, Mr. Speaker said he wished to make it quite clear that a report does not become public property until it has been printed or published by the House.

When Member Ordered to discontinue his Speech may Speak Again.—After a Member had been ordered to discontinue his speech in Committee of the Whole House[4] the question arose as to when he could speak again. The Chairman ruled that he could not speak again until a new question was proposed from the Chair, and this view was upheld by Mr. Speaker.

Committee of Supply: Chairman's Discretion in granting Leave to Speak for 30 Minutes.—On the 22nd April,[5] doubts having arisen as to the Chairman's authority to decline the request of a Member to speak for 30 minutes instead

[1] 24 Union Assem. Hans., 1147 *et seq.*
[2] *Ib.*, 2800.
[3] 25 Union Assem. Hans., 3826.
[4] VOTES—1935, p. 571.
[5] 25 Union Assem. Hans., 5274, 5275.

of 10 minutes in Committee of Supply, the Chairman referred to a statement made by his predecessor on the subject and gave his reasons for declining to accept the request.

Joint Address to Governor-General Presented by Mr. Speaker and Mr. President. — On the 29th April, 1935,[1] both Houses passed a Joint Address of sympathy with the Governor-General, Lord Clarendon, on the sudden death of his son, Lord Hyde, and as a mark of consideration took the unprecedented course of resolving that the address should be conveyed to His Excellency by Mr. President and Mr. Speaker in person. His Excellency's reply was conveyed to the House by Mr. Speaker and recorded in the Votes and Proceedings.

Joint Committee Report: Correction of Error.—Towards the end of the Session,[2] the House ordered the Report and proceedings of the Joint Select Committee on Native Bills to be printed. Soon after the report had been printed a Message was received from the Senate asking that a certai alteration should be made to a motion moved in the Cor mittee by Senator Malan. The House in reply to the Messa pointed out that the responsibility for any alteration in tl Minutes must rest with the Committee itself, but suggested that a note should be inserted in the Report drawing attention to Senator Malan's objection. This course was adopted.

Suspension of Proceedings on Private Bill.—At the end of the 1934 Session the proceedings on the *Pretoria Waterworks Further (Private) Bill* were suspended. They were not resumed during the 1935 Session, but towards the end of that Session the Member-in-charge proposed to move that they be again suspended. It was pointed out, however, that under S.O. 28 (Private Bills) it would be necessary to resume proceedings before they could be further suspended, and as this was not done, the Bill dropped.

Control of Taxation and Expenditure by House of Assembly—(*a*) *Taxation.*—On the 16th April[3] in Committee of Ways and Means, on the customs duties, a Member drew attention to the ruling given by Mr. Speaker during the 1934 Session, to the effect that it was the unwritten law of Parliament that taxation should be fixed and determined by the House itself, and urged that, in the Bill to give effect to the new customs proposals, provision should be made that all powers to be vested in the Government of increasing customs duties should be subject to an affirmative Resolution of both Houses. The Minister of Finance agreed to this proposal,

[1] *Ib.*, 5858. [2] *Ib.*, 6374, 6375, 6459. [3] *Ib.*, 5057, 5058.

and provision was thereafter made in sections 5 and 8 of the Customs Tariff Amendment Act, 1935.

(*b*) *Expenditure.*—Clauses 2 and 3 of the *Finance Bill* as introduced, proposed to do away with the practice of passing "Part Appropriation Bills" which authorize the expenditure of public money pending the passing of the annual "Appropriation Bill." Instead of the existing practice, the clauses proposed, in effect, that the life of annual Appropriation Acts should be automatically extended for three months or until such time as the next annual Appropriation Act was passed. On the 3rd May[1] Second Reading of the Bill, however, the Minister of Finance stated that "in view of the contentious and controversial nature" of these clauses, they would be withdrawn in Committee and when the Clauses were reached they were negatived without discussion.

Conferring Committees.—In consequence of a suggestion made by the Senate in a Message last Session,[2] that the Select Committees on Native Affairs of both Houses should have power to confer with each other on all applications affecting land in native areas before reporting thereon to their respective Houses, the Sessional Committee on Native Affairs was appointed with leave to confer with a similar Committee of the Senate. Owing to long adjournments of the Senate here was only one occasion on which the Committees were ble to confer—namely, on the 22nd March. On this occasion the Resolutions adopted by the conferring Committees were confirmed and adopted by the House of Assembly Select Committee at a subsequent meeting on the 17th April and reported to the House. Further papers referred were dealt with by the House of Assembly Select Committee alone, the Senate having again adjourned from the 3rd to the 22nd April.[3]

Certified Acts.—In addition to the Acts certified by Mr. President and Mr. Speaker for enrolment in the Appellate Division of the Supreme Court when signed by the Governor-General, it has been the practice to supply the Prime Minister's office with three copies, signed by the Clerks of the two Houses, for transmission to the Dominions Office. On the 3rd April, 1935, however, the Clerk of the House was officially informed by the Prime Minister's office that such certified copies were no longer required. The practice was therefore discontinued, but in compliance with a request from the Prime Minister's office three plain copies are now sent to that office of every Act.

[1] *Ib.*, 6375, 6376. [2] VOTES—1934, p. 606. [3] *Ib.*, 1935, p. 22.

VII. PROCEDURE RELATING TO LEGISLATION IN THE INDIAN LEGISLATURE

BY

MIAN MUHAMMAD RAFI, B.A.

Secretary of the Legislative Assembly.

BROADLY speaking, the Indian Legislature consists of the Governor-General and two Chambers. The Upper Chamber is called the Council of State and the Lower Chamber the Legislative Assembly. Ordinarily, a Bill is not deemed to have been passed by the Indian Legislature unless it has been agreed to by both Chambers, either without amendments, or with such amendments only as may be agreed to by both Chambers and is assented to by the Governor-General. But these statements have to be qualified in certain respects. The Indian Legislature has powers expressly limited by the Act of Parliament which created it and can do nothing beyond the limits which circumscribe those . . . powers. When the Indian Legislature is asked to enact a law, it is bound to see that no provision is passed by it which encroaches upon the limitations which the Government of India Act has imposed upon its powers. But when acting within those . . . limits, it is not in any sense an agent or delegate of the Imperial Parliament but has, and was intended to have, plenary powers of legislation as large and of the same nature as those of Parliament itself. Any Bill or a clause of a Bill or any amendment which is *ultra vires* of the Indian Legislature, will, therefore, not only be ruled out of order by the President, but if passed, will not be recognised by Courts of Law. Some of these qualifications, reservations and limitations will be mentioned in their proper places in this article. The purpose of this article, however, is not to discuss the extent of the legislative powers of the Indian Legislature, but merely to describe the various stages through which a Bill has to pass before it becomes a law of the land.

The procedure relating to legislation in the Indian Legislature is contained in the Government of India Act, 1919, the Indian Legislative Rules and the Council of State Standing Orders in the case of the Council of State and the Legislative Assembly Standing Orders in the case of the Legislative Assembly. Where there is nothing one way or the other in the Government of India Act or the Rules and Standing Orders relating to a particular matter of procedure, the President falls

back upon the procedure of the British House of Commons. By virtue of the powers conferred by Section 67 (1), read with Section 129A of the Government of India Act, 1919, the Indian Legislative Rules, which are applicable to the Council of State, the Legislative Assembly and all the Provincial Councils, were made by the Governor-General in Council with the sanction of the Secretary of State in Council and were approved of both Houses of Parliament. These rules cannot be repealed or altered by the Indian Legislature or by any local Legislature. The first Standing Orders of the Council of State and of the Legislative Assembly were made by the Governor-General in Council under Section 67 (6) of the Government of India Act. These Standing Orders can, with the sanction of the Governor-General, be altered by the Chamber to which they relate. Any Standing Order which is repugnant to the provisions of any Rule made under the Government of India Act is, to the extent of that repugnancy, void.

Bills which come up before the Indian Legislature fall under two heads—namely, Official (Government Bills) and Non-Official Bills—*i.e.*, Bills for which non-official Members are responsible.

Non-Official Bills must not be confused with " Private " Bills in the technical English Parliamentary sense. The distinction which exists in the British Parliament between Public Bills and Private Bills is unknown in India. Unlike a " private " Bill in the English sense, a Non-Official Bill can, subject to the provisions of section 65 (2) (3) and section 67 (2) of the Government of India Act, 1919, which are applicable to both kinds of Bills, relate to any matter of general public interest. A Non-Official Bill is, therefore, in every sense a " public " Bill. Thus, from the point of view of subject-matter, there is no distinction between an Official Bill and a Non-Official Bill in India.

Bills may be introduced in either Chamber; but as a matter of practice, Official Bills are generally introduced in the Legislative Assembly, and the Indian Finance Bill is always introduced in the Lower Chamber. The procedure relating to legislation is, with a few differences in detail, the same in both Chambers.

A Non-Official Member desiring leave to introduce a Bill is required to give notice of his intention, and has to submit along with the notice a copy of the Bill and a full Statement of Objects and Reasons. The period of notice in such a case is one month, or, if the Governor-General so directs, a further

period not exceeding in all two months. On the other hand, in the case of an Official Bill, it is not necessary to give a formal notice of a motion for leave to introduce the Bill. If a Bill of which notice has been given by a non-official Member is of such a nature that under section 67 (2) of the Government of India Act, 1919, it can only be introduced with the previous sanction of the Governor-General, the Member has to annex to the notice a copy of such sanction, and the notice is not valid until this requirement is complied with. The fact of the grant of the sanction by the Governor-General is endorsed on the back of the Bill by the Secretary of the Chamber. In the case of official Bills, however, as no formal notice is required, the question of annexing to the notice a copy of the sanction of the Governor-General does not arise; but if such a Bill falls under section 67 (2) of the Government of India Act, the Government have also to obtain the previous sanction of the Governor-General and an endorsement to that effect has to be made by the Secretary of the Chamber on the back of the Bill before it can be introduced.

On days allotted for the transaction of Government Business, Official Bills are arranged in the List of Business by the Secretary of the Chamber in such order as the Governor-General in Council may direct. Bills sponsored by non-official Members are taken up on days allotted for Non-Official Bills by the Governor-General and the relative precedence of notices of such Bills is determined by ballot, which is held in accordance with a prescribed procedure—which, if necessary, can be varied from time to time by the President—on such date, not being less than fifteen days before the date with reference to which the ballot is held, as the President may direct. If, during the passage of an Official Bill the consideration of any motion remains unfinished, it is open to the Governor-General in Council to direct that it shall not be set down as the first item on the next official day and to intercept its progress by giving precedence to any other official business. On the other hand, in the case of a Non-Official Bill, if the discussion of any motion which is included in the List of Business remains unfinished, it has to be set down as the first item on the List of Business on the next day allotted by the Governor-General for Non-Official Bills.

From this stage onwards, the procedure relating to Official and Non-Official Bills is the same.

The Governor-General may order the publication of any Bill together with a Statement of Objects and Reasons accom-

panying it in the *Gazette of India*, although no motion has been made to introduce the Bill. In that case, it is not necessary to move for leave to introduce the Bill, and if the Bill is afterwards introduced, it is not necessary to publish it again. Official Bills are sometimes, but very rarely, published in the *Gazette* before introduction; but no Non-Official Bill has been published so far.

Subject to the special procedure relating to legislation by certification and to what are known as recommended Bills, which will be described later on, every other Bill has to pass through three stages during its passage in either Chamber—namely, the Introduction Stage, which corresponds to the First Reading; the Consideration Stage, corresponding to the Second Reading; and the Passing Stage, corresponding to the Third Reading in the British House of Commons. When a Bill which is sought to be introduced in either Chamber is entered in the List of Business of that Chamber, the President, when the item is reached, calls upon the Member to make his motion. Thereupon, the Member responsible for the Bill rises in his seat and moves for leave to introduce the Bill and mentions its title as part of the motion. At this stage, the mover cannot, as of right, make a speech, although in practice a short speech is sometimes made. It is an established convention now that a motion for leave to introduce a Bill should not be opposed unless a member is prepared to go to the extent of dividing the House. If such a motion is opposed, the President, after permitting, if he thinks fit, a brief explanatory statement from the Member who moves and from the Member who opposes the motion, may, without further debate, put the question. The President in such a case follows what is colloquially known in the British House of Commons as the Ten Minutes Rule. Opposition to a motion for leave to introduce a Bill is so rare that this stage has more or less become formal. If the House grants leave to introduce the Bill, the Member, on being called by the President, again rises in his seat and simply says that he introduces the Bill; and the Bill is then deemed to have been introduced. If, in pursuance of the order of the Governor-General, the Bill is published in the *Gazette of India* before introduction, the Member, when called upon by the President, rises in his seat and simply introduces the Bill. In such a case, it is not open to any Member to oppose the introduction, inasmuch as, the leave stage having been dispensed with by the action of the Governor-General, there is no motion before the House and the Member merely introduces the Bill.

As soon as may be, after a Bill has been introduced, the Bill, unless it has already been published, must be published in the *Gazette of India*.

When a Bill has been introduced, or on some subsequent occasion, the Member-in-charge may make one of the following motions in regard to his Bill, namely—

(*a*) That it be taken into consideration by the Chamber either at once or at some future date to be then specified; or,
(*b*) that it be referred to a Select Committee; or,
(*c*) that it be circulated for the purpose of eliciting opinion thereon;

but no such motion can be made until after copies of the Bill have been made available for the use of Members, and any Member may object to any such motion being made unless copies of the Bill have been so made available for three days before the date on which the motion is made, unless the President, in the exercise of his discretionary power, allows the motion to be made. A motion recommending that the Bill should be committed to a Joint Committee of both Chambers may be moved at any stage at which a motion for the reference of the Bill to a Select Committee may be moved. It is an established convention that, unless there are special reasons, none of these motions should be made on the day on which the Bill is introduced. If, however, a Member chooses to disregard this convention, the President cannot rule the motion out of order.

On the day on which any such motion is made, or on any subsequent day to which the discussion thereof is postponed, the principle of the Bill and its general provisions only may be discussed, and the details of the Bill may not be discussed further than is necessary to explain its principle. No amendments to the Bill may be moved at this stage, but—

(*a*) if the Member-in-charge moves that his Bill be taken into consideration, any Member may move as an amendment that the Bill be referred to a Select Committee; or be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion; or,
(*b*) if the Member-in-charge moves that the Bill be referred to a Select Committee, any Member may move as an amendment that the Bill be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion.

Where a motion that the Bill be circulated for the purpose of eliciting opinions thereupon is carried, the opinions are collected through the agency of Provincial Governments and, subject to any direction that may have been given by the Chamber, they have full discretion to invite opinions from those individuals, societies or institutions who, in their opinion, represent the public. If the Bill is of such a nature that High Courts should be consulted, then the opinions of the High Courts are also obtained. The passing of a motion that the Bill be circulated for the purpose of eliciting opinions thereon does not commit the House to the principle of the Bill. After opinions have been received in accordance with the direction of the House, the Member-in-charge, if he wishes to proceed with his Bill, thereafter, must move that the Bill be referred to a Select Committee, unless the President, in the exercise of his discretionary power, allows a motion to be made that the Bill be taken into consideration.

No motion, that the Bill be taken into consideration or passed, can be made by any Member other than the Member-in-charge of the Bill, and no motion, that the Bill be referred to a Select Committee or be circulated, or re-circulated for the purpose of eliciting opinions thereon, can be made by any Member other than the Member-in-charge, except by way of an amendment of a motion made by the Member-in-charge. For these purposes, the Member-in-charge of a Bill means, in the case of a Government Bill, any Member acting on behalf of the Government, and in any other case, the Member who has introduced the Bill, or where a Bill has been laid on the table in the other Chamber, the Member who has given notice of his intention to move that the Bill be taken into consideration. In the case of a Non-Official Bill, therefore, if the Member-in-charge is absent or has been elected President since he introduced any Bill, the Bill cannot be proceeded with.

If a resolution is passed in the originating Chamber recommending that the Bill should be committed to a Joint Committee of both Chambers, a message is sent to the other Chamber to inform it of the resolution and to desire its concurrence in the resolution. If the other Chamber agrees, a motion is made in each Chamber nominating the Members of that Chamber who are to serve on that Committee. On a Joint Committee, equal number of Members of each Chamber must be nominated. The Chairman of the Committee is elected by the Committee and has only a single vote, and if the votes are equal, the question must be decided in the negative. The time and place of the

meeting of the Committee is fixed by the President of the Council of State.

If the Member-in-charge of a Bill moves that it be referred to a Select Committee, or if any other Member makes a similar motion as an amendment to the motion for consideration by the Member-in-charge, he must mention in the motion the names of the Members composing the Committee and must, before making the motion, obtain the consent of such Members that they are willing to serve on the Committee. If these conditions are not fulfilled, the President may rule the motion out of order. It is not open to any Member to move that a Bill be referred to a Committee of the whole House. The Rules and Standing Orders do not provide for the appointment of such a Committee. The Member of the Government to whose Department the Bill relates, the Member who introduces the Bill, and the Law Member of the Governor-General's Executive Council, if he is a Member of the Chamber, must be members of every Select Committee, and it is not necessary to include their names in any motion for appointment of such a Committee. The other members of the Committee have to be appointed by the Chamber when the motion that the Bill be referred is made, or, in the case of a motion made by way of amendment at any subsequent meeting, provided that, if the Law Member is not a Member of the Chamber, one of the Chairmen of the Council in the case of the Council of State, and the Deputy-President or one of the Chairmen of the Assembly in the case of the Legislative Assembly, must be appointed a member of the Committee. If a motion to refer the Bill to a Select Committee or a Joint Committee, as the case may be, is not carried, the Bill is considered dead, as the decision tantamounts to rejection of the principle of the Bill. If such a motion is adopted, the House stands committed to the principle of the Bill. It is incumbent on the House to fix at the time of the appointment of members of a Select Committee the number of members whose presence shall be necessary to constitute a meeting of the Committee. Usually, the mover mentions the quorum in his motion. The Law Member, or, if the Law Member is not a Member of the Chamber, a Chairman of the Council in the case of the Council of State, and the Deputy President, if he is a member of the Committee in the case of the Legislative Assembly, and if the Deputy President is not a member of the Committee, then a Chairman of the Assembly, must be the Chairman of the Committee. If, however, two or more Chairmen of the Chamber are

members of the Committee, then the person whose name appears first in the panel of such Chairmen must be the Chairman of the Committee. In the case of an equality of votes, the Chairman has a second or casting vote. If the Chairman is not present at any meeting of the Committee, then, in the case of the Legislative Assembly, the person present, if any, who is next in the order given above, may preside and exercise the powers of the Chairman. It is open to a Select Committee to hear expert evidence and representatives of special interests affected by the measure before them. Where the Law Member or the Member of the Governor-General's Executive Council in charge of the Department to which the Bill relates is not a Member of the Chamber, he has the right of attending at and taking part in the deliberations of meetings of a Select Committee, but cannot be regarded as a member of the Committee. The Select Committee, unless the Chamber orders the report to be made sooner, must not make a report before the expiry of three months from the date of the first publication of the Bill in the *Gazette*. This time-limit, however, does not apply in the case of Bills imposing taxation. The report of a Select Committee may be either preliminary or final. The Select Committee have to state in their report whether or not in their judgment the Bill has been so altered as to require a republication, whether the publication directed by the Rule has taken place and the date of such publication. If any member of a Select Committee desires to record a minute of dissent on any point, he must sign the report stating that he does so subject to his minute of dissent and must at the same time hand in his minute. The report of the Select Committee on a Bill must be presented to the Chamber by the Member-in-charge of the Bill. In presenting the report, the Member-in-charge must, if he makes any remarks, confine himself to the proposed statement of facts, but no debate can be allowed at this stage. As a matter of practice, the Member-in-charge never makes any remarks and this has become a purely formal stage. It is the duty of the Secretary of the Chamber to get every report of the Select Committee printed and a copy of the report made available for the use of every Member. If any Member is unacquainted with English, the Secretary, if requested, must have the report translated for his use in such vernacular language as the President may direct. The report with the amended Bill must be published in the *Gazette*.

After the presentation of the final report of a Select Committee on a Bill, the Member-in-charge may move—

(*a*) That the Bill as reported by the Select Committee be taken into consideration, provided that, any Member of the Chamber may object to its being so taken into consideration. If a copy of the report has not been made available for the use of Members for seven days, such objection shall prevail, unless the President in the exercise of his discretionary power allows the report to be taken into consideration; or,

(*b*) that the Bill, as reported by the Select Committee, be re-committed either—

(i.) without limitation; or,

(ii.) with respect to particular clauses or amendments only; or,

(iii.) with instructions to the Select Committee to make some particular or additional provision in the Bill; or,

(*c*) that the Bill, as reported by the Select Committee, be re-circulated for the purpose of obtaining further opinions thereon.

If the Member-in-charge moves that the Bill be taken into consideration, any Member may move as an amendment that the Bill be re-committed or re-circulated for the purpose of obtaining further opinion thereon. A motion for re-committal or re-circulation of the Bill being in the nature of a dilatory motion, it is in the discretion of the Chair, if it thinks that the motion is of an obstructive character and therefore an abuse of the Rules, not to accept such motion.

When a motion " that the Bill be taken into consideration ' has been carried, any Member may propose an amendment t the Bill. The passing of such a motion commits the House to the principle of the Bill. If notice of a proposed amendment has not been given two clear days before the date on which the Bill is to be considered, any Member may object to the moving of the amendment, and such objection must prevail unless the President, in the exercise of his discretion, allows the amendment to be moved. It is within the competence of the Chair to allow amendments to be moved without notice, and it is not necessary to give previous notice of an amendment of a purely verbal character or consequential upon or moved in respect of amendments which have been carried. If time permits, every notice of a proposed amendment is printed by the Secretary and a copy thereof is made available for the use of every Member. If any Member present is unacquainted

with English, the Secretary if requested, causes every such notice to be translated for his use into such vernacular language as the President may direct.

Procedure relating to the admissibility of amendments is practically the same as obtains in the British House of Commons. The President may refuse to put an amendment which, in his opinion, is frivolous. Amendments are ordinarily considered in the order of the clauses of the Bill to which they respectively relate, and in respect of any such clause a motion is deemed to have been made: " That this clause stands part of the Bill." Notwithstanding anything in the Standing Orders, it is in the discretion of the President, when a motion that the Bill be taken into consideration has been carried, to submit the Bill or any part of the Bill to the House clause by clause. When this procedure is adopted, the President must call each clause separately, and when the amendments relating to it have been dealt with, must put the question: " That this clause (or, as the case may be, that this clause as amended) stand part of the Bill."

When a motion that " the Bill be taken into consideration " has been carried and no amendment of the Bill is made, the Member-in-charge may at once move that the Bill be passed. If any amendment of the Bill is made, any Member may object to any motion being passed on the same day that the Bill be passed, and such objection must prevail unless the President, in the exercise of his discretion, allows the motion to be made. Where the objection prevails, a motion " that the Bill be passed " may be brought forward on any future date. To such a motion no amendment may be moved which is not either formal or consequential upon an amendment made after the Bill was taken into consideration.

The Member who has introduced the Bill may at any stage of the Bill move for leave to withdraw the Bill. If such leave is granted, no further motion may be made with reference to the Bill. Leave to withdraw a Bill can be granted only if there is no dissentient voice.

On the termination of a Session, Bills which have been introduced must be carried over to the pending List of Business of the next Session, provided that, if the Member-in-charge of a Bill makes no motion in regard to the same during two complete Sessions, the Bill lapses, unless the Assembly, on a motion by that Member in the next Session, makes a special order for the continuance of the Bill. On the dissolution of either Chamber, all Bills which have been introduced in the Chamber which has been dissolved, or have been laid on the

Table in that Chamber after having been passed by the other Chamber and which have not been passed by the Indian Legislature, lapse.

When a Bill is passed by either Chamber, a copy thereof must be signed by the President and sent to the other Chamber, and copies of the Bill must be laid on the Table at the next following meeting of that Chamber.

At any time, after copies have been laid on the Table, any Member acting on behalf of Government in the case of a Government Bill, or in any other case, any Member, may give notice of his intention to move that the Bill be taken into consideration. On the day on which the motion is set down in the List of Business, which must, unless the President otherwise directs, be not less than three days from the receipt of the notice, the Member giving notice may move that the Bill be taken into consideration. On the day on which such motion is made, or on any subsequent day to which the discussion is postponed, the principle of the Bill and its general provisions may be discussed, but the details of the Bill must not be discussed further than is necessary to explain its principle. Any Member may (if the Bill has not already been referred to a Select Committee of the originating Chamber or to a Joint Committee of both Chambers, but not otherwise) move as an amendment that the Bill be referred to a Select Committee, and if such motion is carried, the Bill must be referred to a Select Committee, and the Standing Orders regarding Select Committees on Bills originating in the Chamber then apply. If a motion " that the Bill be taken into consideration " is carried, the Bill is taken into consideration, and the provisions of the Standing Orders of the Chamber regarding considerations of amendments to Bills and the subsequent procedure in regard to the passage of Bills apply.

If the Bill is passed without amendment and the originating Chamber is the Assembly, a message must be sent to the Assembly intimating that the Council have agreed to the Bill without any amendment. If the originating Chamber is the Council, the Bill with a message to the effect that the Assembly have agreed to the Bill without any amendment must be sent to the Council. If the Bill is passed with amendments, the Bill must be returned with a message asking the concurrence of the originating Chamber to the amendments. When a Bill which has been amended in the other Chamber is returned to the originating Chamber, copies of the Bill must be laid on the Table at the next following meeting of that Chamber. If an

amended Bill has been laid on the Table, any Member acting on behalf of Government, in the case of a Government Bill, or in any other case, any Member, after giving three days' notice, or, with the consent of the President, without notice, may move that the amendments be taken into consideration. If such a motion is carried, the President puts the amendments to the Chamber in such manner as he thinks most convenient for their consideration. Further amendments relevant to the subject-matter of the amendments made by the other Chamber may be moved, but no further amendment shall be moved to the Bill unless it is consequential upon or alternative to an amendment made by the other Chamber. At this stage it is not open to the originating Chamber to reject the Bill. If the Chamber agrees to the amendments made by the other Chamber, a message intimating its agreement is sent to that Chamber. If the Chamber disagrees with the amendments made by the other Chamber, or any of them, the Bill, with a message intimating its disagreement, is sent to that Chamber. If the Chamber agrees to the amendments or any of them without further amendments, or proposes further amendments in place of amendments made by the other Chamber, the Bill, as further amended, with a message to that effect, must be sent to the other Chamber. The other Chamber then may either agree to the Bill as originally passed in the originating Chamber, or, as further amended by that Chamber, as the case may be, or, may return the Bill with a message that it insists on an amendment or amendments to which the originating Chamber has disagreed. If a Bill is returned with a message intimating that the other Chamber insists on amendments to which the originating Chamber is unable to agree, that Chamber may either report the fact of the disagreement to the Governor-General or allow the Bill to lapse.

If, under section 67 (2) (*a*) of the Government of India Act, 1919, the Governor-General certifies that a Bill, which has been introduced or is proposed to be introduced in either Chamber, or any clause of a Bill or any amendment to a Bill, affects the safety or tranquillity of British India, or any part thereof, and directs that no proceedings or no further proceedings shall be taken thereon, all notices of motions in connection with the subject-matter of the certificate lapse, and if any such motion has not already been set down on the List of Business, it cannot be so set down. If any such motion has been set down on the List of Business, the President, when the motion is reached, has to inform the Chamber of the Governor-

General's action, and the Chamber then must forthwith proceed, without debate, to the next item of business.

Where either Chamber of the Indian Legislature refuses leave to introduce or fails to pass in a form recommended by the Governor-General any Bill, the Governor-General may, under section 67 (*b*) of the Government of India Act, 1919, certify that the passage of the Bill is essential for the safety, tranquillity or interest of British India, or any part thereof, and thereupon—

(*a*) If the Bill has already been passed by the other Chamber, the Bill, on signature by the Governor-General, notwithstanding that it has not been consented to by both Chambers, forthwith becomes an Act of the Indian Legislature in the form of the Bill as originally introduced or proposed to be introduced in the Indian Legislature, or (as the case may be) in the form recommended by the Governor-General; and

(*b*) if the Bill has not already been so passed, the Bill must be laid before the other Chamber, and if consented to by that Chamber in the form recommended by the Governor-General, becomes an Act as aforesaid on the signification of the Governor-General's assent, or, if not so consented to, shall, on signature by the Governor-General, become an Act as aforesaid.

Every such Act is expressed to be made by the Governor-General and must, as soon as practicable after being made, be laid before both Houses of Parliament and cannot have effect until it has received His Majesty's assent and cannot be presented for His Majesty's assent until copies thereof have been laid before each House of Parliament[1] for not less than eight days on which that House sat. Upon the signification of such assent by His Majesty in Council and the notification thereof by the Governor-General, the Act has the same force and effect as an Act passed by the Indian Legislature and duly assented to. Where, however, in the opinion of the Governor-General a state of emergency exists which justifies such action, the Governor-General may direct that any such Act shall come into operation forthwith, and thereupon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by His Majesty in Council. Where—

(*a*) A motion that a Bill be referred to a Select Committee, or, that it be circulated for the purpose of eliciting

[1] *i.e.* the Imperial Parliament.

opinion thereon, or any other motion, the effect of the carrying of which will be to delay the passage of the Bill, has been carried in either Chamber in respect of a Government Bill, or

(*b*) either Chamber refuses to take into consideration or to refer to a Select Committee or to pass any Government Bill, and thereafter the Governor-General recommends that the Bill be passed in a particular form, a motion may be made in either Chamber for leave to introduce a Bill in that form, and where such recommendation is made in the case referred to in (*a*) above, the Bill in respect of which the dilatory motion has been made shall be deemed to have been withdrawn.

Where a Bill has been introduced after such recommendation, any motion may, subject to the Rules, be made in respect of the Bill in either Chamber, notwithstanding that such motion raises a question substantially identical with one on which the Chamber has already given a decision in the same Session.

A recommendation or certification in respect of any Bill by he Governor-General under section 67B of the Government of India Act, 1919, may be made by message and must be communicated to the Chamber by the President and must be endorsed on the Bill. No dilatory motion can be made in connection with such a recommended Bill without the consent of the member-in-charge of the Bill, and if any such motion has been made, but has not been carried prior to the communication to the Chamber of the recommendation, such motion cannot be put to the Chamber.

Where during the passage of a Bill in either Chamber, the Governor-General makes a recommendation in respect thereof, and any clause of the Bill has been agreed to or any amendment has been made in a form inconsistent with the form recommended, the Member-in-charge of the Bill may move any amendment which, if accepted, would bring the Bill into the form recommended. Where the Governor-General has certified that the passage of a Bill in a particular form which he has recommended is essential for the safety, tranquillity or interest of British India or any part thereof, and the Bill has been laid before the other Chamber under clause (*b*) of sub-section (1) of section 67 of the Government of India Act, 1919, the provisions of Rule 26 to 28 and 30 of the Indian Legislative Rules apply as if the Bill had been passed by the other Chamber in the form recommended and had been laid before the Chamber

under Rule 25. Where either Chamber refuses to take a recommended Bill into consideration or makes any alteration therein which is inconsistent with the form recommended, or refuses to agree to any alteration or amendment which, if accepted, would bring the Bill into the form recommended, the President must, if so requested by the Member-in-charge of the Bill, endorse on the Bill a certificate to the effect that the Chamber has failed to pass the Bill in the form recommended. Subject to the above provisions, the ordinary procedure of the Chamber in regard to Bills, so far as may be, apply to recommended Bills.

If any Bill which has been passed by one Chamber is not passed within six months by the other Chamber either without amendments or with such amendments as may be agreed to by both Chambers, the Governor-General may in his discretion refer the matter for decision to a joint sitting of both Chambers. A joint sitting of both Chambers is convened by the Governor-General by notification and is presided over by the President of the Council of State, and the procedure of the Council as far as practicable has to be followed. The Members present at a joint sitting may deliberate and must vote together upon the Bill as last proposed by the originating Chamber and upon the amendments, if any, which have been made therein by one Chamber and not agreed to by the other, and any such amendments which are affirmed by a majority of the total Members of the Council and the Assembly present at such sitting shall be taken to have been carried; and if the Bill with the amendments, if any, is affirmed by the majority of the members of the Council and the Assembly present at such sitting, it shall be deemed to have been duly passed by both Chambers. No joint sitting has been held so far.

If both Chambers agree to a meeting of members for the purpose of discussing a difference of opinion which has arisen between the two Chambers, a Conference can be held. At such a Conference each Chamber is represented by equal number of members and the Conference determines its own procedure. The time and place of the Conference, however, is fixed by the President of the Council of State. So far no Conference has been held.

When a Bill has been passed by both Chambers, a copy thereof must in all cases be submitted to the Governor-General by the Secretary of the Council of State.

Without prejudice to his powers mentioned in the next paragraph, the Governor-General may, where a Bill has been

passed by both Chambers, return the Bill for re-consideration by either Chamber. Where a Bill is so returned for re-consideration, the point or points referred for re-consideration must be put before the Chamber by the President and must be discussed and voted upon in the same manner as amendments to a Bill or in such other way as the President may consider most convenient for their consideration.

When a Bill has been passed by both Chambers and a copy thereof has been submitted to the Governor-General, the Governor-General may give his assent thereto and the Bill from that date becomes an Act; or he may declare that he withholds his assent, in which case the Bill drops, or, that he reserves it for the signification of His Majesty's pleasure thereon. In the latter case, the Bill does not become an Act until His Majesty in Council has signified his assent and that assent has been notified by the Governor-General. Even when an Act of the Indian Legislature has been assented to by the Governor-General, he is by law required to send to the Secretary of State an authentic copy thereof, and it is lawful for His Majesty in Council to signify his disallowance of any such Act. Where His Majesty in Council has signified his disallowance of an Act, the Governor-General forthwith has to notify the disallowance and, thereupon, the Act as from the date of the notification becomes void accordingly.

All Acts passed by the Indian Legislature are published in the *Gazette of India* after they are assented to by the Governor-General.

VIII. THE NEW CONSTITUTION FOR INDIA

BY THE EDITOR

IN the last issue of the JOURNAL,[1] reference was made to the Report of the Joint Select Committee of both Houses of the Imperial Parliament on Indian Constitutional Reform, and it was stated that in this issue a brief description would be given of the Government of India Act, 1935, with the object, particularly, of showing some of the main differences between the working of the Legislatures under such Act and under the Constitutions of our Oversea Dominions. Before attempting any such comparison, however, it will perhaps assist those of our readers unfamiliar with India to grasp the peculiar and complex conditions confronting any Government of India, if some sort of rough outline is given of that great and rich

[1] Vol. III, pp. 23, 24.

country, teeming with people, the bulk of whom are engaged in agriculture and closely inhabit certain areas. In the first place, although India has an ancient history and civilization, its reaction to repeated invasions through countless centuries has undoubtedly checked its development. Its advance therefore along the road of constitutional progress has only been gradual.

Although the area of India is very much less than that of either Canada or Australia, her population is more than thirteen times that of the entire population of all the Oversea Dominions put together, and considerably more than two-thirds that of the British Empire.

Ethnologically her people are not, as in the case of most of the Oversea Dominions, largely of European stock, but consists of many races speaking over 200 different languages, of which Hindustani may be said to be the *lingua franca*.

What is often referred to as " the teeming millions " of India is no mere figure of speech, for her population numbers over 353,000,000, of all races, embracing many religions, of which about 239,000,000 are Hindu, 77,000,000 Muhammadan, 12,000,000 Buddhists,[1] and only 6,000,000 Christians.

Of the population of India only 126,193 are Europeans, of whom 57,665 are in the Army of Occupation and about 1,014[2] in the Indian Civil Service.

The Imperial Government is also vested with a trusteeship in regard to India which carries with it direct responsibilities not incurred by such Government in regard to any of the Oversea Dominions.

The Empire of India is also divided into two distinct types of territory, British India covering an area of over a million square miles, with a population of over 271,000,000, and the Indian States, each under her own Native Prince or Ruler, comprising in all over 700,000 sq. miles, with a population of over 78,000,000, and an approximate annual revenue of over £40,000,000.[3] These States, including estates and jagirs, number 585, of which 149 are major and 436 non-salute States, and the voluntary entry of a State into the Indian Federation is effected by an Instrument of Accession. The largest and most important State, Hyderabad, is one-third the size of France, and the smallest only covers a few acres. The Ruler

[1] Most of these, however, will now be in the separate Territory of Burma.
[2] *The Indian Civil Service*, 1601-1930, L. S. S. O'Malley, C.I.E. (John Murray).
[3] *The Indian States and Princes*, by Lt.-Gen. Sir George MacMunn, K.C.B., etc. (Jarrolds, 18s.), p. 265.

of Hyderabad is His Exalted Highness[1] the Nizam, whose State covers 82,698 sq. miles, with a population of over 14,000,000 and an annual revenue of over £6,000,000. The Indian States are bound to the Crown by Treaties, etc., and the relationship of the Crown to these States is a unique body of law without parallel elsewhere.[2]

These States are a distinctive and important feature of the Federation, under which they retain, to a great extent, internal control of their own affairs with a British Resident, or, in the case of the smaller States, grouped under an Agent of the Governor-General. Sir Samuel Hoare, when Secretary of State for India, in regard to the internal sovereignty of the Indian States, declared:[3]

> Paramountcy, whatever it is or may be, is quite outside the question of Federation, and remains where it was, with the Crown and the Crown's Governor-General, and nowhere else.

Quite apart from the Constitution for India is the Chamber of Princes, consisting of 109 Princes or Rulers of Indian States entitled to sit or send their personal representatives, and 12 elected members representing 126 States. This Chamber has no jurisdiction, but is a common ground for meeting and discussion, and may even serve a more important purpose in the future than it has done since it was called into being by the King-Emperor[4] when opened by the Duke of Connaught in 1921.

The basis of Indian currency is the rupee, a silver coin, fixed, since 1927, at 1s. 6d. stirling. A lakh is one hundred thousand rupees, but quoted as Rs. 1,00,000; a crore is one hundred lakhs, or ten million rupees, and quoted as Rs. 1,00,00,000. At the rupee-sterling rate of Rs. 13.33 to £, a lakh is equivalent to £7,500 and a crore to £750,000.

The total revenue of the Central and Provincial Governments of British India amounts to about £157,000,000, and the total trade to about £450,000,000 per annum.

With this meagre background to afford the reader, as it were, a rough perspective, we will now attempt to give a brief description of the general outline of India's new Constitution, in order the better to understand a comparison of the working of the Legislatures under such Constitution, with the provisions in regard thereto, usually contained in the Constitutions of the Oversea Dominions. References to such working in the Constitution for India will, therefore, as far as possible, only

[1] Those Rulers with a salute of 11 guns or more are usually addressed as "His Highness." The Nizam and the Rulers of the other four senior States are each accorded a salute of 21 guns.

[2] *India's New Constitution*, J. P. Eddy and F. H. Lawton (Macmillan, 1935, 6s.), p. 15. [3] *Ib.*, p. 245. [4] *Ib.*, pp. 233-236.

be made when they are more or less peculiar to such Constitution. For those readers wishing to study the new Constitution of India, there are recently issued documents to which reference can be made,[1] and since writing this Article the new works[2] of Professor A. Berriedale Keith and General Sir George MacMunn have been published.

The beginning of the present constitutional development in India originates with the collapse of the Mogul empire, with its despotic rule, the promotion of peaceful commerce under the East India Company, after centuries of strife, and the transfer of the government of India to the British Crown in 1858 by " an Act[3] for the better government of India."[4]

By the year 1908—on the occasion of the fiftieth anniversary of the assumption of the government of India by the Crown—the movement had become sufficiently noteworthy to justify message from the King-Emperor (Edward VII) to the Prince and peoples of India, in the form of a declaration of policy.

This declaration was followed by the Indian Councils Act, 1909,[5] the Government of India Act, 1915,[6] and its amending Act of 1916.[7] Then upon another declaration of policy in 1917 by Mr. Montagu, Secretary of State for India, followed the Montagu-Chelmsford Report, embodied in the Government of India Act, 1919.[8] This Act, which was amended in the succeeding years, provided for the appointment of a Statutory Commission[9] at the expiration of 10 years after the passing of the Act. Then came the investigations into the subject of Indian constitutional reform conducted by the bodies included in the footnote below, culminating in the Joint Select Committee of the two Houses of the Imperial Parliament

[1] Report of the Indian States (" Butler ") Committee, Cmd. 3302, Session 1928-29; Report of the India Statutory (" Simon ") Commission Cmd. 3568, 3569, 3572; Indian Round Table Conference (Reports of Committees), Cmd. 3772, Session 1930-31; Indian Round Table Conference, Second Session (Proceedings), Cmd. 3997, Session 1931-32; Burma Round Table Conference (Proceedings), Cmd. 4004; Report of Federal Finance (" Percy ") Committee, Cmd. 4069; Report of Indian Franchise (" Lothian ") Committee, Cmd. 4086; Report of Indian States Enquiry (" Davidson ") Committee (Financial), Cmd. 4103; and Indian Round Table Conference, Third Session (Reports, etc.), Cmd. 4238, Session 1932-33; " The White Paper " Cmd. 4268—1933; the Joint Select Committee of the Lords and Commons (H.L. (79) and H.C. 112—1933), (H.L. (6) and H.C. 5—1934); Cmd. 4790, 4805, 4843 and 4903, 4998—1935; and the various Orders passed by the Imperial Parliament since the enactment of the Constitution.

[2] *A Constitutional History of India* (1600-1935), by A. B. Keith; and *The Indian States and Princes*, by Lt.-Gen. Sir George MacMunn, K.C.B., etc.

[3] 21 and 22 Vict., c. 106.

[4] *India's New Constitution*, by J. P. Eddy and F. H. Lawton, pp. 1-6.

[5] 9 Edw. VII, c. 4.

[6] 5 and 6 Geo. V, c. 61.

[7] 6 and 7 Geo. V, c. 37.

[8] 9 and 10 Geo. V, c. 101.

[9] Cmd. 3568, 3569, 3572.

already referred to, upon the Report of which the new Constitution for India became law.

The new Constitution for India was first passed in one Act[1] with that of the new Constitution for Burma, but the two Constitutions were later separated, each in its own Act.[2]

The Constitution uniting British India and the Indian States under the Federation of India is a volume in itself, for it contains 321 sections, with 10 schedules, covering, in all, 326 pages. The Government of India Act, 1935, is undoubtedly the greatest constitutional monument yet erected by the British people, the world's long-experienced and most successful exponents of the Parliamentary system.

In the whole history of constitution-building in the British Empire, than which no other world-power is so rich in types and examples, perhaps no Constitution, in its framing, has been given such painstaking scrutiny, or been beset with so many complex and important problems. Its emergence, therefore, as a complete instrument of government, is a credit to the patience and wisdom both of the Indian and British peoples. In the words of Longfellow's "The Building of the Ship," so often quoted in connection with constitutions:

> Happy, thrice happy everyone
> Who sees his labour well begun.

Federation.—The new Constitution for India affords yet another example of the federal principle as demonstrated in Constitutions of the British Empire, for it not only embraces two distinct types of territory, British India and the Indian States, but in its relation to the former type, provides for a Central Legislature, which although a controlling force, is yet a body whose Lower House is mostly appointed by the corresponding groups of members in the Provincial Assemblies.

The Federation is under the Crown of the King-Emperor, as represented by his Deputy, who fills the dual office of Governor-General of British India and Representative of His Majesty in regard to the Indian States. It may not be inappropriate here to mention that, as we write these words, news is flashed over the air of the departure of the new Governor-General from England to take over his colossal task. The success which has attended Great Britain's colonization of her Oversea Empire has been due in no small measure to her choice of men to fill these important posts. It is fortunate, too, that the United Kingdom has always been so rich in

[1] 25 and 26 Geo. V, c. 42.
[2] India, 26 Geo. V, c. 2; Burma, *ib.*, c. 3.

men, gifted with the capacity for administration, of unimpeachable integrity, and imbued with an unswerving devotion to duty. To go through the names and records of those who have filled these important positions in various parts of the Empire, even during the past 50 years, would take up more space than this JOURNAL can afford. The new Governor-General, the Marquess of Linlithgow, K.T., etc., is no stranger to India. Ten years ago he was Chairman of the Royal Commission on Indian Agriculture, upon which occupation over 70 per cent. of India's population are dependent; his Report thereon has been quoted by high authorities as a masterpiece of detailed completeness. In 1933 he was appointed Chairman of the Joint Select Committee of the Imperial Parliament on Indian Constitutional Reform, upon whose Report the new Constitution for India was based. We have adumbrated upon the qualities of the person appointed to perform the duties of the King's Deputy in all India, because greater responsibility and more intricate duties devolve upon the holder of this office than upon the King's Deputy in any other part of the Dominions; and the same may be said of those filling the positions of Governors of the Indian Provinces.

Part II of the Constitution deals with the establishment of Federation and the machinery for the accession thereto of Indian States.

British India consists of 11 " Governor's Provinces " and 5 " Chief Commissioner's Provinces." The Indian States, large and small, number 585.

Federal Executive.—The functions and powers[1] of the Governor-General are both considerable and extensive. He is not only, as under Dominion Constitutions, invested with the active power to recommend amendments to Bills,[2] a power rarely exercised under Dominion Constitutions, but nevertheless a useful provision, but he possesses both administrative and legislative powers quite independent of other legislative authorities under the Constitution; in cases of emergency his rule can be supreme. He is assisted by a Council of not more than 10 Ministers, in an advisory capacity.[3] The Governor-General in his discretion may preside at meetings of the Council of Ministers. The Ministers[4] who are chosen and summoned by him, hold office during his pleasure; but if a Minister is not a Member of either House of the Central

[1] Secs. 3 and 7.
[2] Australian, New Zealand and Union Constitutions, secs. 58, 64 and lvi. respectively.
[3] Sec. 9.
[4] Sec. 10.

Legislature for 6 months[1] he ceases to be a Minister. The salary of a Minister, which may not be varied during his term of office, is determined by Federal Act, but until such time, is as determined by the Governor-General. It is provided[2] that the question whether any and, if so, what advice was tendered by Ministers to the Governor-General may not be enquired into in any Court. He may also appoint counsellors,[3] not exceeding three, whose salaries and conditions of service are to be prescribed by him, to assist him in the discharge of his duties, in regard to what are described as "Reserved Subjects"—defence, ecclesiastic or external affairs, or his functions in regard to tribal areas. He also appoints his Financial Adviser[4] and the Advocate-General[5] for the Federation; in addition, the Governor-General is vested with special responsibilities.[6]

He makes rules for the transaction of the business of the Federal Government and for the allocation of such business among his Ministers;[7] and these also require Ministers and Secretaries to Government to transmit to him all such information with respect to the business of the Federal Government as may be specified.

The Federal Legislature.[8]—This consists of 2 Houses, a Council of State, and a Federal Assembly. The former is composed of 156 Members representing British India, and not more than 104 representing the Indian States, and the latter of 250 representatives of British India and not more than 125 from the Indian States.

The Council of State.—The Upper House of the Federation consists of 150 Members, representing the Governors' and Chief Commissioners' Provinces, and the Anglo-Indian,[9] European, and Indian Christian communities, as shown in the First Schedule to the Constitution, in addition to which 6 seats are filled by persons chosen by the Governor-General at his discretion. Such Members sit for 9 years, but (with certain exceptions) in the first instance one-third are chosen for 3, 6, and 9 years respectively. For the purpose of triennial elections the 150 seats are divided into 5 classes: General, Scheduled Castes, Sikh, Muhammadan, and women, and their election, except with certain exceptions, is direct by communities. Thereafter, elections take place only for the retiring one-third (or as near as may be) seats falling vacant. This system is also followed in regard to the 6 Members

[1] In Australia and South Africa, the period is 3 months.
[2] Sec. 10 (4). [3] Sec. 11. [4] Sec. 15. [5] Sec. 16.
[6] Sec. 12. [7] Sec. 17. [8] Chap. iii. [9] *I.e.*, Eurasian.

nominated by the Governor-General, so that the Upper House is continuous and cannot be dissolved.

For the purpose of representation, the 585 Indian States are divided into 17 divisions, as laid down in the First Schedule to the Constitution, excluding those described in para. 12 of Part II. thereof. The State of Hyderabad (5), Mysore (3), Kashmir (3), Gwalior (3), Baroda (3), Kalat (2), and Sikkim (1), are individually represented by the number of representatives given in the bracketed figures against each; the first 5 are 21-gun States, while the Rulers of Kalat and Sikkim are entitled to a salute of 19 and 15 guns respectively. The other States are given group representation. The salutes of the remaining 142 major States range from 19 to 9 guns, although the number of local and personal salutes are increased in some cases.

The Federal Assembly consists of 250 representatives of British India and not more than 125 from the Indian States. Each Federal Assembly sits for 5 years, from the day appointed for its first meeting, unless sooner dissolved.

As in the case of the Council of State, the representatives of British India in the Federal Assembly, representation in which is based mainly on communities and specified interests, are allotted to the two classes of Provinces, together with 4 Non-Provincial seats as shown in the First Schedule to the Act. These seats in the Federal Assembly are divided into 11 classes: General, General reserved for Scheduled Castes (or Depressed Classes elected by a form of double election), Sikh, Muhammadan, Anglo-Indian,[1] European, Indian Christian, Commerce and Industry, Landholders, labour and women. These classes are indirectly elected by the same class of Members in the Legislative Assemblies of the Provinces, according to P.R., with the exception of the European, Anglo-Indian,[1] and Indian-Christian and women, who are elected by electoral colleges, while those for the landholders, labour and commerce are elected by their communities. Special provision is made for Sikh seats in the North-Western Province, and in regard to backward races. For the election of women's representatives, there is one electoral college for the whole of India consisting of such representatives in the Provincial Legislative Assemblies, with special provision in regard to Muhammadans and Indian-Christians. In regard to the Anglo-Indian,[1] European, and Indian-Christian seats there are three such electoral colleges for the whole of India, with special provision as to the last-named class in Madras.

[1] *i.e.*, Eurasian.

The election of the commercial, landholder, labour, and Non-Provincial classes are as prescribed, but the system of election is direct. Special provision is made as to the election of representatives of the Chief Commissioners' Provinces.

The Indian States which have acceded to the Federation, are represented in the Federal Assembly on a proportional basis by the Rulers thereof, or persons appointed by them, according to the 17 divisions already named in regard to Indian State representation in the Council of State. There are many details in connection with the representation of both British Indian and the Indian States, which it is impossible to deal with in this article, but enough information has perhaps been furnished to give a general idea of the composition of the two Houses of the Central Legislature.

Governor-General's Messages, etc.—The Governor-General has also power to summon and address the two Houses separately, and may send messages to either House, whether in regard to any thereby pending Bill or otherwise, and such House is required to consider such message with all convenient despatch.

Ministers, etc., Right to Speak in Both Houses.—Every Minister, the Counsellors, and the Advocate-General already referred to, have the right to speak and take part in the proceedings of either House or at any Joint Sitting of both, as well as in any Committee of the Legislature of which he may be named a Member, but he is not entitled to vote.

President and Speaker.—There are the usual provisions in regard to the election, from amongst the Members, of the President and Deputy President of the Council of State and the Speaker and Deputy Speaker of the Federal Assembly, but a resolution of either House to remove any such officer from office requires 14 days' notice, as well as the support of a majority of all the then Members of the House in question. Should both offices be vacant in either House, the Governor-General has power to appoint, in his discretion, a Member to preside.

Questions.—Save as is provided in regard to Presiding Members, removal resolutions as abovementioned, questions, both in each House and at a Joint Sitting, are decided in the usual manner by the majority vote, the Presiding Members having only a casting vote in case of an equality of votes. One-sixth of the total number of Members of "a Chamber" constitutes a quorum.

Oath.—Separate forms of oath (or affirmation) are prescribed for British-subject Members (elected, nominated, or appointed), for Rulers of Indian States and their subjects.

Vacation of Seats.—The Governor-General has power to make rules for exercising his individual judgment in regard to the vacation of seats by anyone made a Member of both Houses.

Resignation.—This is effected by personal letter to the Governor-General, and disqualifications for Membership of either House include certain electoral malpractices.

Absence.—Subject to certain provisions as to prorogation and adjournment, if a Member of either House is absent without leave thereof, for 60 days, from all meetings, then such House may declare his seat vacant.[1]

"Offices of Profit."—Exemption includes a Member of either House, while belonging to one of the services of the Crown in India, and, in respect of the first election, also Members of the Federal or a Provincial Legislature, a non-official Member of the Executive Council of the Governor-General or a Governor, or Provincial Minister, or the holder of a part-time office.[2]

Privilege.—There is to be freedom of speech in the Federal Legislature and privilege in regard to any of its publications, etc., but the privileges of Members are to be such as may from time to time be defined by Federal Law; until such is passed, the Privilege existing at Federation,[3] is to apply. It is further provided in this section that:

> (3) Nothing in any existing Indian Act, and, notwithstanding anything in the foregoing provisions of this section, nothing in this Act, shall be construed as conferring, or empowering the Federal Legislature to confer, on either Chamber or on both Chambers sitting together, or on any committee or officer of the Legislature, the status of a court, or any punitive or disciplinary powers other than a power to remove or exclude persons infringing the rules or standing orders, or otherwise behaving in a disorderly manner.
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> (4) Provision may be made by an Act of the Federal Legislature for the punishment, on conviction before a court, of persons who refuse to give evidence or produce documents before a committee of a Chamber when duly required by the chairman of the committee so to do:
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> Provided that any such Act shall have effect subject to such rules for regulating the attendance before such committees of

[1] It was for several years usual in the Canadian Commons, in case of the unavoidable absence of a Member, to have the reasons explained to the House, before leave was given (Rule 54, Beauchesne, 2nd ed., p. 17); Australia, the seat of a Member falls vacant if for 2 consecutive months in any Session of Parliament without permission of his House he fails to attend (secs. 20 and 38); New Zealand, failing for one whole Session to attend without leave of the House (101 of 1908, sec. 30); South Africa, if a Member fails for a whole ordinary Session to attend, without special leave of his House (sec. 54).

[2] Secs. 307 and 26 (1) (*a*). [3] Sec. 28.

persons who are, or have been, in the service of the Crown in India, and safeguarding confidential matter from disclosure, as may be made by the Governor-General exercising his individual judgment.

(5) The provisions of subsections (1) and (2) of this section shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise take part in the proceedings of, a Chamber as they apply in relation to members of the Legislature.

Legislative Procedure.—It is provided[1] that no Bill pending in either House shall lapse on prorogation of the Legislature, and that no Council Bill which has not passed the Assembly shall lapse on dissolution of that body. A Bill, however, pending in the Assembly, or which, having passed through that House, is pending in the Council (subject to Bills before Joint Sittings of the two Houses), must lapse on a dissolution of the Assembly.

Joint Sittings[2] are provided to deal with disagreement between the two Houses on Bills, and in this procedure Council Bills as well as Assembly Bills have equal right of reference to a Joint Sitting. If, therefore, a Bill has passed one House and been transmitted to the other:

(*a*) it is rejected by the other House; or
(*b*) the Houses have finally disagreed upon amendments; or
(*c*) more than 6 months elapses between the date of reception of the Bill by the other House with the presentation of the Bill to the Governor-General for Assent.

then the Governor-General may, unless the Bill has lapsed upon dissolution of the Assembly, notify both Houses, by message if they are sitting, or by public notification if they are not sitting, his intention to summon a Joint Sitting for dealing with such disagreement:[3]

Provided that, if it appears to the Governor-General that the Bill relates to finance or to any matter which affects the discharge of his functions in so far as he is by or under this Act required to act in his discretion or to exercise his individual judgment, he may so notify the Chambers notwithstanding that there has been no rejection of or final disagreement as to the Bill and notwithstanding that the said period of six months has not elapsed, if he is satisfied that there is no reasonable prospect of the Bill being presented to him for his assent without undue delay.

In reckoning such period of 6 months, however, no account shall be taken of any time during which the Legislature is prorogued or during which both Houses are adjourned for more than 4 days.

[1] Sec. 30. [2] Sec. 31. [3] Sec. 31 (1).

Whenever the Governor-General has notified his intention of summoning a Joint Sitting, neither House may proceed further with the Bill, but he may at any time in the next Session after the expiration of 6 months from the date of his notification summon the Houses to meet in Joint Sitting for the purpose specified in his notification, and, if he does so, the Houses must meet accordingly:

> Provided that, if it appears to the Governor-General that the Bill is such a Bill as is mentioned in the proviso to subsection (1) of this section,[1] he may summon the Chambers to meet in a joint sitting for the purpose aforesaid at any date, whether in the same session or in the next session.

It is also provided[2] that the functions of the Governor-General, under the two provisos above quoted, shall be exercised by him in his discretion.

The remaining sub-sections of section 31 dealing with this subject are quoted at length:

> (4) If at the joint sitting of the two Chambers the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Chambers present and voting, it shall be deemed for the purposes of this Act to have been passed by both Chambers:
>
> Provided that at a joint sitting—
>
> (*a*) if the Bill, having been passed by one Chamber, has not been passed by the other Chamber with amendments and returned to the Chamber in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;
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> (*b*) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Chambers have not agreed,
>
> and the decision of the person presiding as to the amendments which are admissible under this subsection shall be final.
>
> (5) A joint sitting may be held under this section and a Bill passed thereat notwithstanding that a dissolution of the Assembly has intervened since the Governor-General notified his intention to summon the Chambers to meet therein.

When a Bill has been passed by both Houses it is presented to the Governor-General, who in his discretion may assent thereto in the King's name, or withhold such assent, or reserve the Bill for His Majesty's pleasure:

> Provided that the Governor-General may in his discretion return the Bill to the Chambers with a message requesting that

[1] Above quoted. [2] Sec. 31 (3).

they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and the Chambers shall reconsider the Bill accordingly.[1]

Reserved Bills do not become law unless and until within 12 months from presentation to the Governor-general, he makes known, by public notification, the King's consent thereto.[2]

Any Act assented to by the Governor-General may be disallowed[2] by His Majesty within 12 months of such assent; in such case the Governor-General publicly notifies such disallowance, and the Act from the date of such notification becomes void.

Financial Procedure.—Section 33 deals with the annual financial statement to be laid before both Houses and the procedure in regard to the Legislature with respect to the estimates is contained in section 34, sub-sections (1) to (3) of which are given below:

(1) So much of the estimates of expenditure as relates to expenditure charged upon the revenues of the Federation shall not be submitted to the vote of the Legislature, but nothing in this subsection shall be construed as preventing the discussion in either Chamber of the Legislature of any of those estimates other than estimates relating to expenditure referred to in paragraph (*a*)[3] or paragraph (*f*)[4] of subsection (3) of the last preceding section.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Federal Assembly and thereafter to the Council of State, and either Chamber shall have power to assent or to refuse to assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein:

Provided that, where the Assembly have refused to assent to any demand, that demand shall not be submitted to the Council of State, unless the Governor-General so directs and, where the Assembly have assented to a demand subject to a reduction of the amount specified therein, a demand for the reduced amount only shall be submitted to the Council of State, unless the Governor-General otherwise directs; and where, in either of the said cases, such a direction is given, the demand submitted to the Council of State shall be for such amount, not being a greater amount than that originally demanded, as may be specified in the direction.

(3) If the Chambers differ with respect to any demand the Governor-General shall summon the two Chambers to meet in a joint sitting for the purpose of deliberating and voting on the demand as to which they disagree, and the decision of the majority of the members of both Chambers present and voting shall be deemed to be the decision of the two Chambers.

[1] Sect. 32 (1). [2] Sec. 32. [3] Governor-General and Office.
[4] The sums payable from Federal Revenue for expenses in discharge of functions of the Crown in its relation with the Indian States.

Sub-section (4) makes provision for the usual practice by which no demand for a grant can be made except upon the signification of the Governor-General's recommendation.

Section 35 deals with the authentication of a schedule of authorized expenditure by the Governor-General:

> provided that, if the Chambers have not assented to any demand for a grant or have assented subject to a reduction of the amount specified therein, the Governor-General may, if in his opinion the refusal or reduction would affect the due discharge of any of his special responsibilities, include in the schedule such additional amount, if any, not exceeding the amount of the rejected demand or the reduction, as the case may be, as appears to him necessary in order to enable him to discharge that responsibility.
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> (2) The schedule so authenticated shall be laid before both Chambers but shall not be open to discussion or vote therein.
>
> (3) Subject to the provisions of the next succeeding section,[1] no expenditure from the revenues of the Federation shall be deemed to be duly authorized unless it is specified in the schedule so authenticated.

Money Bills.—Section 37 provides that no Bill or amendment making provision:

> (*a*) for imposing or increasing any tax; or
> (*b*) for regulating the borrowing of money or the giving of any guarantee by the Federal Government, or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Federal Government; or
> (*c*) for declaring any expenditure to be expenditure charged on the revenues of the Federation, or for increasing the amount of any such expenditure,

shall be introduced or moved except on the recommendation of the Governor-General, and no such Bill shall originate in the Council of State.

The exception to the above is a Bill or amendment providing for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licenses or fees for services rendered.

Subsection (3) of this section also makes the Governor-General's recommendation necessary in respect of any Bill which would involve expenditure from Federal revenue.

Rules of Procedure.—Each House is empowered[2] to make rules for its procedure and the conduct of business:

[1] Sect. 36 applies the procedure to statements of supplementary expenditure.

[2] Sec. 38.

Provided that, as regards each Chamber, the Governor-General shall in his discretion, after consultation with the President or Speaker, as the case may be, make rules—

(*a*) for regulating the procedure of, and the conduct of business in, the Chamber in relation to any matter which affects the discharge of his functions in so far as he is by or under this Act required to act in his discretion or to exercise his individual judgment;

(*b*) for securing the timely completion of financial business;

(*c*) for prohibiting the discussion of, or the asking of questions on, any matter connected with any Indian State other than a matter with respect to which the Federal Legislature has power to make laws for that State, unless the Governor-General in his discretion is satisfied that the matter affects Federal interests or affects a British subject, and has given his consent to the matter being discussed, or to the question being asked;

(*d*) for prohibiting, save with the consent of the Governor-General in his discretion—

(i) the discussion of or the asking of questions on any matter connected with relations between His Majesty or the Governor-General and any foreign State or Prince; or

(ii) the discussion, except in relation to estimates of expenditure of, or the asking of questions on, any matter connected with the tribal areas or the administration of any excluded area; or

(iii) the discussion of, or the asking of questions on, any action taken in his discretion by the Governor-General in relation to the affairs of a Province; or

(iv) the discussion of, or the asking of questions on, the personal conduct of the Ruler of any Indian State, or of a member of the ruling family thereof;

and, if and in so far as any rule so made by the Governor-General is inconsistent with any rule made by a Chamber, the rule made by the Governor-General shall prevail.

(2) The Governor-General, after consultation with the President of the Council of State and the Speaker of the Legislative Assembly, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Chambers.

The said rules shall make such provision for the purposes specified in the proviso to the preceding subsection as the Governor-General in his discretion may think fit.

(3) Until rules are made under this section, the rules of procedure and standing orders in force immediately before the establishment of the Federation with respect to the Indian Legislature shall have effect in relation to the Federal Legislature subject to such modifications and adaptations as may be made therein by the Governor-General in his discretion.

Subsection (4) provides that the President of the Council of State, or in his absence such person as may be deter-

mined by the Rules of Procedure, shall preside at a Joint Sitting.

Language.[1]

Restrictions in Debate—Discussion is prohibited[2] in the Legislature in regard to the conduct of any Judge of the Federal or a High Court, in the discharge of his duties; this also extends to any Court in a Federated State, which is a High Court for any purposes of Part IX of the Act.

Sub-section (2) of the section also includes the following restriction on debate:

> (2) If the Governor-General in his discretion certifies that the discussion of a Bill introduced or proposed to be introduced in the Federal Legislature, or of any specified clause of a Bill, or of any amendment moved or proposed to be moved to a Bill, would affect the discharge of his special responsibility for the prevention of any grave menace to the peace or tranquillity of India or any part thereof, he may in his discretion direct that no proceedings, or no further proceedings, shall be taken in relation to the Bill, clause or amendment, and effect shall be given to the direction.

No Inquiry by Courts into Proceedings of Legislature.—The validity of any proceedings in the Federal Legislature may not be called in question on the ground of any alleged irregularity of procedure, and no officer or other Member of the Legislature in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.[3]

Legislative Powers of Governor-General.—These are considerable. In the first place[4] at any time when the Federal Legislature is not in Session, he may, if satisfied that immediate action is necessary, promulgate such Ordinances as circumstances appear to him to require; provided he exercises his individual judgment in regard to any such promulgation, if a Bill containing the same provisions would have required his sanction before introduction into the Legislature. He may not, however, without Royal instructions, promulgate such Ordinance if he would have considered the subject one for a reserved Bill. Any such Ordinance is given the same force as an Act of the Legislature, but the Governor-General is required to lay such before the Legislature and such Ordinance ceases to operate after 6 weeks from the reassembling thereof, or, if before the expiration of that time, disapproving resolutions have passed

[1] Article X in this issue of the JOURNAL.
[2] Sect. 40. [3] Sect. 41. [4] Sect. 42.

both Houses. Such Ordinances are also subject to the provisions of the Act in regard to the power of disallowance; such an Ordinance may also at any time be withdrawn by the Governor-General. Every such Ordinance, however, which makes any provision which the Legislature would not under the Constitution be competent to enact, is void.

Secondly,[1] the Governor-General has power, at any time to promulgate Ordinances when he is satisfied that immediate action is necessary, in cases where under the Act he is empowered to act in his discretion; but such Ordinances may not continue in operation for longer than 6 months, and the period must be specified therein; the period may be extended for a further period of 6 months, by subsequent Ordinance. Any Ordinance promulgated under the section has the same force as an Act of the Legislature, but every such Ordinance is subject to he powers of disallowance under the Constitution, and may be ithdrawn by the Governor-General at any time, and, if it is an xtending Ordinance as abovementioned, must be sent to the ecretary of State for India and laid by him before both Houses of the Imperial Parliament. Should any such Ordinance, however, go beyond a competent Act of Legislature, it is void. The functions of the Governor-General under this section are exercised by him in his discretion.

Thirdly,[2] the Governor-General may, whenever he considers it essential to the discharge of his functions under the Constitution, explain by message to both Houses, the circumstances under which he considers legislation essential, and either:

(*a*) enact forthwith as a Governor-General's Act, the Bill he considers necessary; or
(*b*) attach to his message a draft of the Bill,

and where action is taken under (*b*), he may after one month enact as his own Act, the Bill so proposed, either in the form of his draft, or with such amendments as he considers necessary, but before doing so, he must give consideration to any Address presented to him on the Bill, or amendments thereto within that period, by either House. The power of disallowance also applies to Governor-General's Acts, and every such Act must be sent to the Secretary of State and follow the procedure indicated in regard to section 42. The functions of the Governor-General under section 43 are also exercised by him in his discretion.

The fourth class of legislative power[3] vested in the Governor-

[1] Sect. 43. [2] Sect. 44. [3] Sect. 45.

General is by Proclamation, which he is empowered to issue, if at any time he is satisfied that a situation has arisen in which the government of the Federation cannot be carried on in accordance with the Constitution. By such a Proclamation he may:

(*a*) declare that his functions shall, as specified in the Proclamation, be exercised by him in his discretion;
(*b*) assume to himself all or any of the powers vested in or exercisable by any Federal body or authority,

and such Proclamation may include provisions for suspending in whole or in part the operations of any provisions in the Constitution relating to any Federal body or authority. The Governor-General, however, may not under these powers assume to himself any of the powers of the Federal Court, or suspend any provisions of the Constitution relating thereto.

Such a Proclamation may be revoked by a subsequent Proclamation, and all Proclamations by the Governor-General are required to be sent to the Secretary of State and follow the procedure already indicated. Except in the case of a revoking Proclamation, Proclamations under this section cease to operate after 6 months. Should, however, a resolution be passed by both Houses of the Imperial Parliament approving of the continuance of such a Proclamation, it is to continue for a further 12 months.

It is also provided[1] that should the government of the Federation have been carried on continuously by means of Proclamation for 3 years, then at the end of that period it shall cease to have effect and the Federal government shall be carried on in accordance with the other provisions of the Constitution, subject to any amendment thereof which the Imperial Parliament may make, but this shall not be construed as extending the power of such Parliament to amend the Constitution without affecting the accession of a State. All such Proclamations and any law made by the Governor-General in the exercise of that power, shall, subject to the terms thereof, continue in force for 2 years after such Proclamation ceases to operate, unless sooner repealed or re-enacted by Act of the appropriate Legislature, and any reference in the Constitution to Federal Acts, etc., are construed as including a reference to such a law. The functions of the Governor-General under section 45 are also to be exercised by him in his discretion.

The Provinces.—As Burma now ceases to be part of India,

[1] Sec. 45 (4).

there will be 11 Governors' Provinces, namely, Madras, Bombay, Bengal, the United Provinces, the Punjab, Bihar, the Central Provinces and Berar,[1] Assam, the North-West Frontier Province, Orissa and Sind, and such other Provinces as may be created under the Constitution.[2]

Similar provisions[3] are laid down for the Provinces in regard to the functions and duties of the Governors, as in the case of those of the Governor-General in regard to the Federation, but special powers are vested in a Governor in regard to the police[4] and crimes of violence intended to overthrow the Government, and if under such conditions he issues directions, he may during that time authorize an official to speak in and otherwise take part in the proceedings of the Provincial Legislature. Any official so authorized is empowered by the Constitution to speak and take part accordingly in the proceedings of the Chamber (or Chambers if bi-cameral) of the Legislature, or at any committee or Joint sitting thereof, but without the power to vote.

The Governor may also make[5] similar rules in regard to the conduct of business of the Provincial Government as may the Governor-General in regard to that of the Federation.

Provincial Legislatures.—All the 11 Provincial Legislatures are uni-cameral, except those of Madras, Bombay, Bengal, the United Provinces, Bihar and Assam, which are to have an Upper House, or Legislative Council, in addition to the Legislative Assembly, as the other House is called throughout the Governor's Provinces.[6] The composition[7] of these Houses is as shewn in the Fifth Schedule to the Constitution, the total number of seats in the Legislative Assemblies ranging from 60 in the case of that of Sind to 215 in Madras. These seats, excluding those representing women, are divided, in some cases, into the representation of 12 classes or communities, including, in addition to those already given in regard to the Federal Assembly, those representing the backward races and universities, and those of commerce and industry, including mining and planting. The seats representing women are divided into 5 classes—General, Sikh, Muhammadan, Anglo-Indian[8] and Indian-Christian. Each Province is, with certain exceptions, divided into territorial constituencies for the election of persons to represent the classes above-mentioned, the franchise being mainly one of property or other qualification and varying somewhat in the several Provinces.

[1] Berar, by special arrangement with H.E.H. the Nizam of Hyderabad.
[2] Sec. 46. [3] Secs. 48-55. [4] Secs. 56-58. [5] Sec. 59.
[6] Sec. 60. [7] Sec. 61. [8] *i.e.*, Eurasian.

The Legislative Councils of the bi-cameral provinces, which are elected by territorial constituencies, are, as in the case of the Council of State, continuous, one-third of their members retiring every third year.

The Legislative Assemblies are elected for 5 years, as in the case of the Federal Assembly and the provisions as to the summoning, prorogation and dissolution; the rights of the Governor to address and send messages to the Houses; the rights of Ministers and Advocates-General, Speaker, voting, oaths, vacation of seats and privilege are similar to those already described in regard to the Federal Assembly.[1]

Legislative Procedure.—The same procedure[2] applies to the introduction of Bills, etc., in the House, or Houses, of a Provincial Legislature as already outlined in regard to the Federal Legislature. In respect of those Provinces, however, with a bi-cameral system, Joint Sittings[3] can only be summoned on Bills originating in the Assembly, and 12 months is substituted for the 6 months laid down in respect of the Federal Legislature; in cases of finance, etc., the Governor may summon the Joint Sitting before the expiration of that time, but a Joint Sitting may not be summoned if a dissolution of the Assembly has intervened since the Governor notified his intention to summon the Chamber in Joint Sitting.

Similar provisions[4] are made in regard to the Assent to Bills, those reserved, Crown disallowance, annual financial statement, procedure with regard to estimates, authentication of schedules of expenditure, supplementary statements of expenditure, financial bills, rules of procedure, language, restriction of debate, etc., as in the case of the Federal Assembly, but special provisions are made as to certain educational grants.[5]

The Legislative Powers of the Governor[6] in regard to the Province are very much on the lines of those already outlined in regard to the Governor-General in respect of the Federal Government; special provisions, however, are made in that regard in respect of excluded and partially excluded areas;[7] Governors of Provinces are subject to the Governor-General.

Chief Commissioners' Provinces.—These consist of British Baluchistan, Delhi, Ajmer-Merwara, Coorg and the Andaman and Nicobar Islands, the area known as Panth Piploda and such other Chief Commissioners' Provinces as are subsequently created.[8] Aden ceases to be part of India. Chief Com-

[1] Secs. 68 and 73.
[2] Sec. 73.
[3] Sec. 74.
[4] Secs. 75-82, 84-87.
[5] Sec. 83.
[6] Secs. 88-90.
[7] Secs. 91, 92.
[8] Sec. 94.

missioners' Provinces are administered by the Governor-General acting through a Chief Commissioner appointed by him, in his discretion, and the Executive Authority of the Federation extends to these Provinces, including British Baluchistan. No Federal Act may apply to these Provinces without the Governor-General's approval.[1] He is also given power to issue regulations for the peace and good government of British Baluchistan, and such regulations may amend or repeal any Federal Act or existing Indian Law applicable to such a Province. The power of the King's disallowance applies to any such regulations.[2] The Coorg Legislative Council, however, is to continue until other provision is made by the King-in-Council. Part III of the Act in respect to police rules and crimes of violence also applies to Chief Commissioners' Provinces.

Legislative Powers.—The distribution of legislative powers as between the Federal and Provincial authorities, the extent of power to legislate for the Indian States, the restriction on legislative powers, etc., are dealt with in Part V[3] of the Constitution.

Governor-General's Sanction.—Section 108 of Part V, however, deals with matters connected with the procedure of the Legislature, in that unless the Governor-General has given his previous sanction[4] thereto, no Bill or amendment may be introduced into, or moved in, either House of the Federal Legislature, which:

(*a*) repeals, amends or is repugnant to any provisions of any Act of Parliament[5] extending to British India; or
(*b*) repeals, amends or is repugnant to any Governor-General's or Governor's Act, or any ordinance promulgated in his discretion by the Governor-General or a Governor; or
(*c*) affects matters as respects which the Governor-General is, by or under this Act, required to act in his discretion; or
(*d*) repeals, amends or affects any Act relating to any police force; or
(*e*) affects the procedure for criminal proceedings in which European British subjects are concerned; or
(*f*) subjects persons not resident in British India to greater taxation than persons resident in British India or subjects companies not wholly controlled and managed in British India to greater taxation than companies wholly controlled and managed therein; or
(*g*) affects the grant of relief from any Federal tax on income in respect of income taxed or taxable in the United Kingdom.

[1] Sec. 95. [2] Sec. 95 (3). [3] Secs. 99-121.
[4] Such sanction is also required to taxation Bills in which the Provinces are interested (sec. 141) and to legislation affecting the Reserve Bank, currency and coinage (sec. 153).
[5] Imperial Parliament.

The Governor-General's sanction is also required before any Bill can be introduced into or moved in any House of a Provincial Legislature which:

(*a*) repeals, amends, or is repugnant to any provisions of any Act of Parliament extending to British India; or
(*b*) repeals, amends or is repugnant to any Governor-General's Act, or any ordinance promulgated in his discretion by the Governor-General; or
(*c*) affects matters as respects which the Governor-General is by or under this Act, required to act in his discretion; or
(*d*) affects the procedure for criminal proceedings in which European British subjects are concerned;

Governor's Sanction.—Unless the Governor of a Province gives his previous sanction thereto, no Bill or amendment may be introduced or moved in any House of a Provincial Legislature which:

(*a*) repeals, amends or is repugnant to any Governor's Act, or any ordinance promulgated in his discretion by the Governor; or
(*b*) repeals, amends or affects any Act relating to any police force.

Part VI[1] deals with administrative relations between the Federation, the Provinces and the Indian States. An interesting provision, however, is made here,[2] making possible the establishment by the King-in-Council of an Inter-Provincial Council, with the duty of:

(*a*) inquiring into and advising upon disputes which may have arisen between Provinces;
(*b*) investigating and discussing subjects in which some or all of the Provinces, or the Federation and one or more of the Provinces, have a common interest; or
(*c*) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

and provision may be made for the representation of the Indian States on such Council. A somewhat similar body, but with definite powers, was established in the Transvaal and Orange River Colonies, after the South African War, 1899-1902, in the Inter-Colonial Council appointed by Order-in-Council dated 20th May, 1903, to deal with railways, police, and other expenses common to the two Colonies.

[1] Secs. 122-135. [2] Sec. 135.

Part VII[1] deals with Finance, etc.; Part VIII[2] with Federal Railways; Part IX[3] the Judicature; Part X[4] the services of the Crown in India; Part XI[5] the Secretary of State for India; Part XII[6] Miscellaneous and General; Part XIII[7] Transitional Provisions; and Part XIV[8] Commencement, Repeals, etc.

Schedules.—Those of the 10 schedules of the Constitution of special interest to readers of this JOURNAL are the First and Fifth dealing with the composition of the Federal and Provincial Legislatures. The Fourth gives the various forms of oath. The Parliamentary franchise is given in Schedule Six, which covers 51 pages, and includes special provisions in regard to each of the Governor's Provinces; this schedule, however, should be read with those parts of the "White Paper" and the Report of the Joint Select Committee, dealing with the franchise, as well as with Command Paper 4998 of 1935 and the Orders issued since the passing of the Constitution, consequent upon Resolutions of Both Houses of the Imperial Parliament.

The subjects of legislation for the Federal and the Provincial Legislatures are given in the Seventh Schedule, as well as the "concurrent legislative list." The Second Schedule deals with the Accession of Indian States; the Third contains provisions as to the Governor-General and Governors; the Eighth with the Federal Railway authority, and the Tenth recites the enactments repealed.

The Ninth Schedule, however, is particularly interesting to he constitutional student as it provides for the continuance of ıe Government of India Act[9] in respect of Part II of the Conitution (the Federal Government) until the day to be prolaimed when, for the establishment of the Federation, other parts of the Constitution have been put into operation.

It is regretted that this article is so long, but it was felt that many provisions in the new Constitution for India are so unique that those of them relating particularly to the Legislatures constituted thereunder would be of special interest to the members of our Society serving Dominion Parliaments, whose countries have travelled further on the road of constitutional development, and who are not familiar with conditions and requirements of India, or with the marked stages in her constitutional progress.

Standing Orders.—With the advanced type of Legislature now to be introduced in India and the various interests represented therein, many of which will be in the minority in

[1] Secs. 136-180. [2] Secs. 181-199. [3] Secs. 200-231.
[4] Secs. 232-277. [5] Secs. 278-284. [6] Secs. 285-311.
[7] Secs. 312-319. [8] Secs. 320, 321. [9] 9 and 10 Geo. V, c. 101

one Legislature or another, the protection of minorities will no doubt be a distinguishing feature of any new procedure to be introduced. The Indian Legislatures themselves will be best able to gauge whether their present practice in regard to the passage of Bills through the Legislature will be better suited to their needs than the first, second and third readings, etc., procedure. The time-honoured practice—of a formal motion for leave to introduce a Bill, with adjourned debate if there is to be opposition; the debateless first reading; the second reading to deal with the principle of the Bill, with the right only of one speech per Member (except the mover); the Committee of the whole House stage, with unrestricted debate, for the discussion of the details of the measure and its amendment clause by clause; the Report stage with debate limited to amendments upon notice; and the third reading, usually a formal and a closing stage—including, as it does, much incidental procedure so well known to established Parliamentary practice—has a great deal to commend it.

The Legislatures of India will have a unique opportunity to build up a good foundation for a Parliamentary practice which will best aid them under their particular type of Constitution.

The Legislatures of India, in drafting their new Standing Orders, will also have the advantage of benefiting from the mistakes and successes of the working of particular Standing Orders under other Oversea Legislatures.

In regard to Joint Sittings as provided for in the seven bi-cameral Legislatures, there is quite a lot of useful precedent to be had from the Union of South Africa.

Most Oversea Legislatures are overburdened with detail in their Standing Orders. What is best, is to limit them to about 80, and to embody the detail and the practice in Rules contained in a Manual, like those of the Houses of Commons at Westminster and Ottawa, etc. Such a book might be first prepared in provisional form for the two Houses of the Federal Legislature, to whose practice, as in the principal Dominions, no doubt the Provincial Legislatures will look for precedent in many respects. Even then, no doubt, the practice and precedents of the Imperial House of Commons will be finally resorted to in unprovided cases, at least so far as complies with the particular Constitution, and at the same time is suitable for application to local conditions.

The successful, prompt, and businesslike working of a Legislature depends largely upon the foundation and building up of good Parliamentary practice on sound practical and well-established lines.

IX. THE NEW CONSTITUTION FOR BURMA

BY THE EDITOR

THE new Constitution for India[1] originally included the former Indian Province of Burma, but as a territory outside the Federation. Later, the Constitutions for India and Burma were separated into two Acts.[2] Thus Burma, formerly the largest Province of British India, is now to be governed as an individual Territory under its own Constitution, the Government of Burma Act, 1935.

The Joint Select Committee on Indian Constitutional Reform[3] in its Report stated that the Burmans had no real desire to be included in an Indian Federation. The people of Burma are a Mongolian group distinct from India, in race, language, temperament, and conditions. The steep and densely wooded mountains on the north and north-west of Burma, where it marches with Assam, Manipur, and Bengal, cut off access from India, while on the east, where its neighbours are the Chinese Province of Yunnan in the north and French Indo-China and Siam in the south, intercourse with adjacent countries is only possible by means of a few difficult caravan routes. Between continental India and Burma intercourse is wholly by sea; and Rangoon, Burma's capital and a trade port, third only to Calcutta and Bombay, is 700 miles by sea from Calcutta and 1,000 from Madras.[4]

Like India, Burma consists of two types of territory, British Burma and Non-British Burma, or as more commonly described, the "Backward Tracts," consisting of the Federated Shan States, the Shan States, the Arakan Hill Tracts, the Chin Hills District, the Kachin Hill Tracts, the Somra Tract, the area known as the Triangle, and other Territories. Burma covers in all 261,000 sq. miles, of which 192,000 sq. miles are under direct British administration, 7,000 sq. miles are unadministered, and 62,000 sq. miles consists of semi-independent Native States. Special provision is made[5] in regard to a Federal Fund of the Federated Shan States, and payments out of the revenue of Burma thereto. There is also the Assigned Tract of Namwan held on perpetual lease from China in order to facilitate frontier transit questions.

The total population of Burma is 14,667,146, of which 9,092,214 are Burmans, 1,367,673 Karens, 1,037,406 Shans,

[1] 25 and 26 Geo. V, c. 42.
[2] 26 Geo. V, c. 2 and 26 Geo. V, c. 3.
[3] H.L. (6); H.C. 5—1934, pp. 245-281.
[4] *Ib.*, para. 416.
[5] Sec. 68.

153,345 Kachins, 348,994 Chins, 534,985 Arakanese and Yanbye, 336,728 Talaings, 138,739 Palaungs. Chinese number 193,594, Indians 1,017,825, Indo-Burmans 182,166, and Europeans and Anglo-Indians 30,441, the Europeans numbering about 10,000. In religion Burma also differs greatly from India, for 12,348,037 of the people are Buddhist, 584,839 Muslims, 331,106 Christians, and the remaining include 570,953 Hindus, 10,907 Sikhs, and 721 Jains. The total sea-borne trade of Burma amounts to about £63,000,000 a year, of which about £29,000,000 represent trade with India. Burma's annual revenue is about £6,000,000. The language of the people is Burmese or Shangale, the former being spoken in British Burma.

The monetary system of Burma is the same as in India, but the Constitution provides[1] that the King-in-Council may make such provisions in regard thereto as he may think fit.

The Burmans, amongst whom group-caste is unknown as an indigenous institution, are largely engaged in agriculture and about three-fifths of the country is forest, from which large quantities of teak are exported.

The East India Company had agents in Burma as far back as 1612, but its annexation was a gradual process as the result of the three Burma wars of 1826, 1852, and 1886, in which last-named year King Thebaw was deposed. The "Backward Tracts" do not form part of British Burma, but are subject to the Governor direct.

Under the Government of India Act, 1919, the Province of Burma, as one of the Governor's Provinces of India, had a Legislative Council consisting of 80 elected and 23 nominated Members, including 15 officials, and the system of procedure in the Legislature has been ably described by Mr. V. Ba Dun, its Secretary, in this JOURNAL.[2]

The new Constitution for Burma[3] is, unlike that of India, a unitary one, but there are many provisions in the Burma Constitution which are identical with corresponding provisions in the Constitution for India already dealt with in the foregoing Article. It is therefore only proposed, when comparing some of the main differences between the working of the Burma Legislature under the new Constitution for Burma, with those of our Oversea Dominions, to mention such provisions in regard to the working of the Burma Legislature, which differ from the corresponding provisions in the new Constitution for India.

Governor.—Under section 1 of the new Constitution, Burma is separated from India and becomes a distinct territory of the

[1] Sec. 137. [2] Vol. II, p. 43. [3] 26 Geo. V, c. 3.

Crown, which is represented by a Governor, who is in the same relation in regard to Burma as the Governor-General and the Governor of a Province are in their respective spheres of authority under the new India Constitution, with similar powers, duties, functions and responsibilities. In regard to non-British Burma, as already outlined, the Governor is directly responsible, and such Territories do not come under the jurisdiction of the Burma Legislature, unless the Governor so directs, and subject to such exceptions or modifications as he may think fit.[1]

Previous sanctions by the Governor are also required before any Bill or amendment is introduced into, or moved in, either House of the Legislature, which affects immigration into Burma.[2]

Executive.—The Governor is advised by a Council of Ministers, limited to 10, and he may appoint his Financial Adviser and an Advocate-General, with duties, etc., as already described under the previous Article in this issue. The duties, etc., of the Executive are also as already so described.[3]

Legislature.[4]—The Legislature, in addition to the Crown, consists of a Senate and a House of Representatives, and the corresponding provisions of the India Constitution apply, except as hereinafter mentioned.

The Senate consists of 36 Members, half of whom are elected by the Members of the House of Representatives by P.R.; the remainder being chosen by the Governor at his discretion. Senators are subject to the qualifications and disqualifications as laid down in the 3rd Schedule to the Constitution, and elected Senators must belong to the community they represent, namely Karen, Indian, Anglo-Burman or European. The Senate continues for 7 years, unless sooner dissolved; and 12 constitutes a quorum.

The House of Representatives.—This House is composed of 132 Members as follow—(*a*) 91 representing general non-communal seats; (*b*) 12 the Karens; (*c*) 8 Indians; (*d*) 2 Anglo-Burmans; (*e*) 3 Europeans; (*f*) 11 commerce and industry; (*g*) 1 Rangoon University; (*h*) 2 Indian Labour; and (*i*) 2 representing non-Indian Labour. Those for (*a*), (*b*), (*c*), (*h*) and (*i*) are elected by territorial constituencies; in regard to classes (*d*) and (*e*) the whole of Burma is to be the constituency. The franchise for these seven classes is as laid down in the Fourth Schedule to the Constitution and election is on a com-

[1] Sec. 40.
[2] Sec. 36 (1) (h).
[3] Secs. 3-16.
[4] Secs. 17-32.

munal basis, the franchise being mainly one of property, occupation or taxation.

Every House of Representatives continues for five years, unless sooner dissolved.

Legislative Procedure.[1]—Except in regard to financial Bills as defined in Part VI of the Act, Bills may originate either in the Senate or House of Representatives. A Bill pending in either House which has not passed the other House, does not lapse on dissolution thereof; otherwise all Bills lapse on dissolution of either Chamber.

Joint Sittings.—As in the case of the bi-cameral Legislatures of the Indian Provinces, the period laid down as necessary to expire before the passing of a Bill received from the other Chamber, before a Joint Sitting can be summoned by the Governor, is 12 months, and there is no power to summon a Joint Sitting after an intervening dissolution. Joint Sittings may be called in respect of either Senate or Representatives Bills.[2]

Part VI of the Constitution deals with Finance; Part VII the Burma Railway Board; Part VIII the High Court; Part IX the Services of the Crown; Part X Property, etc.; Part XI contains certain miscellaneous provisions as to relation with India, including financial settlement between the two countries, provisions as to customs duties on India-Burma trade, relief in respect of tax on income taxable both in India and Burma, and provisions as to monetary system and immigration from India; Part XII provides, in event of failure of Constitutional machinery; Part XIII refers to the Secretary of State; and Part XIV is Miscellaneous. The First Schedule contains provisions as to the Governor of Burma; the Second specifies the Territories in non-British Burma; the Third gives the composition of the Legislature; the Fourth deals with the franchise; the Fifth with the form of Oath or Affirmation; and the Sixth Schedule with the Railway Board.

Standing Orders.—The same remarks may be applied in regard to this subject as those given under the same heading in regard to the Indian Constitution in the previous Article.

[1] Secs. 35-39; also secs. 33 and 34 dealing with the powers of the Legislature in regard to legislation; 40-43 with the legislative powers of the Governor; and 44-54 containing restrictions on discrimination.

[2] Sec. 37.

X. LANGUAGE RIGHTS

COMPILED BY THE EDITOR

APART from the general freedom of speech enjoyed in all Empire Parliaments, there is the question of the freedom of speech in more than one official language. Therefore, an item was included in the *Questionnaire Schedule* both for Volumes II and III of the JOURNAL in regard to the operation of language rights in those Parliaments of the Empire where there was more than one official language. The treatment of the subject, however, had to be postponed in respect of Volume II, on account of the return not being complete in all cases, and in respect of Volume III for want of space. This article gives the practice on this subject in the respective Oversea Parliaments.

Canadian Dominion Parliament.

Section 113 of the Constitution[1] reads as follows:

> " Either the English or the French language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.
> The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.

The Standing Orders of the House of Commons provide as follows:

> 47. All motions shall be in writing, and seconded, before being debated or put from the Chair. When a motion is seconded, it shall be read in English and in French by Mr. Speaker, if he be familiar with both languages: if not, Mr. Speaker shall read the motion in one language and direct the Clerk at the Table to read it in the other, before debate.
> 72. All bills shall be printed before the second reading in the English and French languages.

All Parliamentary documents are printed in English and French. Bills may be presented and read a first time in either language, but before a motion for a second reading will be received the Bill must be printed in the two languages.

Speeches in Parliament are reported and printed in the language in which they are delivered. In the Senate, the work

[1] B.N.A. Act, 1867 (30 Vict., c. 3).

of translating those speeches into English and French is undertaken the next day by a translating staff. Ninety-nine % of the proceedings in the Senate are in English, consequently the main work of the translators is translating English into French. The speeches are then edited, both English and French, and made ready for printing in book form.

In the Commons, Members' speeches are translated from day to day and distributed in both languages. In both Houses, Bills, Orders and the Journals are printed in both languages but in separate sheets. For instance, there is not a bilingual Bill, but there is an English Bill and there is a French Bill. All bills are originally drafted in English and translated before the second reading. The French Version, however, is not approved by the Senate and Commons, but is given Royal Assent with the English Bill.

In 1934 an Act[1] was passed by the Dominion Parliament providing for the setting up of a Bureau for Translations, under a Minister of the Crown, to deal, not only with the translation work of both Houses, but of all Departments of the Public Service. The head of the Bureau is styled the Superintendent, and he and his staff are subject to the Civil Service Act. Power is given the Governor-General in Council to make Regulations under the Act, and every official engaged thereunder is required to take the following oath:

> I . . . solemnly swear that I will faithfully and honestly fulfil my duties as . . . in conformity with the requirements of the Translation Bureau Act and of all orders-in-council, regulations and instructions issued in pursuance thereof, and that I will not, without due authority on that behalf, disclose or make known any matter or thing which comes to my knowledge by reason of my employment as such. . . .

In the Explanatory Notes on the Bill, it was stated that there were in the Public Service 91 translators English-French and French-English and one for translations from foreign languages into the two official languages, at a total annual cost of $252,000. Such, however, did not include the ordinary secretarial and stenographic services in the Departments, exclusively employed in translation work. Even then, it was stated, outside translation services had frequently to be sought. It is believed that the establishment of the Bureau will effect considerable economy and result in improved efficiency.

[1] 24 and 25 Geo. V, c. 25.

Canadian Provincial Parliaments.

Quebec is practically the only Province where French is widely spoken, and special mention is made of this Province in the extract from the Constitution above set forth. In the Parliament of Quebec, Members and petitioners use the official language in which they choose to speak. Bills are translated before distribution. Agenda Papers, Votes and Proceedings and Journals, and papers ordered to be printed are published in both official languages. Motions are read or stated in both languages by the Speaker or Chairman of Committees. If they are not familiar with one of the languages, the motions are read or stated in that language by the Clerks. In the Parliament of New Brunswick, English is the only official language, but if any French-speaking Member wishes to address the House in his own tongue, by courtesy of the House he is usually allowed to do so, although he takes the risk of not being understood. In the other Provincial Parliaments only the English language is used.

New Zealand.

English is the only official language, but Maori Members re permitted to speak in Maori and are allowed an interpreter. ıt present one Member avails himself of this privilege, but most ɔf the Maori Members speak in English. Bills and proceedings of the House are printed in English only.

Union of South Africa Parliament.

Section 137 of the South Africa Act which governs the use, on a footing of equality, in the Union of South Africa of the English and Dutch languages (Dutch including Afrikaans as provided in section 1 of Act No. 8 of 1925) reads as follows:

> 137. Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights and privileges; all records, journals and proceedings of Parliament shall be kept in both languages, and all Bills, Acts, and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

No difficulties have been experienced in giving effect to the spirit of this section. Ministers or Members in charge of Bills and motions, etc., are by the practice of each House allowed to speak in both languages when introducing such matter and in replying to matters raised in debate. Other Members, however, must confine themselves to one of the

official languages when speaking in the House, or in Committee; having commenced a speech in one language he cannot, without leave of the House, continue in the other official language. Documents tabled must be in both English and Afrikaans, save in the case of papers emanating from other countries, such as House of Commons papers and publications of the League of Nations.

Public Bills are drafted by the Government Department concerned and submitted to the Government's legal adviser before introduction. Information is not available as to the system followed in regard to the language in which a Bill is drafted in its original form. When authority has been granted by the House for its introduction, the Bill brought up to the Table for first reading is in both official languages.

The original draft of a private Member's Bill would naturally be in the mother-tongue of the Member in charge of it. The two versions are printed together, the English version appearing on the left-hand page with the Afrikaans equivalent on the opposite side. On such Bill being passed by both Houses one of the copies is submitted to the Governor-General for the Royal Assent and he signs the English and Afrikaans versions alternately. In case of conflict between the two versions, that version signed by the Governor-General prevails (*vide* section 67 of the South Africa Act).

For the official *Hansards* of each House, a verbatim report of each speech is taken in the " delivery " language and the transcript is translated into the other language, the reports being issued in separate English and Afrikaans editions, both being published simultaneously.

In the case of all Parliamentary papers both versions are printed and published simultaneously.

There is a staff of official translators of both the Senate and House of Assembly and their Clerks-at-the-Table have naturally to be competent bi-lingually. Every question put from the Chair, whether in the House or Committee thereof, in both Houses, has to be proposed and put in the two languages, no matter in which language the initiating motion was moved by the Member. Even the Daily Prayers are read on alternate days in English and Dutch, and all Parliamentary records and documents are also bilingual—in fact, the rights of the two languages are as meticulously respected and followed in the Union Parliament as in that of Belgium.

In the Volksraad (or Parliament) of the South African (Transvaal) and Orange Free State Republics, Dutch (Neder-

lands) was the only official language, although the vernacular, now called Afrikaans, was used in debate. Thus there were in these two countries and indeed until comparatively recently, two distinct types of Dutch, which were often referred to as the "schrijftaal" (written language) and the "spreek" or "praat-taal" (the spoken language). In 1905 Nederlands was reduced to a simplified and more phonetic spelling; this took the place, officially, of the Nederlands of Holland, but still only as the written language. It was not until 1926 that the vernacular (Afrikaans) was substituted officially for the simplified Nederlands. Thus both the written and spoken vernacular were brought into greater conformity. In that year, Afrikaans was officially adopted by the Union Parliament upon the amendment[1] of the Constitution, following the report[2] of a Joint Committee of the two Houses.

The laws of the two Republics were in Nederlands; the Dutch versions of all Bills in the Parliaments of the Transvaal and Orange River Colonies under "Responsible Government," and of the Union Parliament until 1926, were in the simplified Nederlands. Therefore, since 1926, in cases of legislation by reference, while the framework of the Dutch version of he Bill is in Afrikaans, the amending provisions have to be in he particular form of Dutch used in the Principal Act.

Union Provincial Councils.

The same language rights exist, under the Act of Union, in the Councils of the four Provinces, as in the Union Parliament. The proportion of Members of those bodies speaking English in debate is the greatest in Natal and the smallest in the Orange Free State, while in the Councils of the Cape of Good Hope and the Transvaal, the Members are more evenly divided. In all the Councils the Votes, Ordinances, etc., are printed in both official languages, English and Afrikaans.

Transvaal.—As regards legislation the practice here differs from that of the Union Parliament where a Bill is printed clause by clause on opposite pages. We take the view that if a Member is unilingual, he is concerned only with the text in his own language. If on the other hand he is bilingual he chooses which text he prefers and is supplied accordingly. Both texts of the Ordinances, when passed by the Council, are bound in the same volume, but are reversed; that is to say that the whole of one text is backed by the whole of the other text upside-down.

[1] Sec. 137.

[2] Jt. Com. No. 1—1925.

Ordinances are drafted in the one language and are then translated into the other by a Translation Staff in the Administrator's Office. The notices of question and motion and all other documents connected solely with the work of the Council are translated by the Council Staff. The texts of the Votes and Proceedings are kept separate and are bound in separate volumes. The Estimates are made up in both languages line by line. No report or paper is allowed to be tabled in one language only.

The practice with regard to debates in the House is that a Member may speak in either of the official languages, but may not repeat his remarks in the other language. This, however, does not apply to the Administrator, or to Members of the Executive Committee. Every document which is read at the Table is read in both languages. Prayers are read by the Clerk in one official language on alternate days. Debates are not reported officially.

South West Africa.

The official languages used in the Legislative Assembly are English and Afrikaans, and under section 22 (4) of the Constitution[1] any Member may address the House in German. The official languages are used by the Chair, although on one occasion the Deputy-Chairman (a German Member) read Prayers in German.

Draft Ordinances (Bills) are submitted to and dealt with by the Assembly in the two official languages (*vide* section 31 of the South West Africa Constitution Act, 1925). Debates are freely conducted in the three languages and no interpreter is employed. The Clerk and Clerk-Assistant are fully trilingual and the Chairman (Mr. Speaker) is sufficiently conversant in the three languages to follow the debates.

Irish Free States Parliament.

Article 4 of the Constitution Act[2] reads:

> The National language of the Irish Free State (Saorstát Eireann) is the Irish language, but the English language shall be equally recognized as an official language. Nothing in this article shall prevent special provisions being made by the Parliament of the Irish Free State (otherwise called and herein generally referred to as the " Oireachtas ") for districts or areas in which only one language is in general use.

[1] South West Africa Constitution Act (Union Act No. 42 of 1925).
[2] Constitution Act (No. 1 of 1922).

Actually, the use of English is practically universal and it is only very rarely that a speech in Irish is made. There is no reason why a Bill should not be introduced in Irish, but actually this has never happened in either House since the beginning. When a Bill has been passed by both Houses, it is translated into Irish. Under Article 44 of the Constitution, the copy signed by the Governor-General is the copy which is enrolled for record. So far as is known, the Governor-General has always signed an English copy. The Order Paper is printed in both languages, and titles and so on of Bills and proceedings are printed in Irish and English.

Indian Central Legislature.

English is the only official language, but vernacular speeches are allowed in the case of Members not acquainted with English. Both in the Council of State and the Legislative Assembly, English is the only official language. Rule 14 of the Indian Legislative Rules, however, provides that:

> The business of the Assembly shall be transacted in English: provided that the President may permit any Member unacquainted with English to address the Assembly in a vernacular language.

Should a Member speak in a vernacular, his speech is printed both in the vernacular and in an English translation in the official report of the proceedings. Members are required to give notice of all motions and legislation in English. If any Member is unacquainted with English, the Secretary of the Chamber, if requested, must have the Report of a Select Committee, or a notice of amendment, etc., translated for such Member's use, in such vernacular as the President may direct.

Under sec. 39 of the new Constitution[1] it is provided that all proceedings in the Federal Legislature shall be conducted in the English language; provided that the rules of procedure of each Chamber and the rules with respect to Joint Sittings shall provide for enabling persons unacquainted, or not sufficiently acquainted, with the English language, to use another language. The same provision is made by sec. 85 in regard to the new Provincial Legislatures under such Constitution.

[1] 26 Geo. V, c. 2.

Indian Provincial Legislatures.

English is the only official language in the Legislative Councils of the Provinces, though a vernacular language may be used in debate.

Madras.—Rule 14 of the Madras Legislative Council provides that—

> The business of the Council shall be transacted in English, but any member who is not fluent in English may address the Council in any recognized vernacular of the Province; provided that the President may call on any Member to speak in any language in which he is known to be proficient.

In this Province there are 4 recognized vernaculars, namely—Tamil, Telugu, Malayalam and Canarese, and any Member who is not fluent in English is allowed to address the House in any one of the above vernaculars in which he is proficient. Since there is no provision at present to record the vernacular speeches as delivered, the Members concerned are required to hand in copies of their speeches, soon after delivery, to the Legislative Council Office; and all such speeches are printed in vernaculars in the body of the Official Proceedings, along with the speeches of other Members.

Bills are always drafted in English. Till now there has been no case of a Member presenting a Bill or an amendment to a bill in a vernacular, requiring to be translated into English by the Legislative Council Office. If a Member who is not proficient in English wants to introduce a Bill, he manages to get it translated into English by somebody before submission to the Council Office or the Government.

Punjab.—Article 589 of the Punjab Constitutional Manual provides that:

> The business of the Council shall be transacted in English; but any Member may address the Council in Urdu, or, with the permission of the President, in any vernacular of the Province.

No Bill has been, so far, drafted in languages other than English. All Bills, proceedings and debates are also published in Urdu and translated for the purpose.

Bengal.—The same Rule (11) applies in the Legislative Council of this Province in regard to language rights as in the Madras Legislative Council.

United Provinces.—The business of the Council is transacted in English, but any Member who is not fluent in English can address the Council in any recognized vernacular of the Province. The speeches delivered in vernacular are reported verbatim by a vernacular reporter and are printed in Urdu or

Hindi as the case may be with the proceedings of the Council. No Bills are drafted in vernacular.

Burma.—Under sec. 30 of the new Constitution[1] the same provisions are made as to language rights as those already given in respect of the new Constitution for India (*vide* sec. 39 thereof), namely:

> All proceedings in the Federal Legislature shall be conducted in the English language: Provided that the rules of procedure of each Chamber and the rules with respect to joint sittings shall provide for enabling persons unacquainted, or not sufficiently acquainted, with the English language to use another language.

Malta.—Before the Constitution was last suspended, Mr. E. L. Petrocochino,[2] the Clerk of the Senate and of the House of Assembly, kindly furnished the following memorandum in regard to the use of the official languages.

Section 57 of the Constitution states:[3]

> "That the English language, as the official language of the British Empire, and the Italian language, as the established language of record in the Courts of Law in Malta, shall be the official languages of Malta.
>
> "The Maltese language, as the language of popular intercourse, shall enjoy all such facilities as are necessary to satisfy the reasonable needs of those who are not sufficiently conversant with the English or Italian languages."

English is the official language of Administration whilst Italian is the official language in the Law Courts. In Parliament the language question is governed by section 40 of the Constitution, which lays down:

> "(1) All debates and discussions in the Senate and Legislative Assembly shall be conducted in the English, Italian or Maltese language, and in no other language, and every speech delivered in either of the said Houses shall be printed in the journals and proceedings of that House in the language in which it was delivered, provided that any speech delivered in the Maltese language shall not be printed in that language but either in the English or the Italian language at the option of the Member who delivered such speech.
>
> "(2) Copies of all laws proposed or enacted shall be printed both in the English and Italian languages which shall, for this purpose, be of equal force and validity.
>
> "(3) Save as aforesaid all journals, entries, minutes and proceedings of the Senate and Legislative Assembly shall be made and recorded in the English language or in both the English and Italian languages as the Senate or Legislative Assembly may from time to time respectively decide";

[1] 26 Geo. V, c. 3.
[2] See also *ib.*, Vol. II, p. 9.
[3] *See also* JOURNAL, Vol. I, p. 10.

and by Standing Order 202 of the Assembly and 179 of the Senate which lay down that—

> Every vote and proceeding of the House shall be noted by the Clerk and recorded in the English and Italian languages. Such votes and proceedings after being signed by the Clerk of the House, and after having been read and confirmed by the House, shall be countersigned by the Speaker and shall constitute the minutes of the proceedings of the House.

The minutes of proceedings of each sitting are prepared in both languages and, at each sitting, before being confirmed, are read out to the House in both languages. On the Notice Paper, Notices of motions or questions are printed in the language in which they are given but the Orders of the Day are shown in both languages. Questions are generally put from the Chair either in English or Italian. If the question is in English it is put in English, if in Italian it is put in Italian.

There is no interpretation of speeches (all the Members and staff are familiar with the three languages).

As all laws are printed in English and Italian and are of equal force and validity amendments are generally proposed in both languages. When this is not the case the translation is made at the Table.

No staff of translators is necessary.

Bills are to be presented in both languages and there is no question of translating reports of debates as neither the Canadian nor the South African practice, of having two sets of Debates, one in English and the other in Italian, is followed.

XI. WITNESSES

BY THE EDITOR

On the 4th December, 1934, a Select Committee of the House of Commons was appointed to consider the operation of the Sessional Orders relating to Witnesses and to report what amendments, if any, were necessary. This Committee first met on the 13th *idem*, the 9 subsequent meetings taking place early in 1935. On the 15th of July in that year paragraphs 1 to 14 inclusive of the Report[1] of the Committee were adopted by the House,[2] as well as the following new Standing Order upon the recommendation contained in paragraph 15 of such Report:

> That no document received by the clerk of any select committee shall be withdrawn or altered without the knowledge and approval of the Committee.

This enquiry arose out of the Report of the Committee of Privileges of 1934[3] to which was referred a complaint of a breach of privilege, the allegation being that the action of the Secretary of State for India, Sir Samuel Hoare, and the Earl of Derby, both members of the Joint Committee on Indian Constitutional Reform, in influencing the Manchester Chamber of Commerce, or any branch of it, to withdraw the evidence they had already submitted to the said Joint Committee and to substitute other altered evidence, constituted a breach of privilege.

The Report of the Committee now under consideration,[4] together with the evidence and appendix, are well worth careful study by every member of our Society.

Paragraph 2 gives the text of the two Sessional Orders of 21st February, 1700-1, as follows:

> That if it shall appear that any person hath been tampering with any Witness, in respect of his evidence to be given to this House, or any Committee thereof, or directly or indirectly hath endeavoured to deter or hinder any person from appearing or giving evidence, the same is declared to be a high crime or[5] misdemeanour; and the House will proceed with the utmost severity against such offender.
>
> That if it shall appear that any person hath given false evidence in any case before this House, or any Committee thereof, this House will proceed with the utmost severity against such offender.

[1] Commons Paper 84 of 1935 (H.M.S.O., price 3*s*.).
[2] 304 H.C. Deb. 5. s. 703-722, and 864.
[3] H.C. 90 of 1934 (H.M.S.O., price 6*d*.); *see* JOURNAL, Vol. III, p. 106.
[4] Commons Paper 84 of 1935.
[5] This word was an error, the correct word being " and."

The Committee could not find[1] that up to 1934 any doubt had arisen as to the adequacy of these Orders, or that the House of Commons had been in any way limited by their terms in dealing effectively with breaches of its privileges, but the Committee stated that any doubts which might now be felt as to their terms appeared to refer solely to the first of the two Orders and to have arisen out of the Report of the Committee of Privileges of 1934. The Committee therefore devoted particular attention to the terms of that Report and to the views expressed by the witnesses examined, upon the general interpretation to be placed upon the Sessional Order.

The comments made by the Committee of Privileges of 1934 upon the general interpretation to be placed upon the Order are contained in paragraphs 21 and 22 of its Report which are as follow:

> 21. In considering the complaint referred to your Committee it became necessary in the first place, to determine the true nature of the Joint Committee, and the position of persons giving evidence before them. The Joint Committee are not in the ordinary sense a judicial body. They are concerned with questions partly of policy and expediency and partly of constitutional theory and practice. The members were chosen by Parliament in the full light of the knowledge that many of them had already formed opinions as to the proposals contained in the White Paper. Their proceedings are subjected to daily comment and criticism in the Press and on political platforms. Representatives of different points of view in India have been during a great part of the enquiry associated with the Joint Committee in their investigations. The ordinary rules which apply to tribunals engaged in administering justice or deciding issues of fact between contending parties cannot be applied to the Joint Committee. It might be said that the Committee should proceed in a judicial spirit, but this could only mean that the Committee should act fairly and without suffering prejudice to hinder the hearing of all sorts of opinions. It would not mean that their business should resemble that of a court of justice, or that they could usefully conduct their enquiry like a trial before judges. At almost every point in its enquiry the Joint Committee are required to perform tasks which cannot be described as judicial—to speculate as to the future course of events or to estimate the strength of political forces, or to devise new forms of government. These are rather the functions of a legislative or administrative body. The persons who are called on to give evidence before such a Committee are manifestly in a very different position from witnesses to questions of fact. They may appear as advocates of a particular political theory or to point out defects in an existing or proposed form of government, or they may come, as in the case of the Lancashire cotton trade representatives, to represent a particular interest and to ask for protection for

[1] Para. 3.

themselves or others. Such witnesses are advancing arguments for the adoption of their ideas or with a view to obtaining an advantage for themselves or their association. Their main object is to persuade and not to depose to facts, except in so far as a state of mind can be said to be a question of fact. For these reasons your Committee are not able to apply to the proceedings of the Joint Committee and to persons giving evidence before them the ordinary rules applicable to judicial tribunals. Your Committee have given full consideration to the provisions of the Sessional Order of 1700, but the Order has, in their judgment, only a very limited application to the circumstances they have had to consider. The Sessional Order and what may be described as the general privilege of the House of Commons clearly prohibit anything in the nature of intimidation or force or any suggestion of false evidence on a question of fact or any attempt to prevent any person from appearing before a Committee of the House or from expressing his honest opinion. No motive of private gain may be suggested to a witness. But, on the other hand, some things are required in respect of a Committee exercising judicial functions which it is unnecessary and would be inconvenient to ask in respect of a Committee enquiring into a question of a legislative or administrative reform. A member of a judicial Committee must seclude himself from all influences which might divert his judgment and even from any private discussion of the matters about which he has to decide. But such seclusion cannot be required on the part of a Member of a legislative or administrative Committee. Witnesses before a legislative Committee who are only going to state opinions are also in a different position from those who before any Committee are going to state facts. Advice which would produce a change in a statement of fact would be inconsistent with veracity or candour, but an honest man may without loss of honesty change his opinions. Accordingly, there is nothing dishonest or corrupt in a witness being advised as to the evidence he is to give on matters of opinion, particularly when the witness has invited the advice. How far advice without being in the least dishonest or corrupting is to be thought expedient is a different question, but your Committee are satisfied that neither Sir Samuel Hoare nor the Earl of Derby has behaved in such a way that they should be held to have tampered with any witness or to have attempted to bring about improperly the alteration of any evidence to be given on behalf of the Manchester Chamber of Commerce and other bodies. The advice both of Sir Samuel Hoare and the Earl of Derby was sought by the Manchester Chamber of Commerce and was given in the manner described in the preceding paragraphs. Your Committee have unanimously come to the conclusion that the advice given at no time took the form of pressure or intimidation or interference of any kind with the freedom of the Manchester Chamber of Commerce and of other bodies associated with them to form and express their own opinions honestly in the light of all the facts that were known to them. What was called pressure was no more than advice or persuasion.

22. Your Committee have taken all these matters into consideration and have carefully weighed the language of the Sessional

Order and such precedents relating to breach of privilege as have been brought to their notice. They have further directed their attention to two considerations which seem to them of crucial importance:

> First, there is not even any allegation or suspicion of corruption or intimidation or of any appeal direct or indirect to greed or fear;
>
> Secondly, the function of the Joint Committee is to advise Parliament about questions of legislative policy and to that end to listen to the opinion of such witnesses as can assist the enquiry, and not to exercise jurisdiction or to determine any issue of fact or of law affecting the rights, property, conduct or character of any person.

In the light of these considerations the unanimous judgment of the Committee was that Sir Samuel Hoare and the Earl of Derby had committed no breach of privilege.

Paragraphs 4, 5, 6, and 7 of the Report of 1935 deal with various provisions in the Report of the Committee of Privileges of 1934, but these can best be studied upon comparison of the two Reports in detail.

In paragraph 8 of its Report, the Committee of 1935 emphasizes that:

> Whatever may be the character of a Committee, whatever may be the nature of the evidence to be tendered by a witness, any interference with a witness's freedom is a breach of the privileges of the House of Commons. A witness who is to give evidence in a representative capacity must, of course, consult beforehand with those whom he is to represent; and, apart from this, any witness may properly ask advice before giving evidence before any Committee. Such advice may properly take the form of suggestions as to how he can best marshal his facts, no less than as to how he can best state his opinions, or the opinions of those on whose behalf he is speaking; but it is improper for his adviser to interfere with his opinions, whether individual or representative, as to interfere with his facts.

Paragraphs 9 to 12 of the Report deal with the operation of the Sessional Order.

The Committee's recommendations are contained in the last 3 paragraphs of the Report which read as follow:

> 13. Your Committee recommend, therefore, that the two Sessional Orders should be retained in their present form with no alteration, except the verbal correction just mentioned.[1]
>
> 14. Your Committee further venture to recommend that, for the removal of doubts, the House should, by resolution adopting this Report, give formal approval to the interpretation placed in it upon the Sessional Orders and upon the relevant paragraphs of the Report of the Committee of Privileges.

[1] Substitution of " and " for " or," after " crime."

15. There is one further matter which, while falling somewhat outside your Committee's terms of reference, they have felt it right to consider. They think it desirable to affirm the principle that any document received by the officers of any Committee of the House as a communication to the Committee, including any advance summary of evidence submitted by a witness, becomes the property of the Committee and should not be withdrawn or altered without the knowledge and approval of the Committee. They suggest that provision to this effect might usefully be made in the Standing Orders of the House.

As the subject-matter of the Committee's enquiry is one which will closely interest every Clerk-at-the-Table in the Oversea Parliaments, it is purposed to quote certain extracts from the evidence.

Five witnesses were examined and their evidence, consisting of 302 questions and their answers, is published with the Report. The first witness, the Rt. Hon. Sir Robert Horne, G.B.E., K.C., M.P., thought, with regard to the idea of what was involved in the word "tamper," that it was given a rather different significance from what he himself had originally conceived it had, in looking at the Sessional Order; he thought "tamper" would have a much wider significance than the mere idea of corruption.[1] In reply to the next question, "The idea of overpersuading?" the witness said: "That is where I think the crux of the situation is. I think you must do something to try to prevent that, because otherwise the situation would obviously be open to very great abuse."

The Chairman remarked[2] that the words of the South African order,[3] "tampering with, deterring, threatening, beguiling, or in any way unduly influencing any witness," cover almost the same ground as the suggested Sessional Order abovementioned. It may be interesting here to mention that during the passage of the Bill for Union Act No. 19 of 1911,[4] through Parliament, it was referred by the Senate to a Select Committee, which recommended that clause 10 (8) be amended to read as follows (the words added being shown underlined):

10 (8) Tampering with, *deterring*, *threatening*, *beguiling*, *or in any way unduly influencing* any witness in regard to evidence to be given by him before Parliament or any Committee,

which sub-clause became section 10 (9) of the Act.

[1] Q. 1. [2] Q. 6. [3] Sec. 10 (9) of Union Act No. 19 of 1911.
[4] The Powers and Privileges of Parliament Act.

In reply to a later question[1] the witness remarked that "unduly influencing" was a very good phrase. The witness was asked[2] whether he had looked at the definition of the word "tamper" in the latest dictionary—the Concise Oxford Dictionary—the member of the Committee asking the question remarking[3] that the first definition is "meddle with"; then it goes on to say "make unauthorized changes (in manuscript)." Further, "exert secret or corrupt influence upon"; and the last definition is "bribe"? To this the witness replied that he thought it omitted certain things; for example, if "meddle with" were to stand as the meaning of "tamper" in the Sessional Order it was perfectly clear that the witnesses were meddled with, but the Committee did not think that meddling was material or created an irregularity, and that therefore "tamper" in that sense was no longer of value as a part of the Sessional Order, except for bribery and corruption, therefore he thought some better word than "tamper" wa wanted now.

In reply to Question 25, the witness said, that to leave th Sessional Order simply as it was with the judgment of the Committee might lay all Committees open to abuse in future.

To the Question[4]—"Do we understand that you do not consider that it would be desirable to have one Sessional Order applying to what are roughly known as the judicial or semi-judicial Committees and another applying to Committees on policy?"—the witness thought it was a very awkward thing if you were going to have a different rule applied to people appearing in one capacity from that applied to people appearing in another capacity.

In reply to another member of the Committee[5] the witness observed that the particular thing he wished to guard against was over-persuasion, and in reply to Question 46 he said that something to guard against over-persuasion was necessary.

The second witness was the Rt. Hon. Lord Hugh Cecil, M.P., who in reply to Question 49 remarked, that the words "high crime and misdemeanour" in the Sessional Order, meant proceedings by impeachment and not normal proceedings under the powers of the House of Commons in respect of breach of privilege; he suggested that it would be a proper change to change the words to "breach of privilege," because no one would nowadays propose to impeach anybody, even if they were guilty of corrupt interference with a witness.

In reply to Question 52 the witness observed that in a

[1] Q. 41. [2] Q. 8. [3] Q. 9. [4] Q. 32. [5] Q. 40.

negative sense, the following words used in paragraph 22 of the Report of the Committee of last year[1] already quoted at length—" or to determine any issue of fact or of law affecting the rights, property, conduct, or character of any person"—defined a judicial inquiry. In further reply to the same Question, the witness suggested the addition to the Sessional Order of a proviso to the following sort of effect:

> Provided that where a Committee of the House is not exercising jurisdiction or seeking to determine any issue of fact or law affecting the rights property conduct or character of any person, no one shall be deemed to tamper with a witness unless he seeks to persuade the witness to deceive the Committee or to withhold evidence from it or tries to influence the witness corruptly by appealing directly or indirectly to some improper motive like fear or gain.

The witness also suggested[2] that one of the rules which might very well be made was, that if a paper of whatever character, whether evidence or any other document, was once in the possession of a Committee, it should not be taken away again without the consent of the Committee formally given through the Chairman, and after discussion, if need be.

In reply to Question 65, the witness said that a breach of privilege, whether technically so or not, was, in effect, a criminal proceeding, a proceeding in respect of breach of privilege, and it must be surrounded with all the safeguards that surround the administration of the criminal law, one of which certainly was that you must be proved to break a definite law, and, if possible, an intelligible law.

In reply to Question 81, the witness said " technically the Report of the Committee[3] has no weight, but the Resolution of the House adopting the Report would bind a future Committee, technically. They are bound by Resolutions of the House; they are not bound by the language used by members of the Committee in debate or anything of that kind."

The same witness also remarked,[4] " that where it is evident that the witness has had assistance and could not possibly have put his evidence forward without assistance, you should know all about the assistance. . . . That should be disclosed; there should be no secret about it."

To another Question[5]—" How would you know that the breach of privilege had been committed without referring it to the Committee of Privileges ?" the witness replied: " No one would suggest it if the case was so clear under the definition

[1] Commons Paper 90 of 1934.
[2] Q. 52.
[3] Of Privileges.
[4] Q. 91.
[5] Q. 110.

and the Speaker himself advises the House, and though nominally he does not decide questions of privilege his advice would always be followed if the case were a perfectly clear one. If he said, ' This is quite clearly not a breach of privilege,' the House would always accept his guidance."

A member of the Committee asked the Question[1]—" It is, of course, impossible to define, to use a legal term, according to the rules of evidence what ' over-persuasion ' really means ?" To which the witness answered:

" Any case which falls under the heading of corruption or deceit, even if the corruption is very indirect, is a much guiltier offence than over-persuasion; on the other hand, there is such a thing as substituting one person's mind for another person's mind, and that is what I mean by ' over-persuasion.' It happens in ordinary experience constantly that that person is so talked round by somebody else that you have no longer his original mind to deal with but the mind that has been put into him."[2]

In reply to another Question,[3] the same witness said that it had long been his opinion that it ought to be a rule that any paper that passed into the possession of the Committee—that is to say, is in the hands of the Clerk of the Committee—ought not to be withdrawn from the Committee without the consent of the Committee being formally obtained.

The third witness to be examined was the Rt. Hon. Winston Churchill, M.P., upon whose motion the Committee of 1934 came to be appointed. In the early part of his evidence before the Committee the proceedings of which are under consideration in this article, the witness stated that his final submissions to the Committee of Privileges were:[4]

> any act which affects the working of any Committee of the House, amounts to a breach of Privilege, if it is intended or calculated to defeat, hamper or obstruct the purpose which Parliament had in view in appointing the Committee;
> any act which contravenes the Sessional Order is a breach of Privilege.[5]

In further reply to the same Question, the witness remarked that what would be advice from a private person amounted to pressure when it proceeded from members of the tribunal, who could influence the result of the judicial proceedings in which the witness was to testify, and that, more objectionable still, was such a course when pursued by one or two members

[1] Q. 120. [2] Q. 112. [3] Q. 128.
[4] Commons Paper 90 of 1934. [5] Q. 150.

of a tribunal only, who thereby prevented or attempted to prevent the witnesses' original and uninfluenced opinions from ever becoming known to their colleagues. In further reply to this Question the witness stated that it had never been decided by any precedent that "tampering" could not exist without bribery. In his reply to Question 163 the witness remarked—

> we not only proceed on the terms of the Order,[1] but there is a kind of Judge-made law, too, of Parliament. From time to time Committees report on difficult matters, and they leave on record their judgment, and these are precedents which are invoked for future guidance. The precedent of the Report of this Committee[2] in relation to the Sessional Order and in relation to the facts is a precedent which, if that were the last word, would leave our procedure in very great confusion.

In answer to Question 188 the witness said—"I draw a distinction between advice and pressure. I think a great deal of advice, and very influential advice, is not to be objected to on any ground, but I think for a Member of the Tribunal trying the particular case to give advice is to exert pressure, although it may be from the highest motives, with the most innocent intentions."

The Chairman of the Committee put the following Question[3] to the witness—

> I agree with you, but the Sessional Order as at present drafted, quite clearly does not refer to the Member of the Tribunal as a separate individual. It is drawn in general terms, and I think it is probably true to say that it has not primarily in mind the Member of the Tribunal. That might be arguable, but historically it probably had not. But if you now try to redraft it with a view to hitting the Member of the Tribunal you may hit a perfectly innocent transaction between people, neither of whom is a Member of the Tribunal?

To which the witness replied:

> If anyone is going to give evidence before a Private Bill Committee he may consult his lawyer and the lawyer will say: "I should not say that; that will give your case away." That is not improper at all, in my opinion. In the ordinary course he would say: "You must tell the truth, but you must not tell the tale in that manner and in that way." He should not say: "You must suppress the truth," but he is entitled to say: "If you put it in that way you will lay yourself open to the following argument." That would be legitimate in a lawyer advising his client. It would also be legitimate in a friend advising a friend, I agree. The gravamen of my charge was that it was a Member of the

[1] Sessional Order of 1700-1, already given.
[2] Commons Paper 90 of 1934.
[3] Q. 189.

Committee who gave the advice. The impropriety of the act must lie at the root of the original proceeding. If there is no impropriety in the alleged act, then the procedure ought not to be invoked. There must not merely be a technical violation; there must be something that was done wrong, in my opinion. The Manchester people could not have prepared their evidence without consulting among themselves, and so forth, but that is quite a different thing.

The fourth witness was Mr. G. F. M. Campion, C.B., Clerk-Assistant of the House of Commons and the Editor of "May," who put in a Memorandum dealing with the effect of the Report of the Committee of Privileges upon the accepted interpretation of the Sessional Order of 1700.

During the course of his evidence Mr. Campion was asked the following questions by one of the members of the Committee:

209. Is this the first time there has been a difference made between Committees inquiring into different subjects? Is this the first time that certain enquiries have been classified as judicial and other inquiries as non-judicial?—Do you mean from the point of view of tampering with witnesses?
210. Yes?—Yes, I should say it was.
211. Looking through the records which are available you have not found such another case?—No, I have not.

Referring to the question of the value of Reports of the Committee of Privileges as precedents, another member asked the witness the following question:

218. That is what I thought. In effect, whatever we might or say, unless it was confirmed by Resolution of the House, would not be a precedent?—I think a great deal of weight would be attached to it, but it could not possibly overrule the Report of a Committee which had been confirmed by Resolution of the House, as the Report of the Committee of Privileges was. The authority, of course, being the House, in that event you would fail to have the necessary authority of the House.

In reply to another Question,[1] Mr. Campion said:

granted the existence of a Sessional Order, if a case arose to which that Sessional Order obviously applied it would then be decided in relation to that Sessional Order, but if a case arose with regard to which there was no Resolution of the House at all, it would be treated entirely on its merits in respect of its bearing generally upon the Privileges of the House.

In reply to a further Question,[2] Mr. Campion said:

I think if you ceased passing a Sessional Order which has been passed for over 200 years it would definitely mean that the House had abandoned it. It would be a worse position than if there had never been any.

[1] Q. 225. [2] Q. 241.

242. Have you suggestion in your mind as to how the Sessional Order should be amended, if it is to be amended ?—I have not considered it carefully, but the only point that occurs to me is the substitution of " a breach of privilege " for " high crime or misdemeanour."

The fifth and last witness was the Rt. Hon. Sir Dennis H. Herbert, K.B.E., M.P., Chairman of Ways and Means. In the Memorandum he put in, it was stated, he saw no reason for any alteration of this Order as it stood except that the word " or " should be altered to " and," which he understood was the original form of the Order; it was not intended, he remarked, by the Order to deal with two types of offence, one being a crime, and the other a misdemeanour, but was merely a description of the offence as both a crime and a misdemeanour. " The use of the word ' or,' " the witness went on to remark, " would seem to imply two classes of offence, whereas the Order does not define two separate classes of offence."

During the course of his evidence, the witness replied as under to the following question:

269. In your capacity as Chairman of Committees, have you any observations to make on the distinction between judicial and non-judicial Committees ? Are there any judicial committees apart from Private Bill Committees ?—I cannot think of any at the moment, not regular ones which are constantly sitting. Of course, there may be committees which are set up which have definitely a judicial task; take for instance the Committee of Privileges; a very great part of their work may have to be very much of a judicial character.

In replying to a further Question,[1] the witness said, " I think, generally speaking, if a statement is put in and is afterwards withdrawn or altered, the original statement ought to be before the Committee."

274. Therefore, if two statements were put in by the same witness, the Committee would be entitled to have the two statements before them ?—I think so, certainly.

In his reply to Question 284, the witness stated: " Being a Joint Committee I think the Procedure (I think I am right about this) was governed by the practice of the House of Lords, and not by ours. Upon which the following Question was then asked the witness:

285. There was, in fact, no obligation upon the Chairman or the Secretary under the Rules of the House of Lords to disclose the existence of documents ?—No, I believe there is no rule.

[1] Q. 273.

The Chairman, at the conclusion of the witnesses' evidence, put the following Question:

> 301. Broadly speaking, you would say that in reference to witnesses the Sessional Order and the word "tamper" ought to cover anything which would properly be regarded as contempt of Court, if they were judicial proceedings?—Certainly.

The Clerk of the House of Commons, Sir Horace Dawkins, K.C.B., M.B.E., put in a valuable and informative Memorandum, which became Appendix No. 1 to the Minutes of Evidence. It is in these Reports of Committees where the application of the law of Parliament at Westminster is to be found and every official library of "the Clerk of the House" Oversea should contain such records as indispensable in his work. Sir Horace Dawkins's Memorandum covers 20 pages of the publication, and, in regard to the Sessional Orders relating to witnesses, deals exhaustively with their history, object and declaratory character. The meaning of the term "tampering with witnesses" is exhaustively treated (with authorities), and instances are given of the cases which have occurred at Westminster since 1700-1. "False Evidence," "Prevarication," "Subornation of Witnesses," "Conspiracy to Deceive a Committee" are also dealt with, as well as "Breaches of Privilege by Witnesses or other Persons relative to their Attendance and Examination not covered by the Sessional Resolutions."

Lastly, Sir Horace reviews Dominion and Colonial Legislation on the subject of "tampering."

Both this, and the Memorandum by Mr. Campion, should be carefully studied by every Clerk-at-the-Table Oversea who is responsible for the technical advice to be tendered by him to the Parliamentary authorities. Most Parliaments Oversea are young, and sound precedents are of great importance, for it is they which lay the foundation upon which their practice is to be built up for future guidance.

XII. UNI- *v.* BI-CAMERALISM—PENNSYLVANIA, U.S.A.

IN the last issue of the JOURNAL an article appeared which was reprinted from STATE GOVERNMENT, the official journal of that efficient organization, the American Legislators' Association, with whom we exchange publications and correspondence. In the March, 1936, issue[1] of that publication a further article on the subject appeared, entitled—"When Pennsylvania abandoned Uni-cameralism—a Glance into History for Light on a Current Question"—by Miss Irma Watts of the Pennsylvania Legislative Reference Bureau, which, with acknowledgments, we give below:

> STATE GOVERNMENT has already given its readers—in October, 1934—the summary of a poll on the question of uni-cameralism. Fifty-nine % favoured retention of two-house legislatures and forty-one % voted for change. Larger proportions of those with legislative experience voted for the two-house system than for uni-cameralism.
>
> Since that time, Nebraska has voted for a one-house legislature. This year the Cornhuskers will elect the first uni-cameral legislature which America has had in a century. In 1836 Vermont—which with Pennsylvania and Georgia, was one of the three uni-cameral states—turned to the two-house system. Just a century later, would-be one-housers are filing their papers in Nebraska. By a curious coincidence the Irish Free State is abolishing its Senate during this same year.
>
> The government of the Irish Free State recently asked the Legislative Reference Bureau of Pennsylvania, "Why did Pennsylvania abolish the uni-cameral system?" This provoked some interesting studies on the reasons for an action which Ireland and Nebraska are reversing this year.
>
> Under the Constitution of 1776, Pennsylvania placed the executive power of the state in the hands of a President and a Supreme Executive Council of 12 members. The law-making powers were vested in a single body known as the General Assembly of Freemen. To insure that the rights guaranteed by the constitution would be preserved, there was created also a Council of Censors, whose duty it was to inquire whether the Constitution had been preserved inviolate in every part. This Council of Censors consisted of two persons from each city and county of the state, and was to be elected every seventh year.
>
> After the adoption of the Constitution of 1776 public opinion soon began to decide that the one-chamber legislature was not conducive to good government in Pennsylvania. Among the first acts of the Council of Censors was the appointment of a Committee on the Defects and Alterations of the Constitution. The Committee presented its report in 1784.

[1] Pp. 54, 55.

While dealing also with other subjects, its discussion of the uni-cameral legislature is of peculiar interest in view of the experiment which Nebraska is soon to undertake.

The outstanding features of the report were:

> " Your Committee, to whom it was referred to report those articles of the constitution which are defective and the alterations and amendments, begs leave to report.
>
> " That by the constitution of the state of Pennsylvania, the supreme legislative power is vested in one house of representatives, chosen by all those who pay public taxes. Your committee humbly conceives the said constitution to be in this respect materially defective:
>
> 1. Because if it should happen that a prevailing faction in that one house was desirous of enacting unjust and tyrannical laws, there is no check upon their proceedings.
> 2. Because an uncontrolled power of legislation will always enable the body possessing it to usurp both the judicial and the executive authority, in which case no remedy would remain to the people but by a revolution."

No immediate action resulted from this report of the Council of Censors, but it should be noted that its conclusion against the uni-cameral system was arrived at before the precedent of a two-house legislative body was established by the federal constitution

Four years later, at the thirteenth Session of the General Assembly of Pennsylvania, Mr. Gerhardus Wynkoop, of Bucks County, made a motion to have incorporated in the minutes an address, " To the Citizens of Pennsylvania," which set forth:

> " . . . the sentiments of the Assembly on the expediency of calling a convention for the purpose of altering the Constitution of the Commonwealth . . . to obtain and to secure that great principle of prosperity, it is indispensably requisite that caution, accuracy, order, moderation, stability and vigour, should reign, in making and in executing laws.
>
> " Without intending an invidious application to persons or times, we submit it to your experience and reflection, whether those qualities are to be uniformly found in a legislature consisting of a single body of men, or whether, on the contrary, precipitation and inconsistency do not often characterize the proceedings of a legislature thus formed, and restrained by no immediate control.
>
> " Having recently turned your attention to the federal system, you are fully informed on this head. The government of the United States, under the late articles of confederation, consisted only of a single branch. The wisest heads and the most virtuous hearts in our nation have agreed in condemning this inefficient and dangerous arrangement. You have seen, felt, and, to your never-failing honour, have, with your compatriots of other states, remedied this radical imperfection. . . ."

A resolution to call a convention to revise the Constitution was adopted four days later. That Constitution, adopted in 1790, created a General Assembly, consisting of a Senate and a House of Representatives.

In connection with the subject of uni- *v.* bi-cameralism in the States of the U.S.A. we have before us a pamphlet recently published by the Vermont Historical Society, being the report of a contribution to the Proceedings of such Society by Mr. Daniel B. Carroll, Associate Professor of Political Science in the University of that State, entitled—" The Unicameral Legislature of Vermont."[1] In his address Professor Carroll advocates the uni-cameral system, and seeks to prove its success, in comparison with the bi-cameral system later introduced in Vermont, which had adopted a constitution in 1777 copied almost wholly from that of Pennsylvania. One striking factor, however, emerges upon reading this most interesting and carefully prepared treatise, and it is, that during the period 1778-1836, during which Vermont had only one legislative chamber, there was what was nevertheless virtually a bi-cameral system, as " checks and balances " were provided by two other bodies, the one being the Governor and Council (*i.e.* the Executive Council), a body consisting of the Governor, the Lieutenant-Governor, and 12 other persons elected annually from the state at large; and the other the Council of Censors. The title of the former indicates duties only of an executive nature, but its actual functions were much wider. Although all power to enact laws rested in the House of Representatives, all bills of a public nature had to be presented to the Governor and Council for " their perusal and proposals of amendment " and could not finally be enacted into law until the next session of the House of Representatives, except that temporary measures might be passed, in case of necessity, after presentation to the Governor and Council. In the event of the Council and the House being unable separately to agree on amendments to a Bill, they were required to meet in joint Session to consider the problem, after which the House was apparently free to enact the proposed measure into law.[2]

The Council of Censors, which consisted of 13 persons elected on a general ticket septennially, was vested exclusively with power to propose amendments to the constitution and to set in motion the machinery to secure their ratification. Neither Members of the Governor and Council, nor of the House of

[1] Published by the Vermont Historical Society, Montpelier, Vermont, U.S.A., $1.50.

[2] *Ib.*, p. 13.

Representatives were eligible for membership of this Council, which called the convention for such constitutional purposes, and, moreover, such convention was restricted to a consideration of the amendment proposals submitted to it by the Council of Censors. The convention of 1786 ratified amendments which required all Bills to be presented to the Governor and Council for—" revision, concurrence, and proposals of amendment," before they could finally be passed into law, and the Governor and Council was authorized to suspend the passage of any Bill until the next Session of the House, provided such was done within five days after presentation.[1] Owing to repeated suggestions, however, by the various Councils of Censors, a bi-cameral system was eventually established by the Convention of 1836.

The arguments put forward by the various Councils of Censors are given on page 26 as follow:

(*a*) that the tendency of the legislature toward hasty and unwise action would be checked;
(*b*) that Vermont would be adopting a system which had been in successful operation in all of the states and in the United States for years;
(*c*) that a more equitable distribution of representation in the legislative body of the state would be secured;
(*d*) that the bi-cameral system would eliminate the "baneful effects of heat and party spirit";
(*e*) that a shorter ballot would be secured if the bi-cameral system were adopted;
(*f*) that the uni-cameral system was inherently vicious;
(*g*) that the conflict between Executive Council (Governor and Council) and the House of Representatives would be eliminated by the establishment of a Senate;
(*h*) that the superiority of the bi-cameral system had been proved by the experience of all ages;
(*i*) that a simple form of governmental organization, such as that provided by the uni-cameral system, was not suited to a complex civilization; and
(*j*) that the framers of the existing constitution had intended that the Executive Council have an absolute check upon, and complete equality with, the House of Representatives in the exercise of legislative authority and that this authority had recently been usurped by the House of Representatives.[2]

[1] *Ib.*, p. 14.

[2] *Ib.*, pp. 26, 27.

XIII. APPLICATIONS OF PRIVILEGE DURING THE YEAR

COMPILED BY THE EDITOR

Westminster.

Booklet setting out minority recommendations of five Conservative Members of Joint Committee on Indian Constitutional Reform.—On the 23rd November, 1934,[1] in the House of Commons, a Member stated that yesterday morning many Members had received by post with the compliments of a Member of the House of Lords, a booklet as abovementioned, although the Report of such Committee was technically submitted to the House at 2.45 p.m. on Wednesday by being available at the Vote Office of the House of Commons. The question therefore was, was the booklet in question submitted to W. H. Smith and Sons before or after that time. Mr. Speaker ruled that no *prima facie* case for a breach of Privilege had been made out.

Interference with Member by member of the Public.—On the 15th March[2] in the House of Commons, a Member drew attention on behalf of an absent Member, to such interference within the precincts of the House because of the action which he was taking or proposed to take upon a Bill then before the House. The absent Member did not raise the question of Privilege at the time except to report it to the Chairman of Committees. Mr. Speaker said that on the information given he could not say whether a *prima facie* case for a breach of Privilege had been made out and ruled that although the question of Privilege had not been raised by the now absent Member at the time, it would not prejudice him in bringing the matter forward in a few days' time.

Letter to Members.—On the 11th May[3] in the House of Commons, a Member raised, as a question of Privilege, a letter which he and other Members had received from the Secretary of the League for the Prohibition of Cruel Sports, enclosing a questionnaire asking their views on five questions. The concluding sentence of the letter read:

> If we do not hear from you, we shall feel justified in letting your constituents know that you have no objection to cruel sports.

[1] 295 H.C. Deb. 5. s. 390-392.
[2] 299 H.C. Deb. 5. s. 735-737.
[3] 301 H.C. Deb. 5. s. 1545-1547.

To this Mr. Speaker ruled that a *prima facie* case for a breach of Privilege had been made out and the Member moved:

> That the letter sent to hon. Members by the Secretary of the League for the Prohibition of Cruel Sports constitutes a gross breach of the Privileges of this House;

and it was accordingly so Resolved.

Australian Federal Parliament.

Letter to Mr. Speaker about a Member.—The Chairman of the Stock Exchange of Sydney wrote to Mr. Speaker complaining of a speech made in the House by a Member. The Member concerned raised a question of Privilege in connection with the action of the writer of the letter and moved a motion that in writing a letter reflecting on the motives and actions of a Member of the House and in writing a threat the Chairman of the Stock Exchange was guilty of contempt. Debate ensued on the motion, and the matter was finalized by the carrying of an amendment which set out that an individual whose conduct had been criticized in statements made under cover of Parliamentary privilege had a right to defend himself, and that the House was of opinion that the remarks of the Chairman of the Stock Exchange were not a breach of Privilege but were a defence to charges made against him under cover of Privilege. The House, however, considered that in addressing his letter to the Speaker instead of direct to the Member the Chairman was in error.[1]

Reflection upon a Member by the Chairman.—On the 19th November, 1935, a Member of the Opposition raised a question of Privilege in relation to an action of the Chairman of Committees, and submitted a motion that the Chairman, in terms which were not in accordance with the facts nor on other grounds justifiable, reflected on the conduct of a Member, and in so doing had offended against the Privileges of Parliament. The motion was negatived on division after it had been debated.[2]

Australian State Parliaments.

Tasmania.—*Omission of Part of Notice of Question from Notice Paper.*—In the Legislative Council on the 24th July, the following paragraph was omitted from a Notice of Question on the direction of Mr. President:

> (6) Whether the Minister would obtain and lay on the Table of the Council the opinion of the Crown Law officers as to whether

[1] VOTES, 1935, pp. 143, 149. [2] *Ib.*, pp. 351, 355.

a Member of Parliament who acts as counsel for a body constituted under an Act of Parliament which is administered by a Minister of the Crown has not done an unconstitutional act involving automatic forfeiture of his seat in Parliament.

On the next day[1] Mr. President made the following statement in the House:

In regard to the Notice of Question given yesterday by the Honourable Member for Buckingham, Paragraph (6) appears to be in conflict with the provisions of Section 16 of the Constitution Act, 1934, in which the relevant words are as follows:

"whenever any question shall arise respecting any vacancy in either House, the same shall be heard and determined by such House itself."

The question of the forfeiture of the seat of an Honorable Member upon the grounds referred to in the Notice is, therefore, a domestic one, that is, one exclusively for the determination of the Council itself, whose decision should be unaffected by outside opinions, unless they are sought at the instance of the tribunal whose function it would be to make the determination. The paragraph in question has, therefore, been omitted from the Notice Paper on my direction.

On the 31st July[2] a question was asked in the Legislative Council whether any charge had been made by the Member for Launceston for professional work done by him or his firm or their agents for the Tasmanian Dairy Products Board, under the Dairy Products Act of 1933;[3] to which question a non-committal reply was given.

Seat of Member Challenged.—On the 7th August[4] motion was moved:

That the Honorable *Tasman Shields*, having acted for and accepted fees from and on account of legal work done for and on behalf of the Dairy Products Board, which is controlled by the Dairy Products Act, 1933 (24 *Geo.* V, No. 56), his seat in the Legislative Council be declared void, according to Section 33[5] of the Constitutional Act, 1934 (25 *Geo.* V, No. 94),

and decided in the negative.

Payment of Expenses of Members of Joint Committee.—On the 22nd *idem*[6] the following motion was moved by the Acting Leader of the Government in such Council:

That, in the opinion of the Council, Members of the Council serving on the Joint Committee appointed to consider the provisions of the Farmers Relief Bill, 1935 (No. 24), should receive

[1] VOTES, Leg. Co., No. 2.
[2] *Ib.*, No. 3, entry 4.
[3] 22 Geo. V, No. 56.
[4] VOTES, Leg. Co., No. 4, entries 23, 24 and 25.
[5] Contractors.
[6] *Ib.*, No. 8, entry 18.

payment of expenses at the rate of Twenty-five Shillings for each day of attendance at a meeting of such Joint Committee. Attendance to be reckoned from the time of such Members leaving their homes specially to attend such meetings. This Resolution not to apply to days when the Legislative Council sat. (*Mr. McDonald.*)

Whereupon Mr. President ruled as follows:[1]

"In reply to the Honourable Member for Buckingham, who, during the Debate on the Question this morning, expressed a doubt as to whether the payment of expenses of Members of Select Committees does not infringe the Constitution Act, I would state that a Motion was moved in the Session of 1924-25 authorizing payment to Members of Select Committees. This Motion was amended and agreed to. In the course of the debate on the Motion Members expressed the view that payment should be made of the out-of-pocket expenses of Members attending meetings of Select Committees on days on which the Council was not sitting, and the general feeling was that each case, in which payment of Members' expenses was in question, should be treated on its merits, and payment in such cases should be authorized by special Resolution of the Council. Select Committees meeting outside Hobart seem to merit similar consideration to Committees meeting in Hobart on days when the Council is not sitting. The point raised by the Honorable Member is whether these payments are in contravention of the Constitution Act. The payments are merely to reimburse members of Committees for out-of-pocket expenses incurred in coming to Hobart on the days when the Council is not sitting, and, in the case of Committees which have been given leave to adjourn from place to place, as was the Committee in question, in meeting outside the Capital. I am, therefore, of opinion that the Motion is not an infringement of the Constitution Act."

The Question was therefore resolved in the affirmative.

Union of South Africa Parliament.

Alleged disclosure of the Recommendations of a Select Committee before Report brought up.—On the 10th April in the Union House of Assembly,[2] the Member for Bredasdorp drew the attention of the Speaker to a speech by the Member for Gardens on the 2nd *idem* as reported in the East London *Daily Dispatch* of the following day, disclosing recommendations of the Joint Select Committee on the Representation of Natives and Coloured Personsand Acquisition of Land Bills, before the report of such Committee had been brought up, the newspaper passage being as follows:

The report of the Select Committee on Native Bills was likely to be issued soon, and Mr. Coulter[3] stated that they would provide that no native not at present on the voters roll would be allowed in future to register.

[1] *Ib.*, entry 20. [2] 25 Union Assem. Hans., 4690-4702.
[3] The Member for Gardens.

The Member for Gardens, in his place, thereupon made a statement to the House, to the effect that the newspaper reported him as if he spoke of the actual contents of a report by the Committee, when he only made a prediction, after which the Member withdrew.

After debate, in which several Members took part, the matter was referred to a Select Committee, with power to take evidence and call for papers.

The Select Committee in its report[1] came to the conclusion that information actually known to be correct could not be imparted under the guise of a prediction, but that in the present case, it accepted Mr. Coulter's statement that he was not aware of the decision at which the Joint Select Committee had arrived on the 21st February, 1935, even though he may have had Lobby conversations, and therefore that the Committee considered he had not committed a breach of privilege. The Committee concluded its report by stating that it found the difficulty of its task increased by the lack of precision of S.O. 239,[2] to which a previous Select Committee had drawn attention. The Report was brought up in the House, laid on the Table and a day set down for its consideration, but dropped upon the Prorogation of Parliament.

India Central Legislature.

On the 22nd January[3] in the India Legislative Assembly, the Chairman announced that he had received a notice of motion from the Member representing Assam Valley: Non-Muhammadan, that he proposed to ask leave to move the adjournment of the House for the purpose of discussing a definite matter of importance, namely:

> The conduct of the Government in preventing Mr. Sarat Chandra Bose, an elected Member of this Assembly, from attending to his duties as a Member of this House and thereby seriously infringing the privileges[4] of this House and depriving the constituency which elected him of its right to be represented in this House.

The Member, in response to the request of the Chairman, then explained his reasons, and the Chairman accepted the notice of motion which was set down for the same afternoon. In

[1] S.C. 11—1935.
[2] Proceeding of a select committee not to be published before printed by the House.
[3] India Assem. Hans., Vol. I, No. 2, pp. 1-16.
[4] Indian Legislative Rule 44 does not debar questions of privilege from being raised on an urgency motion.

moving his motion the Member stated that Mr. Bose, who was duly nominated, paying his deposit, and elected for his constituency unopposed, and summoned by the Governor-General to attend the Assembly, had been detained by the Government under Regulation III of 1818, that he could not be so detained, that the House had as its privilege the right to the service of any Member elected to come and act there, and therefore that that privilege had been infringed.

Certain arguments were brought forward by other Members during the debate to show that the India Legislative Assembly was not vested by law with the same privileges as the Imperial House of Commons and that under its practice detention of a Member either under process in connection with criminal law or even in cases of detention without trial but legal detention under some Statute, did not constitute a breach of privilege. In support of this was quoted the case, in 1920, of Mr. Joseph McBride, a Member of the House of Commons under section 14 (*b*) of the Defence of the Realm Regulations Act, a section similar to the Regulation III abovementioned. The Government, on the other hand, stated in reply that it was perfectly prepared to justify the detention of Mr. Bose, if it were in order under the question before the House to deal with the matter under that motion. Upon the closure being carried, the question—that the House do now adjourn—was agreed to upon a division, the voting being: Ayes 58, Noes 54.

XIV. SOME RULINGS BY THE SPEAKER AND HIS DEPUTY AT WESTMINSTER DURING THE YEAR

COMPILED BY THE EDITOR

THE following Index to some points of Parliamentary Procedure as well as Rulings by the Speaker and Deputy-Speaker of the House of Commons given during the Fourth Session of the Thirty-sixth Parliament of the United Kingdom of Great Britain and Northern Ireland and the Eleventh of His Majesty King George V, are taken from the General Index to Volumes 295 to 305 of the House of Commons Debates (Official Report), 5th series, comprising the period 20th November, 1934, to 25th October, 1935. The Rulings, etc., given during the remainder of 1935 and falling within the First Session of the Thirty-seventh Parliament will be treated in Volume V of the JOURNAL.

The respective volume and column reference number is given against each item, thus—" (283 – 945) " or " (284 – 607, 608 and 1160)." The items marked with an asterisk are indexed in the Commons *Hansard* under the heading " Parliamentary Procedure " only.

Note.—1 *R.*, 2 *R.*, 3 *R.*=Bills read First, Second or Third time. *Amdts.*=Amendments. *Com.*=Committee. *Cons.*=Consideration. *Rep.*=Report. *C.W.H.*=Committee of the Whole House. *Sel. Com.*=Select Committee. *R.A.*=Royal Assent.

Adjournment.

—Glasgow Corporation petrol contract, can raise matter on (299 – 991).
—of debate,
—for purpose of making a Ministerial statement (299 – 913).
—motion for debate must be confined to (301 – 459).
—of House,
—any subject can be raised on motion for, provided it does not deal with legislation (305 – 330).
—for holidays, debate allowed upon, motion for (300 – 1340).
—for holidays, order of speaking on motion for (296 – 1540, 1541).

—(urgency motion),
—disallowed as *sub judice* (299 – 205).
—disallowed (304 – 2491); (298 – 1309); (299 – 2086).
*—suggested alteration of S.O. 8 (304 – 2847, 2848).

Addresses.
—two motions for, taken together (296 – 1093).

Amendment(s).
—*amdt.* to Member's own *amdt.* (302 – 1325).
—anticipation of, not allowed (303 – 1795).
*—cannot be withdrawn if Member insists on speaking (299 – 335, 336, 462).
*—Chairman's power of selection of. *See* Chairman.
—consequential, number of, put together (296 – 1518).
—drops, if no seconder (302 – 131, etc.).
—no discussion on, ruled out of order (296 – 638).
—Speaker's power to select (295 – 582); (296 – 1363, 1364, 1369, 1388). *See* Speaker, Mr.
—taking several together (302 – 1189).
—taking two together (304 – 2220 and 2229).
See also Lords' Amendments.

Bills, Private.
—introduction of three at a time (298 – 957).

Bills, Public.
—appropriation, debate on, not to include matters for legislation (304 – 2728).
—Consolidation. *See* Finance.
—2 *R.*
—debate upon. *See* Debate.
—instructions. *See* Instructions.
—when decision that words stand part agreed to, 2 *R.* question put automatically (297 – 1593).
—C.W.H.
—*amdt.* outside scope of Bill (302 – 1039, 1040, 1041).
—*amdts.* discussion of, on *Rep.* together (302 – 831, 832).
—*amdts.* non-selection of, by Mr. Speaker (302 – 1387, 1388).
—*amdt(s)* making a charge (301 – 1913, 1914).
*—clause motion to postpone (298 – 266).
—question that Bill be reported to House, discussion on (301 – 1853 to 1856).
—*Rep.*
—*amdts.* imposing a charge (304 – 2406).

*—clause not necessary to put (302 – 832).
—notice of new clause on, *amdt.* accepted (303 – 1726).
—3 *R.*
—taken when Bill not reprinted after *Rep.* stage, if no objection, but not to become a practice (303 – 1878, 1879, 1880).
—marginal note not part of (304 – 2398).

Board, Unemployment Assistance.
—criticisms of Members, etc., position of (297 – 1803 to 1806, 1950, 1951).

Business of the House.
—Government business precedence motion, and rights of private Member (295 – 152).
—question as to debate to be taken in *Com.* of Supply to be addressed to Chairman not Speaker (301 – 36).

Chair.
—Members must address the (297 – 1859); (304 – 273), etc.
*—Members must not endeavour to put upon Rulings from, unjustified explanations (296 – 1473).
*—right of, to motion without debate (295 – 1758).
—*See also* Speaker, Mr.

Chairman.
*—*amdts.*, powers of, in selection of (300 – 207, 208).
*—not in power of, to decide when debate to end (295 – 1499).
*—Member must abide by Ruling of (299 – 1517).
*—Members must not discuss or question Ruling of (295 – 1634); (298 – 1872).
—question as to debate to be taken in *Com.* of Supply to be addressed to, and not to Mr. Speaker (301 – 36).

Debate.
—adjournment motion for holidays, wide range of (300 – 1340); (299 – 991).
*—advertising any business not allowed in (303 – 206).
—" Another Place."
*—quotation from documents in, before present Sessions, allowable (304 – 1624).
—reference to, not allowed in (304 – 2586); (304 – 2596).
*—speeches made in, during current Session, must not be quoted (302 – 1437); (304 – 1608, 1623, 1624).

*—statement made in, not to be referred to (304 – 2596).
*—words used in, during current Session cannot be quoted, but statements of policy can be referred to (304 – 1579 to 1581).
—Bill(s):
—clause(s).
—debate to be confined to (302 – 555).
—two discussed together (301 – 2102).
—two kept separate (301 – 2105).
—criticisms of main Act not permitted (297 – 2026).
—11 o'clock Rule (302 – 2173); (295 – 1378, 1380).
—instructions. *See* that Heading.
—not one to go to Examiners under S.O. 216 (295 – 1025 to 1027).
—Statute, merits or demerits of, not allowed in, on Consolidation (298 – 745).
—2 *R.*:
—debate on (295 – 1056, 1058, 1059).
—on instructions taken at (299 – 1820, 1821).
—C.W.H.
—*amdts.* in, cannot be enquired of in House (295 – 1207).
*—2 R. speeches, not allowed in (298 – 373 to 376); (301 – 1050); (303 – 405).
—*Rep.*:
—clause on, not necessary to put (302 – 832).
—general provisions of Bill, not debateable on (302–548).
—Member having spoken on, can only ask question (302 – 816).
—not entitled to go into merits of a clause on Re-Committal (301 – 1942).
—3 *R.*:
—*amdt.* ruled out of order cannot be discussed on (296 – 638).
*—debate must be confined to what is in Bill (297 – 687, 718, 727, 735); (299 – 761).
—immediately after *Rep.*, before re-printing (303 – 1878 to 1880).
*—Chair, right of, to put motion without debate (295 – 1758).
—Civil Servants, attacks on, not allowed in (300 – 2045, 2048, 2049); (304 – 3081).
—Consolidation Bill. *See* sub-heading hereof, " Finance."
—criticism permissible if not beyond bounds of order (297 – 719).

—defence motion (299 – 113).
—Finance:
—additional import duties, on *amdt.* of (299 – 2259).
—additional import duties, on motion for approval (300 – 1543).
*—Consolidation Bill, restrictions of, on (298 – 745).
—Estimates, two Votes discussed together (304 – 2034 2050).
—Supply:
*—judgment of Judicial *Com.* of P.C. cannot be discussed (303 – 582).
*—legislation in South African Parliament cannot be discussed (303 – 605).
*—limitations on discussion in (303 – 582 to 585).
*—matters belonging to service of another Dept. cannot be discussed on Vote of one Dept. (304 – 912 to 915).
*—matters involving legislation cannot be discussed (297 – 286, 297, 305, 1048, etc.).
*—matters which take place in House can only be discussed in House (303 – 582).
*—opinions in debate on Statute of Westminster cannot be discussed (303 – 685, 686).
—question as to debate to be taken in *Com.* of, to be addressed to Chairman, not Mr. Speaker (301 – 36).
*—*Rep.* stage, Members can only make one speech at a time (297 – 978).
*—where separate Vote, matter cannot be discussed (304 – 957, 1344).
See also Finance.
—interruptions not allowed in (302 – 1941); (295 – 774, 938); (296 – 984); (297 – 211), etc.
—irrelevance (301 – 515, 516); (304 – 1803, 1804); (302 – 608); (302 – 1408, *et seq.*).
—Judges, sentences of, cannot be criticized in (304 – 1486).
—legislation, on matter requiring (304 – 2728); (300 – 461); (298 – 2243); (297 – 1048).
—Member. *See* Member(s).
—not allowed on *amdt.* ruled out of order (296 – 638).
—official documents, quotations from, in (297 – 2098).
—" Parliamentary expression."
—" lickspittles and toadies to employers " (297 – 700).
—personal explanation, beyond a (297 – 750).
—questioning other Members in (297 – 1604).

—questions, constant asking of, not way to conduct (297 – 1604).
—remark must be withdrawn (296 – 1277).
*—repetition forbidden by S.O. 18 (301 – 1060).
—reply, right of, to Member in charge of Bill (or mover of *amdt.* thereto) been before Standing *Com.* (302 – 113).
—Royal Family, criticisms of (297 – 1035).
—speakers, selection of (295 – 1771).
*—Statute, difference of opinion as to, cannot be discussed in (303 – 686).
—Statutes, merits or demerits of, not to be discussed (298 – 745).
—*sub judice* (292 – 2208 to 2212); (299 – 1794); (298 – 2207, 2208, 2210 to 2212).
—undesirable remark (297 – 662).
—" Unparliamentary expression."
*—" Fabrication," " Member had better not use word " (304 – 1608).
—" mendacity," " mendacious " (297 – 1665).
—" the poisonous atmosphere these methods are creating " (302 – 1119).
—" what have you been drinking "—an undesirable remark (297 – 662).
—withdrawal of motion prevented if another Member speaks (303 – 1738).

Divisions.

*—doors locked too early owing to defect in working of mechanism of clock, question therefore put afresh (301 – 1294).

Estimates. *See* Finance.

Finance.

*—Consolidation Bill, restriction of debate upon (298 – 745).
—Estimates.
—reductions, Notices of, usually put on Order Paper (304 – 2051).
*—supplementary (298 – 909 to 913).
*—supplementary, presentation and passing of, before Act receives *R.A.* (298 – 898).
—Resolutions, terms of (300 – 2050); (295 – 1236 to 1238).

*—Resolutions, terms of (295 – 1714 to 1716, 1718, 1719, 1722 to 1725, 1746 to 1750, 1752); (297 – 1777).
—Supply:
—specific Vote for a service, service must be dealt with under (303 – 1477, 1478).
*—Unemployment Assistance Board, Bill on Regulations cannot be re-discussed (297 – 50, 78, 79, 137).

Government Responsibility.
—whether any (298 – 2159, 2160).

Instructions.
—cannot be moved before 2 *R.* (298 – 850, 851).
—debate on, taken at 2 *R.* (299 – 1820, 1821).
—debate on, taken with motion for *amdt.* to read 2 *R.*, " this day six months " (303 – 1216).
—debate on two taken together (303 – 1942).
—out of order as resulting in non-compliance with Standing Order (303 – 1964).

Lords, House of.
—*See* Debate, " Another Place," and Lords' Amendments.

Lords' Amendments.
—consequential *amdts.* put together (304 – 2507).
—debate in " Another Place," reference to (304 – 2586).
—debate to take place on first *amdt.* (304 – 2566, 2567).
—drafting, put *en bloc* (304 – 2601).
—notice to postpone, must be given before question proposed on (304 – 2529, 2530).
—" privilege,"[1] question of raised (charge on Indian Federal Revenue) (304 – 2545, 2614, 2618, 2620, 2625, 2626).
—" privilege " (entry in Journals) (303 – 1180); (304 – 2565, 2605, 2191, 2192, 2203, 2205, 2219).
—two, taken together, where both of same subject (304–2510).
—wider discussion allowed on motion for consideration, on understanding that discussion not repeated on individual but on objection to Mr. Speaker's suggestion, motion therefore proceeded with formally (304 – 2503 to 2505).

Member(s).
—*amdt.*, has already spoken on (303 – 1764).
—cannot question each other across floor of House (303 – 1781).

[1] *i.e.*, " monetary."

—catching " Speaker's eye " (296 – 1540, 1541).
—exhausted right to speak (301 – 461); (300 – 2054, 2055); (301 – 461); 302 – 605, 1082), etc.
—interruption of (297 – 1381).
*—must abide by Chairman's Ruling (299 – 1517).
—must make himself responsible for statements in questions to Ministers (304 – 2862).
*—must not attribute such motives to any (298 – 1026).
—must not discuss or question Chairman's Ruling (295 – 1634); (298 – 1872).
*—must not endeavour to put upon Rulings from Chair unjustified explanations (296 – 1473).
—must not interrupt unless Member in possession gives way (299 – 1131).
—must not make personal attack on any (297 – 1036).
*—must obey Chairman's Rulings (289 – 1797, 1873).
—must reserve further speech for reply (301 – 475).
*—must sit down when Chairman rises (298 – 1674).
—not called unless rises (295 – 1746, 1747, 1748, 1749, 1750, 1752).
*—Private, rights of (300 – 2032 to 2050).
—putting question although exhausted right to speak (200 – 2054).
—speakers, selection of (295 – 1771).

Minister.

—absent, Chair accepts motion for adjournment of debate (301 – 445).
—spoken twice (302 – 876).

Motion(s).

—cannot be withdrawn if another Member speaks (303 – 1738).
—to report progress, not in order to discuss general resolutions (295 – 1755, 1756).
*—(298 – 1783 to 1785); (301 – 2017).
—must be confined to (301 – 459).
—right of Chair to put, without debate, directly mover has resumed his seat (295 – 1758).
—withdrawal of, prevented if another Member speaks (303 – 1738).

Newspapers.

—as to accuracy of questions in (304 – 2486, 2487).
*—reading of, in House (300 – 692).

Order.

—not a point of (295 – 1369); (302 – 707); (299 – 1179, 1739).

Privilege.[1]

—breach of, letter sent to Members from Secretary to League for Prohibition of Cruel Sports (301 – 1547). *See* Article XIII hereof.

—question of:

—booklet setting out minority recommendations of 5 Conservative Members of Joint Committee on Indian Constitutional Reform, *prima facie* case of breach of, not made out (295 – 390 to 392). *See* Article XIII hereof.

—interference with Member by member of public (299 – 735 to 737). *See* Article XIII.

See also Witnesses.

Questions to Ministers.

—already asked and answers received (300 – 195).

—debate developing (302 – 1110); (304 – 1033).

—Department having information gives answer (303 – 1682).

—detail, matter of (304 – 2472).

—discussion getting beyond Question on Order Paper (303 – 367).

*—finished (304 – 1644).

—Government reconstruction, debate cannot be anticipated (303 – 571).

—hypothetical.

—(298 – 1114).

*—(296 – 1319); (297 – 1560); (298 – 507); (302 – 935).

—information being given (299 – 1381).

—information must be asked, not given (298 – 2130).

—information not being requested (303 – 1706).

—insinuations against Magistrates improper (298 – 340).

—in order, but Speaker has no control over reply (301 – 1531).

—invitation to Member to discuss matter (304 – 1219).

—legal discussion must not develop (303 – 534).

—logic, Member must not discuss (298 – 1274).

—long time spent on question (296 – 538).

—matter cannot be argued (300 – 195).

—matter cannot be debated (297 – 939, 2080); (299 – 182); (303 – 361).

[1] *i.e.*, non-monetary.

—matter cannot be debated further (297 – 2081).
—matter cannot be discussed (296 – 807); (297 – 1127); (302 – 11).
—matter cannot be discussed at Question Time (298 – 327).
—matter cannot be gone into (298 – 1748).
*—Member already answered 3 or 4 times (300 – 346).
*—Member must make himself responsible for statements (304 – 2862).
—Member's name called second time, but he did not rise (304 – 498).
—Member reminded that there are 80 questions on Paper (304 – 1841).
—Minister, to one, answered by other responsible (304 – 1025, 1026, 1229 to 1231).
—Minister, had better be addressed to appropriate (302 – 1105).
*—must be addressed to appropriate Minister (302 – 1105).
—next question called (297 – 1297).
*—no particular allegation in (297 – 2080).
—not again (297 – 1926).
—not a matter for Question Time (299 – 376); (302 – 743).
—notice required (295 – 1573, etc.).
—only asks for figures (299 – 195).
—opinion, matter of (299 – 1002); (302 – 743); (1114, 2021); (304 – 2659).
—Private Notice, no notice received of, but question may be put (300 – 1340).
—reasons for, not enquired into (298 – 2131).
*—referred to Department (298 – 775).
—remarks not a question (298 – 1105).
—reply given that question cannot be answered (297 – 1928)
*—reply, no point of order arising in (298 – 329).
—responsibility of Members for accuracy of statements (304 – 2468, 2487, 2862).
—several questions already on subject (299 – 192).
—speech being made (301 – 1692).
—speech cannot be made (303 – 1706).
—subject cannot be pursued at any length at Question Time (298 – 165).
*—summarizing of various statements into sentence would be bad habit (302 – 352).
—supplementary.
*—a different issue (304 – 467).
—a different question (303 – 348, etc.).

—a long way from question on Paper (303 – 929).
*—another issue (304 – 289).
*—another matter (295 – 842); (296 – 382, 383); (297 – 10); (302 – 1855).
—another question (302 – 1692).
*—another question (295 – 999, 1402, 1561); (297 – 350, 782, 923); (298 – 1304); (299 – 1382, 1887); (301 – 1871); (302 – 1867, 2052); (303 – 180, 942, 1261, 1280); (304 – 318, 873, 1651).
*—another question on Paper on subject (303 – 937, 1684, 1694, 1697).
—limit of (303 – 1841).
—Member has already put 2 or 3 (302 – 347).
—no connection with question on Paper (299 – 197).
—not arising (296 – 808); (301 – 1685, 1859, etc.).
—not relevant (299 – 191).
—same question over again (304 – 1636).
*—separate question (301 – 807, 1374); (303 – 342, 1087); (304 – 152).
—transfer from one Minister to another (304 – 1229, 1231).

Regulations.

—position, as regards *amdts.* to (296 – 831 to 835).

Speaker, Mr.

—*amdts.*, reason for non-selection of (302 – 1387, 1388).
—cannot under Standing Order take a count between 8.15 and 9.15 p.m. (295 – 259).
—declines to take any further *amdts.* on motion (301 – 1955).
—gives Member opportunity to explain *amdt.* for selection (303 – 1719).
—no control over reply to Questions (301 – 1531).
—not a matter for (297 – 938).
—position of, as to speakers in debate (296 – 1540, 1541).
—presentation of Address to His Majesty (Silver Jubilee) (301 – 988, 1107).
—Prorogation, Mr. Speaker does not go through Orders but waits for message from Lords (305 – 493).
*—remark not heard (298 – 1921).
—report of King's Speech at Opening of Parliament (295 – 7).
—Rulings forecast to Members not to be anticipated in the Press (296 – 831).

Standing Orders.

—not business of Mr. Speaker to express opinion on (295 – 1095).

Statement.

*—made at end of Questions (296 – 1328 to 1330).

*—made by Ministers in House cannot be debated or replied to in debates in *Com.* (303 – 584, 585).

Supply. *See* Finance, *also* Debate.

Witnesses.

—*Sel. Com. on, Rep.* of, debate on motion for approval of (304 – 703, 705, 715, 720, 721).

XV. LIBRARY OF PARLIAMENT

BY THE EDITOR

VOL. I of the JOURNAL contained[1] a list of books suggested as the nucleus of a Statesman's Reference Collection in the Library of an Oversea Parliament. Volumes II[2] and III[3] gave lists of books on economic, legal, political, and sociological questions of major importance, published during the respective years, and below is given a list of works on such subjects published last year. Biographies, historical works, and books of travel and fiction, as well as books on subjects of more individual application to any particular country of the British Empire, are not included in these lists, it being considered unnecessary, in any case, to suggest to the Librarian of each Parliament books on any such subjects.

A good library available to Members of Both Houses of Parliament during Session, and by a system of postal delivery (with the exception of standard works of reference), also during Recess, is a great asset. The Library is usually placed in charge of a qualified Librarian, and in most of the Oversea Parliaments is administered by a Joint Committee of Both Houses under certain Rules. The main objective should be to confine the Library to good material; shelves soon get filled, and there are usually Public Libraries accessible where lighter literature can be obtained. By a system of mutual exchange, the Statutes, Journals and Hansards of the other Parliaments in the Empire can easily be procured. Such records are of great value in obtaining information in regard to the framing and operation of legislation in other parts of the Empire, as well as looking up the full particulars in connection with any question of procedure referred to in the JOURNAL.

Amery, The Rt. Hon. L. S.—The Forward View. (Geoffrey Bles. 16*s.*)

Andrews, C. M.—Colonial Period of American History—I. The Settlements. (Milford. 18*s.*)

Angell, Sir Norman.—Preface to Peace. (Hamish Hamilton. 7*s.* 6*d.*)

Armstrong, P. C., and Robinson, F. E. M.—City and Country. (Macmillan. 8*s.* 6*d.*)

Australian and New Zealand Society of International Law, The.—Proceedings—I. Melbourne. (Milford. 10*s.* 6*d.*)

Bassett, R.—The Essentials of Parliament Democracy. (Macmillan. 7*s.* 6*d.*)

Brooks, R. G.—Deliver us from Dictators. (Milford. 11*s.* 6*d.*)

Bruck, W. F.—The Road to Planned Economy. (Milford. 3*s.* 6*d.*)

[1] P. 112 *et seq.* [2] P. 132 *et seq.* [3] P. 127 *et seq.*

Campbell, Dame Janet.—Maternity Services. (Faber and Faber. 1s.)
Cassel, G.—On Quantitative Thinking in Economics. (Milford. 6s.)
Chamberlain, Sir A. and others.—Foreign Policy of the Powers. (Harper. 7s. 6d.)
Chaput, R. A.—Disarmament in British Foreign Policy. (Allen and Unwin. 16s.)
Chegwidden, T. S. and Myrrdin-Evans, G.—The Employment Exchange Service of Great Britain. (Macmillan. 14s.)
Cobban, J. Macdonald.—Senate and Provinces, 78-49 B.C. (Cambridge University Press. 8s. 6d.)
Corke, Helen and others.—Pamphlets on the New Economics. (Stanley Nott. 6d. each.)
Craven-Ellis, W.—The Rebuilding of Britain. (Allen and Unwin. 2s. 6d.)
Crawford, A.—Public Speaking. (Pitman. 7s. 6d.)
Currie, Lauchlin.—The Supply and Control of Money in the United States. (Milford. 10s. 6d.)

Durbin, E. F. M.—The Credit Problem. (Chapman and Hall. 10s. 6d.)

Einstein, A.—The World as I see it. (Trans.) (John Lane. 8s. 6d.)
Einzig, Paul.—France's Crisis. (Macmillan. 7s. 6d.)
—The Future of Gold. (Macmillan. 7s. 6d.)
Eisenlohr, L. E. S.—International Narcotics Control. (Allen and Unwin. 10s. 6d.)
Ellinger, Barnard.—Credit and International Trade. (Macmillan. 8s. 6d.)
Elliot, W. Y.—The Need for Constitutional Reform. (McGraw-Hill Co. 12s. 6d.)
Ellis, Howard, S.—German Monetary Theory (1905-1933). (Milford. 21s.)

Filby, F. A.—The History of Food Adulteration and Analysis. (Allen and Unwin. 10s. 6d.)
Findlay, Ranald, M.—Britain under Protection. (Allen and Unwin. 6s.)
Fisher, Irving.—Stabilized Money. (Allen and Unwin. 10s. 6d.)
Fisher, The Rt. Hon. H. A. L.—A History of Europe. (Vol. III. The Liberal Experiment.) (Eyre and Spottiswoode. 18s.)
Fulton, J. S. and Morris, C. R.—In Defence of Democracy. (Methuen. 5s.)

Gayer, A. D.—Monetary Policy and Economic Stabilization. (A. and C. Black. 8s. 6d.)
Geneva Institute of International Relations.—Pacifism is not Enough. (Allen and Unwin. 8s. 6d.)
Ginsberg, M.—Sociology. (Thornton and Butterworth. 2s. 6d.)

Hambloch, E.—His Majesty the President. (Methuen. 10s. 6d.)
Hedges, R. York.—International Organization. (Pitman. 10s. 6d.)
Hinton, Rev. J. P., and Calcutt, Josephine, E.—Sterilization. (Allen and Unwin. 5s.)

Hirst, F. W.—Economic Freedom and Private Property. (Duckworth. 4*s.* 6*d.*)
—Liberty and Tyranny. (Duckworth. 8*s.* 6*d.*)
Holland, Sir Thomas H.—The Mineral Sanction as an Aid to International Security. (Oliver and Boyd, Edinburgh. 2*s.*)
Hunter, H. C.—How England got its Merchant Marine. (P. S. King and Son. 15*s.*)

Jenks, E.—The State and the Nation. (Dent. 4*s.* 6*d.*)
Jessup, P. C.—International Security: the American Rôle in Collective Action for Peace. (London: Chatham House. 6*s.*)

Keith A. Berriedale.—See p. 152.
Klineberg, O.—Negro Intelligence and Selective Migration. (Milford. 6*s.* 6*d.*)

Layton, Sir W. and Crowther, G.—An Introduction to the Study of Prices. 2nd Ed. (Macmillan. 8*s.* 6*d.*)

McCleary, G. F.—The Maternity and Child Welfare Movement. (P. S. King and Son. 7*s.*)
MacMunn, Lt.-Gen. Sir George.—See p. 152.
Mallory, W. H.—Political Handbook of the World. (Harpers. 6*s.*)
Marett, J. R. de la H.—Race, Sex and Environment. (Hutchinson. 21*s.*)
Marriott, Sir John A. R.—Dictatorship and Democracy. (Milford. 10*s.*)
Modern Library, The.—Report on Public Libraries in England and Wales. (H.M.S.O. 3*s.* 6*d.*)
Moulton, H. G.—The Formation of Capital. (Faber and Faber. 11*s.* 6*d.*)

Nerval, G.—Autopsy of the Monroe Doctrine. (The Macmillan Co., N.Y. 15*s.*)

Oppenheim, L.—International Law. Vol. II.: Disputes, War and Neutrality. 5th Ed. (Longmans. 45*s.*)

Pafford, J. H. P.—Library Co-operation in Europe. (The Library Association. 21*s.*)
Pigou, A. C.—Economics in Practice. (Macmillan. 4*s.* 6*d.*)
Pink, M. A.—The Defence of Freedom. (Macmillan. 6*s.*)
Porteous, J. A. A.—The New Unionism. (Allen and Unwin. 16*s.*)

Revusky, A.—Jews in Palestine. (P. S. King and Son. 15*s.*)
Royal Institute of International Affairs.—The Future of Monetary Policy. (Milford. 10*s.* 6*d.*)
—Documents on International Affairs, 1934. (Milford. 25*s.*)
Rumney, J.—Herbert Spencer's Sociology. (Williams and Norgate. 10*s.* 6*d.*)

Schapera, I.—Western Civilization and the Natives of South Africa. (Routledge. 15*s.*)
Seaton-Watson, R. W.—Disraeli, Gladstone and the Eastern Question. (Macmillan. 21*s.*)

Shenkman, E. M.—Insurance against Credit Risks in International Trade. (P. S. King and Son. 15*s.*)
Shrigley, J. (Ed.).—Prices of Gold. (P. S. King and Son. 7*s.* 6*d.*)
Siegfried, A.—Europe's Crisis. (Trans.) (Cape. 5*s.*)
Simonds, F. H., and Emerry, B.—The Price of Peace. (Hamish Hamilton. 10*s.* 6*d.*)
Social Credit Pamphleteer, The. (Stanley Nott. 3*s.* 6*d.*)
Sokolsky, G. E.—We Jews. (Chapman and Hall. 2*s.* 6*d.*)
Stapledon, R. G.—The Land Now and To-morrow. (Faber and Faber. 15*s.*)
Stoddard, L.—Clashing Tides of Colour. (Scribners Sons. 10*s.* 6*d.*)

Tange, N.—The Air is our Concern. (Methuen. 6*s.*)

Wade, E. C. S. and Phillips, G. G.—Constitutional Law. 2nd Ed. (Longmans. 21*s.*)
Wallas, Graham.—Social Judgment. (Allen and Unwin. 5*s.*)
Weatherford, W. D. and Johnson, C. S.—Race Relations—Adjustments of Whites and Negroes in the United States. (Harrap. 15*s.*)
Whitney, L. F.—The Case for Sterilization. (John Lane. 8*s.* 6*d.*)
Wilcox, F. O.—The Ratification of International Conventions. (Allen and Unwin. 12*s.* 6*d.*)
Willoughby, W. W.—The Sino-Japanese Controversy and the League of Nations. (Milford. 22*s.* 6*d.*)
Wyndham, The Hon. H. A.—The Atlantic and Slavery. (Milford. 12*s.* 6*d.*)

XVI. LIBRARY OF "THE CLERK OF THE HOUSE"

BY THE EDITOR

THE Clerk of either House of Parliament, as the "Permanent Head of his Department" and the technical adviser to successive Presidents, Speakers, Chairmen of Committees and Members of Parliament generally, naturally requires an easy and rapid access to those books and records more closely connected with his work. Some of his works of reference, such as a complete set of the Journals of the Lords and Commons, the Reports of the Debates and the Statutes of the Imperial Parliament, are usually more conveniently situated in a central Library of Parliament. The same applies also to many other works of more historical Parliamentary interest. Volume I of the JOURNAL contained[1] a list of books suggested as the nucleus of the Library of the "Clerk of a House," including books of more particular usefulness to him in the course of his work and which could also be available during Recess, when he usually has leisure to conduct research into such problems in Parliamentary practice as have actually arisen or occurred to him during Session, or which are likely to present themselves for decision in the future.

Volumes II[2] and III[3] gave lists of works published during the respective years, and below is given a list of books for such a Library, published last year:

Buck, A. E.—The Budget in Governments of To-day. (Macmillan. 12*s.* 6*d.*)

Commons Paper No. 90 of 1934. (H.M.S.O. 6*d.*)

Commons Paper No. 84 of 1935. (H.M.S.O. 3*s.*)

Coupland, R.—The Empire in these Days: an Interpretation. (Macmillan. 7*s.* 6*d.*)

Eddy, J. P., and Lawton, F. H.—India's New Constitution. (Macmillan. 6*s.*)

Keith, A. Berriedale.—The Governments of the British Empire. (Macmillan. 21*s.*)

—Fourth Edition: Anson's The Law and Custom of the Constitution. 2 vols. (Milford. 30*s.*)

—Letters on Imperial Relations, Indian Reform, Constitutional and International Law. 1916-1935. (Milford. 16*s.*)

—*A Constitutional History of India*, 1600-1935.[4] (Methuen. 15*s.*)

Kennedy, W. P. M.—Essays in Constitutional Law. (Milford. 8*s.* 6*d.*)

Kennedy, W. P. M. and Schlosberg, H. J.—The Law and Custom of the South African Constitution. (Milford. 36*s.*)

MacMunn, Lt.-Gen. Sir George.—The Indian States and Princes.[4] (Jarrolds. 18*s.*)

Marriott, Sir John A. R.—Dictatorship and Democracy. (Milford. 10*s.*)

[1] P. 123 *et seq.* [2] P. 137 *et seq.* [3] P. 133. [4] A 1936 publication.

Melbourne, A. C. V.—Early Constitutional Development in Australia: New South Wales, 1788-1856. (Milford. 25*s.*)

Slad, E.—Thomas and Bellot's Leading Cases in Constitutional Law. 7th Ed. (Sweet and Maxwell. 10*s.* 6*d.*)

Zetland, the Marquis of.—Steps towards Indian Home Rule. (Hutchinson. 5*s.*)

Volume II[1] gave a list of works on Canadian constitutional questions. Below is given a list of such works in regard to the Australian Constitution and Administration, kindly recommended by Mr. Kenneth Binns, the Librarian of the Commonwealth Parliament, to those Members of the Society wishing to study the Constitution of the Commonwealth:

Atkinson, M. (Ed.).—Australia. Economic and Political Studies. By various writers. The section on Government by Sir W. Harrison Moore includes an account of the Constitution and its working. (Melbourne. 1920.)

Bignold, H. B.—The Commonwealth of Australia Constitution Act; with Introductory Table of Statutes, Table of Cases, Digest of Cases and Index. (Sydney. 1913.)

Bland, F. A.—Planning the Modern State. (Angus and Robertson. Sydney. 1934.)

Bryce, Viscount.—Australia. *Vide Modern Democracies.* 2 vols. (1921.)

—" Constitution of the Commonwealth of Australia." *Vide Studies in History and Jurisprudence.* 2 vols. (Oxford. 1901.)

Carraway, A. P.—The Failure of Federalism in Australia. (Oxford. 1930.)

Commonwealth of Australia : Home Affairs Department, Electoral Branch.—Amendment of the Constitution: Federal Referendums (1913): the Case For and Against. (Melbourne. 1913.)

—Amendment of the Constitution: Federal Referendums (1915): the Case For and Against. (Melbourne. 1915.)

Commonwealth Law Reports.—The Reports of Cases decided in the High Court of Australia, and in the Privy Council on Appeal from the High Court illustrate the Judicial Development of the Constitution. (Melbourne and Sydney. 1903.)

Cramp, K. R.—State and Federal Constitutions of Australia. 2nd Ed. (Sydney. 1914.)

Digest of Cases Reported in the Commonwealth Law Reports.—Vols. I.-XIX. (Melbourne. 1917); Vols. XX.-XXXIV. (Sydney. 1924.)

Ellis, U. R.—New Australian States. (Endeavour Press, Sydney. 1933.)

Garran, Sir R. R.—The Coming Commonwealth: an Australian Handbook of Federal Government. (Sydney. 1897.)

—The Development of the Australian Constitution. (*Law Quarterly Review*, Vol. XL. April, 1924.)

Hall, H. Duncan.—The British Commonwealth of Nations. (1921.)

Hall, H. L.—Victoria's Part in the Australian Federation Movement. (1931.)

[1] P. 138.

Holman, W. A.—The Australian Constitution, Its Interpretation and Amendment. (Sydney. 1928.)

Hughes, W. M.—The Splendid Adventure. (1929.)

Hunt, E. M.—American Precedents in Australian Federation. (Columbia University Press, New York. 1930.)

Keith, A. Berriedale.—Constitution, Administration and Laws of the Empire. (1924.)

—Responsible Government in the Dominions. 2nd Ed. 2 vols. (Oxford. 1928.)

Kerr, D.—The Law of the Australian Constitution. (Sydney. 1925.)

Latham, J. G.—Australia and the British Commonwealth. (1929.)

McGrath, B. J., O'Sullivan, G. J., and Dignam, W. J.—The Laws of the Commonwealth of Australia, 1901-1931. 3 vols. (Sydney. 1932.)

Melbourne, A. C. V.—Early Constitutional Development in Australia: New South Wales, 1788-1856. (Milford. 25*s.*)

Moore, Sir W. H.—The Constitution of the Commonwealth of Australia. 2nd Ed. (Melbourne. 1910.)

Pirani, S. G. (Compiler).—Commonwealth Statute Law Decisions, 1903-1918: shewing Sections of Commonwealth Statutes Judicially considered by the High Court of Australia. (Sydney. 1919.)

Portus, Rev. G. V. (Ed.).—Studies in the Australian Constitution (Sydney. 1933.)

Quick, Sir J.—The Legislative Powers of the Commonwealth and the States of Australia. (Melbourne and Sydney. 1919.)

Quick, Sir J. and Garran, Sir R. R.—Annotated Constitution of the Australian Commonwealth. (Melbourne. 1901.)

Quick, Sir J. and Groom, Sir L. E.—Judicial Powers of the Commonwealth: with the Practice and Procedure of the High Court. (Melbourne. 1904.)

Royal Commission on the Constitution of the Commonwealth.—Report. (Government Printer, Canberra. 1929.)

Royal Commission on the Constitution of the Commonwealth.—Report of Proceedings and Minutes of Evidence. 2 vols. (Government Printer, Canberra. 1929.)

Sugerman, B. and others.—The Australian Digest, 1825-1933: Reported Decisions of the Australian Courts and of Australian Appeals to the Privy Council (Vols. I. and II.). To be completed in about 17 volumes. (Law Book Company, Sydney. 1934-35.)

Sweetman, E.—Australian Constitutional Development. (Melbourne. 1925.)

Turner, H. G.—The First Decade of the Australian Commonwealth. (Melbourne. 1911.)

Warner, K. O.—Introduction to Some Problems of Australian Federalism: A Study of the Relations between the Australian States and the Commonwealth, with Special Reference to Finance. (Washington University Press, Washington. 1933.)

Wise, B. R.—The Making of the Australian Commonwealth, 1889-1900. (1913.)

Wood, F. L.—Constitutional Development of Australia. (Harrap, Sydney. 1933.)

Wynes, W. A.—Legislative and Executive Powers in Australia.[1] (Law Book Company of Australia. Sydney, N.S.W. 32*s.* 6*d.*)

[1] A 1936 publication.

The Society of Clerks-at-the-Table in Empire Parliaments.

Name.—1. That a Society be formed, called "The Society of Clerks-at-the-Table in Empire Parliaments."

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Canada for the second year, the Senate and House of Representatives of the Commonwealth of Australia the next year, and thereafter those of New Zealand, the Union of South Africa, Irish Free State, Newfoundland and so on, until the Clerk of the House of every Legislature of the Empire who is Member of the Society has held office, when the procedure will be repeated.

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Accounts.—10. Authority is hereby given the Honorary Secretary-Treasurer and Editor to open a banking account in the name of the Society and to operate upon it, under his signature, a statement of account, duly audited, and countersigned by the Clerks of the Two Houses of Parliament in that part of the Empire in which the JOURNAL is prepared, being published in each annual issue of the JOURNAL. (*Amended* 1936.)

LONDON,
9th April, 1932.

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[1] ~~The Senate was abolished in 1936, but see footnote to p. 29.~~

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Mian Muhammad Rafi,* B.A., Secretary of the Legislative Assembly, New Delhi.

The Officiating Secretary of the Legislative Council, Poona, Bombay.

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S. Anwar Yusoof, Esq.,* Secretary of the Legislative Council, Patna, Bihar.

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~~**Northern Rhodesia.**~~

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Ex Clerks-at-the-Table.

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Office of the Society.

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Cable Address : CLERDOM CAPETOWN.

Honorary Secretary-Treasurer, and Editor: E. M. O. Clough.

* Barrister-at-law or Advocate.

XVIII. MEMBERS' RECORDS OF SERVICE

Note.—*b.*=born; *ed.*=educated; *m.*=married; *s.*=son(s); *d.*=daughter(s); *c.*=children.

Members who have not sent in their Records of Service are invited to do so, thereby giving other Members the opportunity of knowing something about them. It is not proposed to repeat these records in subsequent issues of the JOURNAL, *except upon promotion, transfer or retirement, when it is requested that an amended record be sent in.*

Blank, A. L., I.C.S.—Secretary in the Government of Assam, Legislative Department; Secretary of the Assam Legislative Council; Superintendent and Remembrancer of Legal Affairs, Assam; Administrator General, Assam; Official Trustee, Assam; joined the Indian Civil Service, 21st October, 1915; called to the Bar (Middle Temple) 1930.

Chainani, H. K., I.C.S.—Assistant Remembrancer of Legal Affairs, Bombay, and Secretary of the Legislative Council of the Governor of Bombay since 15th July, 1935.

Wells, G. E.—Clerk-Assistant of the Legislative Assembly, Southern Rhodesia; *s.* of F. J. Wells, Mazoe; *b.* 1902, Cape Province; *ed.* Prince Edward School, Salisbury; *m.* Ora, *d.* of Gough Edgar; Captain in Territorial Force; joined Civil Service, 1918, in Department of Justice; Clerk of Water Courts and Water Registrar, 1935; Public Prosecutor, Bulawayo, 1929; held Judicial Appointments, Salisbury and Gwelo; Chief Clerk, Department of Justice, 1933; appointed Commissioner of Labour to Investigate Problems of Unemployment and Destitution, 1934; joined Parliamentary staff, 1936.

Wickham, D. L. B.—*b.* 1909, *ed.* British Guiana and Barbados. Appointed Clerical Assistant Secretariat, 27th April, 1927; 6th Class Clerk, 1st July, 1929; Assistant Clerk to the Legislative Council, 6th October, 1930; 4th Class Clerk, Secretariat (old scale), 1st January, 1933; Secretary to Motor Traffic Committee, 1931-32; Secretary to Georgetown Motor Omnibus Committee, 1932-33; Private Secretary to the Hon. (now Sir) Crawford Douglas-Jones, C.M.G., Officer Administering the Government, May to October, 1932, in addition to duties in the Secretariat; acted Clerk of the Legislative Council, June and July, 1933; Secretary Rice Export Select Committee

of the Legislative Council, July, 1933; acted Secretary to Forest Trust, April and May, 1934; acted Secretary to Appointments and Promotions Board, May, 1934, to March, 1935; appointed Clerk of the Legislative Council, 21st September, 1935; now also acting as Private Secretary to the Governor (Sir Geoffry A. S. Northcote, K.C.M.G.).

Williams, I.C.S., the Hon. Mr. A. de C.—Deputy Secretary to the Government of India, Legislative Department, and Secretary of the Council of State; *b.* 27th September, 1890; joined the Indian Civil Service, 29th March, 1915.

XIX. STATEMENT OF ACCOUNT AND AUDITOR'S REPORT, 1934-35

I REPORT that I have audited the Statement of Account of "The Society of Clerks-at-the-Table in Empire Parliaments" in respect of Volume III.

The Statement of Account covers a period from 11th October, 1934, to 23rd April, 1936. All the amounts received during the period have been banked with the Standard Bank of South Africa, Ltd.

Receipts were duly produced for all payments for which such were obtainable, including remuneration to persons for typing and clerical assistance and roneoing, and postages were recorded in the fullest detail in the Petty Cash Book.

I have checked the Cash Book with the Standard Bank Pass Book in detail and have obtained a certificate verifying the balance at the Bank.

The Petty Cash Book has been checked to the Cash Account for amounts paid to the Editor to reimburse himself for money spent by him on postages and other expenses of a small nature. Amounts received and paid for Volume IV have been excluded from the Revenue and Expenditure Account.

CECIL KILPIN,
Chartered Accountant (S.A.).

SUN BUILDING,
CAPE TOWN.
27th April, 1936.

Journal of the Society of Clerks-at-the-Table in Empire Parliaments

STATEMENT OF ACCOUNT IN RESPECT OF VOLUME III FOR 1934 FOR THE PERIOD FROM 11TH OCTOBER, 1934 TO 23RD APRIL, 1936

REVENUE.	£ s. d.	£ s. d.
Balance as at 11th October, 1933, being excess of Income over Expenditure at that date		11 10 7
Parliamentary Grants:		
Dominion Parliament of Canada	10 0 0	
Federal Parliament of Australia	10 0 0	
New Zealand	10 0 0	
Union of South Africa	10 0 0	
Southern Rhodesia	5 0 0	
Provincial Parliament of New Brunswick	5 0 0	
		50 0 0
Subscriptions:		
Volume II	8 0 0	
Volume III	51 14 0	
		59 14 0
Advertisements		0 0 0
Sales:		
Volume I	17 6	
Volume II	9 12 6	
Volume III	7 16 6	
		18 6 6
		£139 11 1

EXPENDITURE.	£ s. d.	£ s. d.
Volume III for 1934:		
Postage	6 11 0	
Bank Charges	18 9	
Cables	1 12 2	
Telephone	1 6 0	
Publications and Newspapers	10 4 11	
Typing and Clerical Assistance	25 3 7	
Roneoing	3 1 9	
Printing and Publishing Volume III	60 1 2	
Stationery including Typewriter, Filing Cabinet	22 3 10	
Travelling Expenses and Carriage	4 2 7	
Registration Fee—Stationers' Hall	10 2	
Gratuities to Messengers	2 10 0	
Audit Fee	0 0 0	
		138 5 11
Cash Balance, being Excess of Receipts over Expenditure		1 5 2
		£139 11 1

OWEN CLOUGH
Honorary Secretary-Treasurer and Editor.

Countersigned:

MAURICE J. GREEN,
Clerk of the Senate.

DANL. H. VISSER,
Clerk of the House of Assembly.

PARLIAMENT OF THE UNION OF SOUTH AFRICA.

Audited and certified correct:

CECIL KILPIN,
Chartered Accountant (S.A.),
Sun Building,
Cape Town,
South Africa.

27th April, 1936.

INDEX TO SUBJECTS DEALT WITH IN EARLIER VOLUMES

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